

**SUPPORTING STATEMENT FOR
EMPLOYMENT ELIGIBILITY VERIFICATION
OMB Control No.: 1615-0047
COLLECTION INSTRUMENT(S): Form I-9**

A. Justification

1. *Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.*

This information collection has been developed to facilitate compliance with section 274A of the Immigration and Nationality Act (the Act). Section 274A of the Act, as amended, prohibits the knowing employment of unauthorized aliens and the hiring of individuals without first verifying their employment authorization and identity. The purpose of this information collection is to comply with section 274A of the Act.

2. *Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.*

Form I-9 collects information from employees, form preparers and translators, employers, recruiters and referrers for a fee (limited to agricultural associations, agricultural employers, or farm labor contractors), and state employment agencies, as applicable. Form I-9 is completed in connection with an individual's employment in the United States. The form contains three sections. The purpose of Section 1 of the form is to collect, at the time of hire, identifying information about an employee (and preparer or translator if used), and for the employee to attest to whether he or she is a U.S. citizen, noncitizen national, lawful permanent resident, or alien authorized to work in the United States. The employee must also present documentation for review evidencing his or her identity and authorization to engage in this employment. The purpose of Section 2 of the form is to collect, within 3 days of the employee's hire, the employer's identifying information (or that of a recruiter or referrer for a fee or state employment agency, as applicable) and information regarding the identity and employment authorization documentation presented by the employee and reviewed by the employer (or recruiter or referrer for a fee or state employment agency, as applicable). The purpose of Section 3 of the form is to collect information from the employee and employer regarding the continued employment authorization of the employee. This section, if applicable, is completed at the time that the employee's employment authorization and/or employment authorization documentation recorded in either Section 1 or Section 2 of the form expires. This section may also be used if the employee is rehired

within 3 years of the date of the initial execution of the form and to record a name change if Section 3 is completed. Failure of employers to ensure proper completion and retention of the form will undermine the effective enforcement of provisions of the immigration laws that are designed to control the employment of unauthorized aliens. The Act requires employers to maintain the form and make it available for inspection by officers of the Department of Homeland Security (DHS), the Office of Special Counsel for Immigration-Related Unfair Employment Practices, and the Department of Labor. The Act also has penalty provisions for failure of employers to ensure proper completion of the form and for failure of employers to retain the form for the requisite timeframes.

3. *Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.*

The use of this form provides the most efficient means of collecting and maintaining the required data. Since this form is maintained by employers and is not submitted to USCIS/DHS, e-filing is not applicable to this information collection. However, by Interim Final Rule: Electronic Signature and Storage of Form I-9, Employment Eligibility Verification, published by Immigration and Customs Enforcement on June 15, 2006 (71 FR 34510), this form can now be electronically stored by the employer. That interim final rule was finalized on July 22, 2010 (75 FR 42575). Employers can now electronically reproduce and store a Form I-9, provided that the resulting form is readable and identical to the form issued by DHS.

The Form I-9 can be completed electronically online by visiting USCIS Web site at <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=75bce2e261405110VgnVCM1000004718190aRCRD&vgnextchannel=75bce2e261405110VgnVCM1000004718190aRCRD>. The form can be completed online and saved by the employers to their systems or printed to be placed in the employees' files.

4. *Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.*

A search of DHS automated forms tracking system was accomplished and revealed no duplication. There is no similar data collected.

5. *If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-1), describe any methods used to minimize burden.*

The use of this form affects small businesses. However, DHS has made efforts in the design of the form to minimize the amount of data collected, the time required to complete the form, and the education level necessary to complete the form. In addition, DHS now allows the employer to store the form electronically.

6. *Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.*

The purpose of this information collection is to comply with section 274A of the Act and implementing regulations requiring the verification on Form I-9 of the identity and employment authorization of individuals hired for employment in the United States. Failure of employers to collect and retain the information requested on the form will undermine the effective enforcement of the provisions of immigration laws that are designed to control the employment of unauthorized aliens.

7. *Explain any special circumstances that would cause an information collection to be conducted in a manner:*

- *Requiring respondents to report information to the agency more often than quarterly;*
- *requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;*
- *requiring respondents to submit more than an original and two copies of any document;*
- *requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;*
- *In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;*
- *requiring the use of a statistical data classification that has not been reviewed and approved by OMB;*
- *that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or*

- *requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.*

The special circumstances described in paragraph 7 do not apply to this form.

8. *If applicable, provide a copy and identify the data and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.*

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

On March 27, 2012, USCIS published a 60-day information collection notice in the Federal Register at 77 FR 18256. USCIS received over 6,200 comments during the 60-day comment period and has provided responses to the public comments in the attached appendix.

USCIS thanks the public for the comments provided in response to the 60-day information collection notice. USCIS has thoroughly considered the comments submitted and has prepared an appendix to this supporting statement detailing the nature of the comments received, as well as USCIS's response to each one of the recommendations or suggestions for changes offered by the public. The appendix can be viewed by visiting the Federal eRulemaking Portal Web site at <http://www.Regulations.gov> under e-Docket ID number USCIS-2006-0068 and it will also be included in the official request to revise the form that USCIS is submitting to OMB.

On August 22, 2012, USCIS published a 30-day information collection notice in the Federal Register at 77 FR 50710. USCIS has received no comments to date in connection with that publication.

9. *Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.*

DHS does not provide payments or gifts to respondents in exchange for a benefit sought.

10. *Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.*

There is no assurance of confidentiality. This collection of information is covered under the Privacy Impact Assessment (PIA) for the Employment Eligibility Verification Requirements Under the Form I-9 dated September 15, 2011 and associated System of Records Notice (SORN) DHS/USCIS-011 E-Verify Program, which was last published in the Federal Register on May 9, 2011 at 76 FR 26738.

