

August 28, 2013

To: WIA Contractors of the Orange County
Workforce Investment Area

From: Andrew Munoz
Community Investment Division Administrator/
Orange County Workforce Investment Board Executive Director



Subject: Authorization to Work Verification Requirements
Information Notice No. 13-OCWDA-02

PURPOSE:

The purpose of this policy is to provide guidance in implementing the State requirement to verify an individual's authorization to work prior to providing Workforce Investment Act (WIA) employment services.

EFFECTIVE DATE:

This policy is effective on the date of issuance.

REFERENCES:

- Title 8 of Federal Regulations (CFR), Section 274a.2, Verification of Identity and Employment Authorization
- California Unemployment Insurance Code, Section 9601.5
- Training and Employment Guidance Letter 17-05, Subject: Common Measures Policy for the Employment and Training Administration's Performance Accountability System and Related Performance Issues (February 17, 2006)
- The U.S. Citizenship and Immigration Services (USCIS), Handbook for Employers, Instructions for Completing Form I-9, www.uscis.gov/files/form/m-274.pdf
- The USCIS Form I-9, Employment Eligibility Verification
- Workforce Services Information Notice WSIN12-31, Subject: New CalJOBS Services Codes (February 27, 2013)
- EDD State Directive WSD13-1, Subject: Authorization to Work Verification Requirements (July 2, 2013)

BACKGROUND:

Under California Law, an individual must have authorization to work in the United States to be eligible to receive WIA employment services. Section 9601.5 of the California Unemployment Insurance Code requires that "each state or local government agency or community action agency, or any private organization contracting with a state or local government agency, that



provides employment services, including, but not limited to job training, retraining, or placement, shall verify an individual's legal status or authorization to work prior to providing services to that individual in accordance with procedures established under federal law."

The federal procedures for verifying an individual's authorization to work are included in Title 8 CFR, Section 274a.2. This section specifies that the requirements published in the USCIS Form I-9, Employment Eligibility Verification, are to be used in verifying and documenting that an individual is authorized to work in the United States.

POLICY AND PROCEDURE:

- All Contractors must verify an individual's authorization to work in accordance with the requirements of the USCIS Form I-9, Employment Eligibility Verification. As specified in the Form I-9, Contractors must accept as evidence of employment authorization, any of the documents listed on the last page of Form I-9. Individual may present any List A document or a combination of a List B and a List C document.
 - *To view frequently asked questions regarding acceptable Form I-9 documents, see Attachment 1, Questions and Answers – Authorization to Work Verification.*
 - *To view representative images of acceptable Form I-9 documents, see Attachment 2, Samples of Acceptable Documents for Authorization to Work Verification.*
- Contractors (of the One-Stop Center and Satellite office/s) are encouraged to coordinate verification with EDD to increase efficiency of the process and prevent participants from having to repeatedly present Form I-9 documents.

Verification Requirements

- All Contractors must verify an individual's authorization to work no later than the time of application/registration into a WIA funded program.
- Verification is not required for self-service or informational activities; however, if requesting authorization to work documents prior to the time of application/registration (e.g. at time of intake, or any point in the customer flow up until the time of application/registration) is necessary to increase efficiency of the process, Contractors may establish policies and procedures to this effect, subject to OCWIB approval.
- All Contractors must keep either a scanned or a hard copy of the individual's Form I-9 documents. Hard copy shall be made available in the participant files during OCWIB and State monitoring review.

ACTION:

Bring this Information Notice along with the attachment to the attention of all staff.

INQUIRIES:

If you have any questions, please contact your Contract Administrator.

ATTACHMENTS:

1. Questions and Answers – Authorization to Work Verification
2. Sample of Acceptable Documents for Authorization to Work Verification

QUESTIONS AND ANSWERS AUTHORIZATION TO WORK VERIFICATION

1. **Q. Can a local policy specify which documents staff will accept for verification?**
 - A. No. An individual may choose which document(s) he or she wants to present from the Lists of Acceptable Documents on the last page of Form I-9. Staff must accept any document (from List A) or combination of documents (one from List B and one from List C) listed on Form I-9 that reasonably appear on their face to be genuine and to relate to the person presenting them.

2. **Q. May staff accept a photocopy of a document presented by an individual?**
 - A. No. Individuals must present original documents. The only exception is that an individual may present a certified copy of a birth certificate.

3. **Q. May staff accept an expired document?**
 - A. No. Expired documents are no longer acceptable for Form I-9. However, staff may accept Employment Authorization Documents (Forms I-766) and Permanent Resident Cards (Forms I-551) that appear to be expired on their face, but have been extended by U.S. Citizenship and Immigration Services.

