Form I-9 and E-Verify

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Payroll Services
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Major Topics

1. Form I-9 violations.

2. Employer responsibilities in Completing Form I-9.

3. When do Employers complete a new Form I-9 versus Section 3?

4. What is E-Verify and why did I, or my employee, receive a TNC Notice?
Form I-9 Violations

• The Department of Homeland Security, through its enforcement division, Immigration and Customs Enforcements (ICE) has undertaken a massive employment enforcement effort directed at employers to confirm employees hired after November 06, 1986 are working legally in U.S. The focus on enforcement is clearly evidenced by the rising number of high profile worksite audits, increased heavy civil penalties and criminal prosecutions resulting from worksite violations.
Form I-9 Violations

• Compliance Tracking and Management Systems (CTMS) was launched 2009 to monitor employers based on their E-Verify system usage and to identify specific noncompliant behaviors.

• Examples:
  – Fraudulent use of Alien # (A#) and SSN.
  – Failure to post the notice informing employees of participation in E-VERIFY.
  – Failure to use the E-VERIFY, consistently or at all, once registered.
Form I-9 Non-compliance Rules

• Section 1 Rule:

Section 1. Employee Information and Attestation *(Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.)*

• Section 2 Rule:

Section 2. Employer or Authorized Representative Review and Verification

*(Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee’s first day of employment. You must physically examine one document from List A OR examine a combination of one document from List B and one document from List C as listed on the "Lists of Acceptable Documents" on the next page of this form. For each document you review, record the following information: document title, issuing authority, document number, and expiration date, if any.)*
Exception Letters

Payroll Services will request an exception letter that explains the reason the employee or employer signature date does not meet the compliance guidelines. **The exception letter does not bring the form into compliance, and cannot be considered, nor provided, as a standard part of Form I-9 processing.** An exception letter only allows for explanation of the reason the department did not comply with USCIS regulations. It needs to be uploaded to Guardian.

*Non-compliance with accurate and timely completion of Form I-9’s in accordance with USCIS regulations could cause the University to be subjected to fines and penalties.*
Form I-9 Violations

<table>
<thead>
<tr>
<th>Knowing Hire and Continuing to Employ Violations</th>
<th>First Tier $375 - $3,200</th>
<th>Second Tier $3,200 - $6,500</th>
<th>Third Tier $4,300 – 16,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>0% - 9%</td>
<td>$375</td>
<td>$3,200</td>
<td>$4,300</td>
</tr>
<tr>
<td>10% - 19%</td>
<td>$845</td>
<td>$3,750</td>
<td>$6,250</td>
</tr>
<tr>
<td>20% - 29%</td>
<td>$1,315</td>
<td>$4,300</td>
<td>$8,200</td>
</tr>
<tr>
<td>30% - 39%</td>
<td>$1,785</td>
<td>$4,850</td>
<td>$10,150</td>
</tr>
<tr>
<td>40% - 49%</td>
<td>$2,255</td>
<td>$5,400</td>
<td>$12,100</td>
</tr>
<tr>
<td>50% or more</td>
<td>$2,725</td>
<td>$5,950</td>
<td>$14,050</td>
</tr>
</tbody>
</table>

“Employers determined to have knowingly hire or continuing to employ violations shall be required to cease the unlawful activity and may be fined. The agent or auditor will divide the number of knowing hire and continuing to employ violations by the number of employees for which a Form I-9 should have been prepared to obtain a violation percentage. The standard fine amount listed in the table relates to each knowing hire and continuing to employ violation.” June 26, 2013 USCIS
Form I-9 Violations

<table>
<thead>
<tr>
<th>Substantive Verification Violations</th>
<th>1st Offense $100 - $1,100</th>
<th>2nd Offense $110 - $1,100</th>
<th>3rd Offense $110 - $1,100</th>
</tr>
</thead>
<tbody>
<tr>
<td>0% - 9%</td>
<td>$110</td>
<td>$550</td>
<td>$1,100</td>
</tr>
<tr>
<td>10% - 19%</td>
<td>$275</td>
<td>$650</td>
<td>$1,100</td>
</tr>
<tr>
<td>20% - 29%</td>
<td>$440</td>
<td>$750</td>
<td>$1,100</td>
</tr>
<tr>
<td>30% - 39%</td>
<td>$605</td>
<td>$850</td>
<td>$1,100</td>
</tr>
<tr>
<td>40% - 49%</td>
<td>$770</td>
<td>$950</td>
<td>$1,100</td>
</tr>
<tr>
<td>50% or more</td>
<td>$935</td>
<td>$1,100</td>
<td>$1,100</td>
</tr>
</tbody>
</table>

“The agent or auditor will divide the number of violations by the number of employees for which a Form I-9 should have been prepared to obtain a violation percentage. The standard fine amount listed in the table relates to each Form I-9 with violations.”