11. *Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to person's from whom the information is requested, and any steps to be taken to obtain their consent.*

There are no questions of a sensitive nature.

12. *Provide estimates of the hour burden of the collection of information. The statement should:*

- *Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.*
- *If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.*
- *Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.*

Type of Respondent	Form Name / Form Number	No. of Respondents	No. of Responses per Respondent	Avg. Burden per Response (in hours) ***	Total Annual Burden (in hours)	Avg. Hourly Wage Rate*	Total Annual Respondent Cost
Employers, recruiters and referrers for a fee (limited to agricultural associations, agricultural employers, or farm labor contractors), and state employment agencies.	Employment Eligibility Verification, Form I-9	78,000,000	1	.33 hours (20 min.)	25,740,000	\$30.44	\$ 783,525,600
Individuals or Households (Employees)	Employment Eligibility Verification, Form I-9	78,000,000	1	.17 hours (10 minutes)	13,260,000	\$30.44	\$403,634,400
Record keepers	Record keeping	20,000,000**	1	.08 hours (5 min.)	1,600,000	\$30.44	\$48,704,000
Total		78,000,000			40,600,000		\$1,235,864,000

*The above Average Hourly Wage Rate is calculated from the [May 2011 Bureau of Labor Statistics](#) average wage for "All Occupations" of \$21.74 times the wage rate benefit multiplier of 1.4 equaling \$30.44.

**The 20 million record keepers are a subset of the 78 million respondents. Record keeping is generally only a portion of HR functions. Not everyone who completes Form I-9 will be responsible for its retention.

*** Time burden – Time per response breakdown:

Time burden for Employers – 20 minutes total

- **8 minutes** - Reading the instructions to the form and consulting the manual as needed
- **10 minutes** - Completing Section 2, including reviewing documentation presented by the employee
- **2 minutes** - Section 3 of the form when necessary – In limited circumstances the employer would need to review one document, sign and date.

Time burden for Employees – 10 minutes total

- **3 minutes** – Reading form instructions
- **5 minute** – Gathering the required supporting documentation
- **2 minutes** – Completing Section 1 of the form

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden

shown in Items 12 and 14).

- *The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.*
- *If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.*
- *Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government or (4) as part of customary and usual business or private practices.*

There is no cost burden to respondents for actually responding to this information collection-start-up, maintenance, and operating costs associated with completing the paperwork. There is no fee associated with this information collection.

14. *Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.*

Annualized Cost Analysis

A.	Printing Cost	\$ 2,507
B.	Collection and Processing Cost	\$ 11,520,000
C.	Total Cost to Government	\$ 11,522,506

Government Cost

Federal government cost is estimated at \$11,522,507. This figure is derived by calculating the actual costs to print and distribute the Form I-9 to the public. This figure also includes the cost to conduct on-site employer compliance reviews in accordance with section 274A of the Act. The compliance review costs are calculated by multiplying the number of ICE Forensic Auditors (144) x \$80,000 (average annual salary with benefits).

15. *Explain the reasons for any program changes or adjustments reporting in Items 13 or 14 of the OMB Form 83-I.*

There is an increase in the estimated burden hours as previously reported for this information collection. In Section 1 of Form I-9, DHS is adding new data fields to collect foreign passport number and country of issuance for aliens authorized to work who also record their Admission number. The Admission number is the number printed on Form I-94, Arrival-Departure Record. Form I-94 is the document that DHS issues to nonimmigrants indicating their nonimmigrant status upon admission to the United States or when they extend their stay or change status while in the United States. DHS is automating its collection of Form I-94 information for individuals seeking admission at a port of entry into the United States. In order to aid in this automation process, DHS has determined that new information must be collected, specifically foreign passport information. Collecting this information will enable DHS to more efficiently confirm the veracity of the individual's attestation in Section 1 during the course of a Form I-9 inspection and confirm the individual's employment eligibility where E-Verify is being used. In addition, DHS is adding to Section 1 new optional data fields to collect the employee's e-mail address or telephone number. This will allow DHS to contact an employee following a Form I-9 inspection or concerning his or her E-Verify case. DHS is also making some clarifying changes to the Form I-9 and the instructions to the form.

The time burden estimates have changed as follows:

- The time burden for **record keepers** went up by 2 minutes (from 3 minutes previously reported, to 5 minutes, due to the new changes to the form). USCIS has considered the fact that the form is now a two-page long document, so scanning and conducting other record keeping activities could amount to five minutes
- In connection with the time burden related to the **employees**, who were previously listed as the only "Affected Public," USCIS previously estimated 9 minutes for their time burden per response, which has now been increased by 1 minute, totaling 10 minutes, due to our best estimate on how long it takes an employee to read the instructions, gather the necessary documentation, consult guidance materials such as the I-9 Central webpage as needed, and complete the form.

- In connection with the time burden for the **employers**, who were not listed as a member of the “Affected Public” during USCIS’s last submission, USCIS is now estimating this burden to be 20 minutes, due to our best estimates on how long it takes an employer to read the instructions, consult the Handbook for Employers or other guidance materials as needed, verify the documents and complete the form.

As a result of these changes, the time per response has increased by 21 minutes for the respondents (previously reported .15 hours (9 minutes)) and by 2 minutes for record keepers to conduct record keeping activities (previously reported .05 hours (3 minutes)), which caused the burden hours to increase by 27,900,000 hours, from 12,700,000 hours to 40,600,000 hours.

16. *For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.*

DHS does not intend to employ the use of statistics or publication thereof for this collection of information.

17. *If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.*

DHS will display the expiration date for OMB approval of this information collection.

18. *Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-I.*

DHS does not request an exception to the certification of this information collection.