For example, Temporary Protected Status beneficiaries whose Employment Authorization Documents (Forms I-766) appear to be expired may be automatically extended in a Federal Register notice. These individuals may continue to work based on their expired Employment Authorization Documents (Forms I-766) during the automatic extension period specified in the Federal Register notice. When the automatic extension of the Employment Authorization Document (Form I-766) expires, staff must reverify the individual's employment authorization.

Note: Some documents, such as birth certificates and Social Security cards, do not contain an expiration date and should be treated as unexpired.

4. **Q. Why can't individuals present an expired document?**
 - A. The U.S. Department of Homeland Security wants to ensure that documents presented are valid and reliably establish both identity and employment authorization. Expired documents may not portray a valid status. They are also prone to tampering and fraudulent use. This policy takes into account the limits placed on these documents by their issuing authorities.

5. **Q. Can staff accept documents that used to be on the Form I-9 but aren't now?**
 - A. No. Staff may only accept documents included on the List of Acceptable Documents on the most current Form I-9. When an individual must be reverified because his or her employment authorization has expired, staff should ensure that they use the most current Form I-9.

6. **Q. When can individuals present receipts for documents in lieu of actual documents from the Lists of Acceptable Documents?**

- A. The “receipt rule” is designed to cover situations in which an individual is authorized to work at the time of verification, but he or she is not in possession of a document listed on the Lists of Acceptable Documents accompanying Form I-9. Receipts showing that a person has applied for an initial grant of employment authorization or for renewal of employment authorization are not acceptable.

There are three different documents that qualify as receipts under the rule:

1. A receipt for a replacement document when the document has been lost, stolen, or damaged. The receipt is valid for 90 days, after which the individual must present the replacement document.

Note: This rule does not apply to individuals who present receipts for new documents following the expiration of their previously held document.

2. A Form I-94/I-94A containing a temporary I-551 stamp and a photograph of the individual, which is considered a receipt for the Permanent Resident Card (Form I-551). The individual must present Form I-551 by the expiration date of the temporary I-551 stamp or within one year from the date of issuance of Form I-94/I-94A if the I-551 stamp does not contain an expiration date.
3. A Form I-94/I-94A containing an unexpired refugee admission stamp. This is considered a receipt for either an Employment Authorization Document (Form I-766) or a combination of an unrestricted Social Security card and List B document. The employee must present an Employment Authorization Document (Form I-766) or an unrestricted Social Security card in combination with a List B document to complete Form I-9 within 90 days after the date of hire or, in the case of reverification, the date employment authorization expires.

7. **Q. An individual has applied for a new Employment Authorization Document (Form I-766). Is the receipt notice acceptable for Form I-9 purposes?**

- A. In this case, the receipt notice is **not** an acceptable receipt for Form I-9 purposes. An individual with temporary employment authorization and holding an Employment Authorization Document (Form I-766) should apply for a new card at least 90 days before the expiration of his or her current document. If an individual applied for a new card at least 90 days before his or her current card expired but is nearing the end of the 90-day processing period without a decision from the U.S. Citizenship and Immigration Services (USCIS), instruct the individual to call the National Customer Service Center at 1-800-375-5283 or 1-800-767-1833 (TDD) about the status of his or her application. The USCIS strongly encourages that individuals first call the National Customer Service Center before visiting a USCIS office to prevent possible delays. If an individual prefers to check on the status of his or her application at a USCIS office, he or she may schedule an InfoPass appointment at www.infopass.uscis.gov. When an individual's current Employment Authorization Document (Form I-766) expires, he or she must be able to present a List A document, a List C document, or an acceptable receipt under the receipt rule to satisfy Form I-9 reverification requirements.

8. **Q. May staff continue to use earlier versions of Form I-9?**
- A. No, staff must use the current version of Form I-9. A revision date with an “N” next to it indicates that all previous versions with earlier revision dates, in English or Spanish, are no longer valid. Staff may also use subsequent versions that have a “Y” next to the revision date. If in doubt, go to www.uscis.gov/i-9 to view or download the most current form.
9. **Q. What is the staff’s responsibility concerning the authenticity of document(s) presented?**
- A. Staff must examine the document(s), and if they reasonably appear on their face to be genuine and to relate to the person presenting them, they must accept them. To do otherwise could be an unfair immigration-related employment practice. If the document(s) do not reasonably appear on their face to be genuine or to relate to the person presenting them, staff must reject the document(s) and ask for other documents that satisfy the requirements of Form I-9.
10. **Q. What is a U.S. passport card?**
- A. A passport card is a wallet-size document issued by the U.S. Department of State. While its permissible uses for international travel are more limited than the U.S. passport book, the passport card is a fully valid passport that attests to the U.S. citizenship and identity of the bearer. As such, the passport card is considered a “passport” for purposes of Form I-9 and has been included on List A of the Lists of Acceptable Documents on Form I-9.
11. **Q. How do staff know whether a Native American tribal document presented by an individual is acceptable for Form I-9 purposes?**
- A. In order to be acceptable, a Native American tribal document should be issued by a tribe recognized by the U.S. federal government. Because federal recognition of tribes can change over time, to determine if the tribe is federally recognized, staff should check the Bureau of Indian Affairs website at www.bia.gov.
12. **Q. The Native American tribal document is listed on both List B and List C of Form I-9. Does this mean that an individual may present this document to prove both identity and employment authorization?**
- A. Yes. If an individual presents a Native American tribal document, it establishes both identity and employment authorization on Form I-9, so staff do not need any other documents from the individual.
13. **Q. If an individual presents a Social Security card that is unsigned, may staff accept such a card as evidence of employment authorization?**
- A. Yes. Unsigned Social Security cards are acceptable as evidence of employment authorization unless the card states on the back “not valid unless it has been signed.” Staff may accept an unsigned Social Security card as long as the card reasonably appears to be genuine and to relate to the person presenting it.
14. **Q. If an individual presents a Social Security card that is laminated, may staff accept such a card as evidence of employment authorization?**
- A. It depends. Staff may not accept a laminated Social Security card as evidence of employment authorization if the card states on the back “not valid if