June 26, 2013 USCIS
Employer Responsibilities

**Employers must:**
- Verify the identity and employment authorization of each person hired after November 11, 1986.
- Complete and retain a Form I-9 for each employee required to complete the form.

**Employers must not:**
- Discriminate against individuals on the basis of national origin, citizenship, or immigration status.
- Hire, recruit for a fee, or refer for a fee aliens he or she knows to be unauthorized to work in the United States.

**Employers who violate the law may be subject to:**
- civil fines
- criminal penalties (when there is a pattern or practice of violations)
- debarment from government contracts
- a court order requiring the pymt of back pay to the individual discriminated against
- a court order requiring the employer to hire the individual discriminated against
Employer Responsibility
Review of Section 1

Completed by Employee (If TAMU completes Section 1 for employee, ready for employee to sign and date, then TAMU preparer must complete the Preparer/Translator section)

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

I attest, under penalty of perjury, that I am (check one of the following):

☐ A citizen of the United States
☐ A noncitizen national of the United States (See instructions)
☐ A lawful permanent resident (Alien Registration Number/USCIS Number): _____________________
☐ An alien authorized to work until (expiration date, if applicable, mm/dd/yyyy) ____________________ . Some aliens may write “N/A” in this field. (See instructions)

For aliens authorized to work, provide your Alien Registration Number/USCIS Number OR Form I-94 Admission Number:

1. Alien Registration Number/USCIS Number: _____________________
OR

2. Form I-94 Admission Number: _____________________

If you obtained your admission number from CBP in connection with your arrival in the United States, include the following:

Foreign Passport Number: _____________________
Country of Issuance: _____________________

Some aliens may write “N/A” on the Foreign Passport Number and Country of Issuance fields. (See instructions)

3rd Box. Alien Registration#/USCIS#: Permanent Resident Card (Green Card)


2nd Box use I-9 Handbook for Employers to determine criteria

Signature of Employee: _____________________
Date (mm/dd/yyyy): _____________________
**Employer Responsibility**  
**Section 1 Common Errors**

**Completed by Employee**

**START HERE.** Read instructions carefully before completing this form. The information provided is used for tax and social security purposes.  

ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work-authorized individuals. Employers CANNOT specify which document(s) they will accept from an employee. The refusal to hire an individual because the documentation presented has a future expiration date may also constitute illegal discrimination.

**Section 1. Employee Information and Attestation** *(Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.)*

<table>
<thead>
<tr>
<th>Last Name (Family Name)</th>
<th>First Name (Given Name)</th>
<th>Middle Initial</th>
<th>Other Names Used (if any)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- **Must enter legal name on Social Security Card including Suffix**
- **Do Not Use P.O. Box**
- **Date of Birth (mm/dd/yyyy)**
- **U.S. Social Security Number**
- **Email Address**
- **Date of Hire input instead of Birth Date**
- **UIN# input instead of SS#**
- **Multiple last names, all must be included**
- **Missing Initial**
- **State**
- **Zip Code**
- **Telephone Number**
Employer Responsibility

• Required documents must be uploaded to Guardian when used in Section 2 for List A:
  • U.S. Passport or Passport Card
  • Permanent Resident Card (Form I-551)
  • Employment Authorization Document (Form I-766)

• Paper I-9 must be uploaded into Guardian.
Employer Responsibility
Foreign National Special Rule

- If you have a student, exchange visitor, or an H1-B Portability you need to make a choice in Section 2 under the Select Special Rule that may apply. This will allow you to enter additional documents such as I-20 or DS-2019.

Note: Special Rules may Apply to this I-9
Select Special rule (if any): that applies to this I-9: Student/Exchange Visitor [ Explain Choices ]

Please provide the remaining information at the bottom of the List A column
Employer Responsibility
Foreign National Social Security Card

- Social Security Card cannot be used in List C as Employment Authorization if it is restricted.

- Examples of restricted SS card will contain these messages:
  - “VALID FOR WORK ONLY WITH DHS AUTHORIZATION”
  - “VALID FOR WORK ONLY WITH INS AUTHORIZATION”
  - “NOT VALID FOR EMPLOYMENT”

- On SSA receipt – “This printout does not establish your right to work in the United States”
Completed by Employer

Certification

I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the above-listed document(s) appear to be genuine and to relate to the employee named, and (3) to the best of my knowledge the employee is authorized to work in the United States.

The employee's first day of employment (mm/dd/yyyy): _______________ (See instructions for exemptions.)

Signature of Employer or Authorized Representative

Date (mm/dd/yyyy)

Title of Employer or Authorized Representative

Last Name (Family Name)  First Name (Given Name)  Employer's Business or Organization Name

Employer's Business or Organization Address (Street Number and Name)  City or Town  State  Zip Code

Wrong year entered. Or, if employee working in different University System, hire date not updated. Date must match EPA Hire Date.

Employer Name and address will default to Payroll's Address– Do Not Change
When to Create New Form I-9

• New to TX A&M, employee has never completed a Form I-9.

• Employee worked in a different TX A&M system
  – i.e AgriLife, Engineering, Galveston.

• Employee terminated from TX A&M and rehired more than 3 years from the date when previous Form I-9 was signed.
When to Create New Form I-9

- TX A&M employee was terminated and rehired. Was never E-Verified during prior employment with TX A&M.

- Current employee funding has changed to FAR (Federal Acquisition Regulation) account and documents have expired or original Form I-9 completed incorrectly.

- TX A&M employee transfers to new department and employee does not have Form I-9 in Guardian.
Section 3  Rehires in Guardian

- If employee has terminated in Guardian, and has been E-Verified, contact payroll to reactivate employee in Guardian.
  - Provide payroll with employees rehire date and the PaySeq number.
- Add Section 3. Confirm rehire date is correct in Section 3 and electronically sign.
Reverification Information: Paper or Electronic Form I-9

- If employee hired and completed a Paper I-9 before the Guardian electronic system was implemented then Employee must complete **Paper I-9** for Section 1 and Employer complete Section 3. This form is faxed to payroll, FAX# 979-845-4134, to update BPP and then form is imaged for retention of document.

- If employee hired and completed a Guardian electronic I-9 then Employer will add Section 3 to current I-9 and enter reverification in Section 3.
  - Payroll will approve the electronic Section 3.
Section 3
Reverification NOT in Guardian

• Payroll Services track Form I-9s requiring reverification starting 120 days before they expire.
• Monthly letters are e-mailed to departments who have employees with Paper Form I-9s with future expiration dates in BPP.
• Form I-9 Tracking Report **BP2038N** is available monthly for departments via Payroll’s document imaging system.
  – [http://payroll.tamu.edu/ Payroll Reports Login/Sign In/BPP](http://payroll.tamu.edu/) Mainline Reports/BPP External Reports is equal to **BP2038N I-9 Exp Date**
Guardian Reverification Document Title will be based on Section 1 Documents

<table>
<thead>
<tr>
<th>Document Title:</th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S. Passport or Passport Card</td>
</tr>
<tr>
<td>Permanent Resident card or Alien Registration Receipt Card w/photo (I-551)</td>
</tr>
<tr>
<td>Unexpired Foreign Passport w/I-551 stamp or I-551 Notation on Immigrant Visa</td>
</tr>
<tr>
<td>Unexpired Employment Auth Document issued by DHS with photograph (I-766)</td>
</tr>
<tr>
<td>Unexpired Foreign Passport w/attached I-94 or I-94A form</td>
</tr>
<tr>
<td>Unexpired Passport of Federated States of Micronesia w/attached I-94/I-94A form</td>
</tr>
<tr>
<td>Unexpired Passport from Republic of Marshall Islands w/attached I-94/I-94A form</td>
</tr>
<tr>
<td>Unexpired Passport of Federated States of Micronesia w/attached I-94/I-94A form</td>
</tr>
<tr>
<td>Social Security Card (Unrestricted)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Or</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employment authorization document issued by DHS - Expires</td>
</tr>
<tr>
<td>Employment authorization document issued by DHS - Unlimited</td>
</tr>
</tbody>
</table>

Used for I-20 and DS-2019
Reverification Employment Authorization Document Card (EAD)

- The EAD Card (or Form I-766) is evidence of temporary work authorization.
- Before work authorization date expires, employee must be I-9 reverified, with proof of current employment authorization.
- If employee has not received new EAD Card and current card has expired then employee will be terminated except as noted below.
- May be rehired once new EAD Card received with new expiration date.
- **Exception** - If **STEM** extension application is pending, with I-797C, employee is extended for not more then 180 days from date of student’s initial OPT EAD expiration.
Reverification Information; When not to Reverify

• Employers may not reverify:

– U.S. Citizens and non-citizen nationals
  • If employee becomes Naturalized Citizen do not do new Form I-9 to change citizenship. Send copy of U.S. Passport or Passport Card, or copy of U.S Naturalization Certificate, to Payroll, for Payroll to update the Payroll system, BPP.