laminated.” Lamination of such cards renders them invalid. Metal or plastic reproductions of Social Security cards are not acceptable.

15. **Q. Some individuals have presented Social Security Administration printouts with their name, Social Security number, date of birth, and their parents’ names as proof of employment authorization. May staff accept such printouts in place of a Social Security card as evidence of employment authorization?**
 - A. No. Only a person’s official Social Security card or a receipt for a replacement card issued by the Social Security Administration is acceptable.

16. **Q. Is a military ID card ever acceptable as List A evidence of both identity and employment authorization?**
 - A. Yes, but only if the employer is the U.S. military and the Form I-9 is completed in the context of military enlistment. In the case of an individual lawfully enlisted in the U.S. Armed Forces, a valid, unexpired military ID card may be accepted as a List A document by the Armed Forces only. No other employer may accept a military ID card as a List A document.

17. **Q. An individual presented two documents from the Lists of Acceptable Documentation on the last page of the Form I-9, each containing a different last name. The individual explained that she had just gotten married and changed her last name, but had not yet changed the name on the other document. Can staff accept the document with the different name?**
 - A. Staff may accept two documents containing different last names provided that they resolve the question of whether the document reasonably relates to the individual. Staff also may wish to attach a brief memo to the documentation stating the reason for the name discrepancy, along with any supporting documentation the individual provides. An individual may provide documentation to support his or her name change, but is not required to do so. If, however, staff determine that the document with a different name does not reasonably appear to be genuine and to relate to her, they may ask her to provide other documents from the Lists of Acceptable Documents on Form I-9.

18. **Q. An individual presented Form I-9 documents issued by the Immigration and Naturalization Service (INS) rather than the U.S. Department of Homeland Security (DHS). Can staff accept these documents?**
 - A. Yes, staff can accept a document issued by INS if the document is unexpired and reasonably appears to be genuine and to relate to the individual presenting it. Effective March 1, 2003, the functions of the former INS were transferred to three agencies within the new DHS: U.S. Citizenship and Immigration Services (USCIS), U.S. Customs and Border Protection, and U.S. Immigration and Customs Enforcement. Most immigration documents acceptable for Form I-9 use are issued by USCIS. Some documents issued by the former INS before March 1, 2003, such as Permanent Resident Cards or Forms I-94 noting asylee status, may still be within their period of validity. If otherwise acceptable, a document should not be rejected because it was issued by INS rather than DHS. It should also be noted that INS documents may bear dates of issuance after March 1, 2003, as it took some time in 2003 to modify document forms to reflect the new USCIS identity.

State-issued Driver's License

A driver's license can be issued by any state or territory of the United States (including the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands) or by a Canadian government authority, and is acceptable if it contains a photograph or other identifying information such as name, date of birth, gender, height, eye color, and address.

Some states may place notations on their drivers' licenses that state the card does not confirm employment authorization. For Form I-9 purposes, these drivers' licenses, along with every other state's, establish the identity of an employee. When presenting any driver's license, the individual must also present a List C document that establishes employment authorization.

Driver's License from California

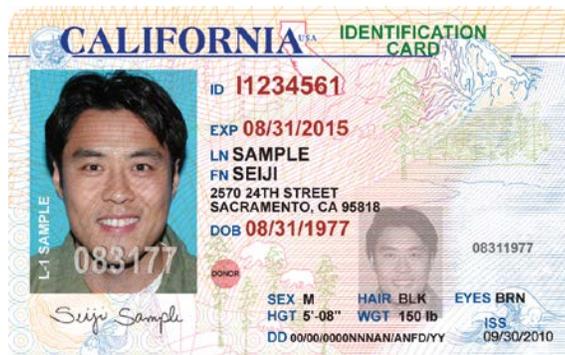


State-issued ID Card

An ID card can be issued by any state (including the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands) or by a local government, and is acceptable if it contains a photograph or other identifying information such as name, date of birth, gender, height, eye color, and address.

Some states may place notations on their ID cards that state the card does not confirm employment authorization. For Form I-9 purposes, these cards, along with every other state's, establish the identity of an employee. When presenting any state-issued ID card, the employee must also present a List C document that establishes employment authorization.

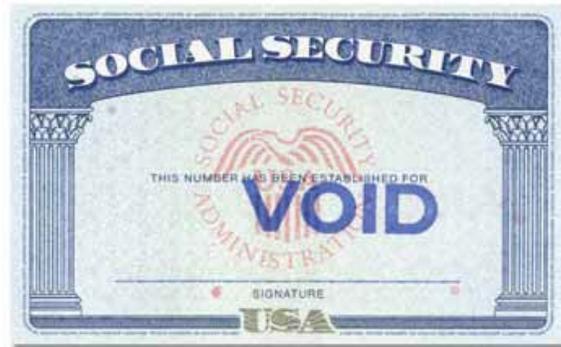
Identification card from California



U.S. Social Security Account Number Card

The U.S. Social Security account number card is issued by the Social Security Administration (older versions were issued by the U.S. Department of Health and Human Services), and can be presented as a List C document unless the card specifies that it does not authorize employment in the United States. Metal or plastic reproductions are not acceptable.

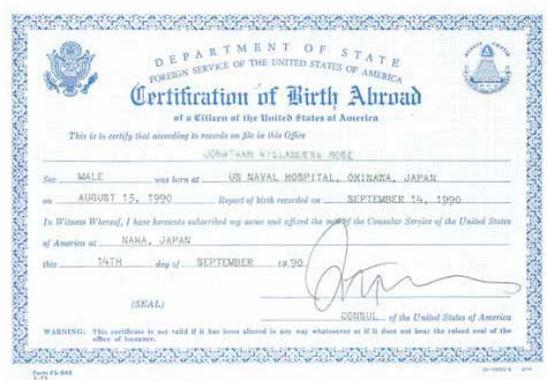
U.S. Social Security Card



Certifications of Birth Issued by the U.S. Department of State

These documents may vary in color and paper used. All will include a raised seal of the office that issued the document, and may contain a watermark and raised printing.

Certification of Birth Abroad Issued by the U.S. Department of State (FS-545)



Certification of Report of Birth Issued by the U.S. Department of State (DS-1350)



Birth Certificate

Only an original or certified copy of a birth certificate issued by a state, county, municipal authority, or outlying possession of the United States that bears an official seal is acceptable. Versions will vary by state and year of birth.

Birth Certificate

CERTIFICATION OF VITAL RECORD
STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS
VOID
COPY OF CERTIFICATE OF BIRTH
State of Rhode Island

Name of Child John Doe	Sex Male	Date of Birth Feb. 3, 2002	Place of Birth The Memorial Hospital Pawtucket Providence RHODE ISLAND
Name of Mother John R. Doe	Name of Father Providence	Year of Birth 17	Yearly Age 17
Newport, RI	RI	Feb. 3, 2002	

I hereby certify that this is a true and exact copy of the document officially registered and copied on file in the issuing office.
Issuing Office: STATE OFFICE, PROVIDENCE Date of Issuance: SEP 11 2002
Signature of Registrar
THIS COPY VALID ONLY IF ISSUED ON PAPER WITH ENGRAVED BORDERS DISPLAYING THE SEAL AND WORKINGS OF STATE OR LOCAL REGISTAR.

U.S. Citizen Identification Card (Form I-197)

Form I-197 was issued by the former Immigration and Naturalization Service to naturalized U.S. citizens. Although this card is no longer issued, it is valid indefinitely.

U.S. Citizen Identification Card (Form I-197)

Form I-197 (Rev. 8-1-61)
UNITED STATES
DEPARTMENT OF JUSTICE
IMMIGRATION AND
NATURALIZATION SERVICE
U.S. CITIZEN
IDENTIFICATION CARD
No. 121415
THIS CARD MAY BE REVOKED AT ANY
TIME. IT IS ISSUED FOR THE SOLE
PURPOSE OF IDENTIFYING THE HOLD-
ER TO A U.S. IMMIGRATION OFFICER
AT A PORT OF ENTRY.
SIGNATURE OF HOLDER
14-69817-3 GPO

Identification Card for Use of Resident Citizen in the United States (Form I-179)

Form I-179 was issued by the former Immigration and Naturalization Service to U.S. citizens who are residents of the United States. Although this card is no longer issued, it is valid indefinitely.

Identification Card for Use of Resident Citizen in the United States (Form I-179)