– Expired U.S. passport or passport card

– Permanent Resident Card (Green Card)(Form I-551). With or without expiration dates. Except if expiring receipt or I-797 with a one year extension.
What is E-Verify?

- E-Verify is an electronic verification system that reports the work authorization status of **New Hires** based on I-9 data.

- Federal Contractors subject to FAR, being paid through a federally funded account, may be required to submit new Form I-9 for an existing employee.

- E-Verify is managed by USCIS, SSA, and DHS.
E-Verify Submission

• Payroll is required to approve employee’s electronic Form I-9 no more than 3 Business Days from date of hire. If Payroll approves Form I-9 after 3 Business Days then we must document why Form I-9 is out of compliance in E-Verify.
• A TNC issued from E-Verify indicates that the SSA or DHS is unable to verify the information provided for the employee.

• It does NOT mean that the employee is unauthorized to work.

• Once TNC received, no adverse action should be taken against the employee. Employers may not fire, suspend, delay training, withhold, or lower pay during the time the TNC is being contested.
E-Verify –
Overview flow for processing a TNC for Social Security non-validation
E-Verify – TNC step #1
Meet with Employee to Review Forms

Both the employer and employee must review the TNC FAN.

[Image of E-Verify forms and instructions]

Employee Signs
Employer Signs

Payroll Services
CSBA Workshop
Page 28
E-Verify – TNC step #2
Employee decides to contest or not contest

- Review I-9 with employee to confirm all data is correct.
- Employee call E-Verify, 888-897-7781, to discuss issue. Majority of calls will immediately resolve outstanding issue over the phone.
- Department must sign and date Page 1 of TNC and employee selects to contest or not contest and then sign page 2.
- Department returns copy of signed form back to payroll for processing.
The referral date confirmation reflects the date the employer referred the employee to SSA and offers instructions for the employee (employee must take FAN to SSA).

The due date the employee must resolve the TNC also populates.

FAN – Further Action Notice
E-Verify – TNC step #3, Referral to SSA or DHS

- Payroll will send department SSA or DHS Referral Date Confirmation letter which contains employee instructions for next step.

- Department must provide this letter to employee.

- Employee will take this letter to SSA Office for discussion.
E-Verify – TNC step #4, Referral to SSA or DHS

- Employee must visit SSA within 8 federal government workdays.

- If DHS letter, then employee must contact E-Verify at phone number 888-897-7781 within 8 federal government workdays.

- E-Verify may take up to 15 federal government workdays to respond to a TNC.
E-Verify – TNC step #5, Employer receives updated results

• An E-Verify final case result of “SSA No Show” results when the employee does not visit the SSA office within their allocated time. If “SSA No Show” employee will be terminated from employment.

• An E-Verify final case result of “DHS No Show” results when the employee does not E-Verify within their allocated time. If “DHS No Show” employee will be terminated from employment.
E-Verify – TNC step #6, Case Closed

• Payroll completes the process by physically closing case.

• Employer may terminate workers based upon E-Verify results. Only upon receipt of a final non-confirmation (including a no show), or when an employee has chosen not to contest a TNC.
Online Resources

* EPA Document Checklist
http://payroll.tamu.edu/media/17814/301epadocumentchecklist.pdf

* UIN Request or Temporary ID
http://payroll.tamu.edu/media/376325/327reqtempid.pdf

* Guardian Access
Electronic Form I-9 System, accessed through SSO.
BCS Web Applications Statement of Responsibility to provide Guardian access
http://assets.system.tamus.edu/files/bpp/pdf/bcswebapplicationssor.pdf

* Form I-9 Handbook for Employers
http://www.uscis.gov/files/form/m-274.pdf

* Employee Form I-94 Printout
https://i94.cbp.dhs.gov/I94/request.html
Glossary Terms

• DHS
  – Department of Homeland Security
• E-Verify
  – Employment Verification Program
• USCIS
  – United States Citizenship and Immigration Services
• ICE
  – Immigration and Customs Enforcement
• SSA
  – Social Security Administration
Questions or Help

• Payroll Services
  – Laura Ellis – 845-7127 or lauraellis@tamu.edu
  – Paul Castilleja – 845-7131 or pcastilleja@tamu.edu
  – Rhonda Loman – 845-3056 or rloman@tamu.edu
• IFSS
  – 862-1719 or ifss@tamu.edu
  – http://ifss.tamu.edu
• ISS
  – 845-1824 or iss@tamu.edu
  – http://iss.tamu.edu

Thank you!