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May 31, 2022

Samantha L Deshommnes,  
Chief, Regulatory Coordination Division  
Office of Policy and Strategy  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
5900 Capital Gateway Drive  
Camp Springs, MD 20746

Submitted via [www.regulations.gov](http://www.regulations.gov)  
e-Docket ID number USCIS-2006-0068.

**Re: Comment to Proposed Revision of a Currently Approved Collection: Employment Eligibility Verification (Form I-9); OMB Control Number 1615 0047**

Dear Ms. Deshommnes:

The American Immigration Lawyers Association (AILA) respectfully submits the following in response to the above-referenced 60-day notice and request for comments on proposed changes to Form I-9, Employment Eligibility Verification, as published in the Federal Register on March 30, 2022.<sup>1</sup> Specifically, we provide information regarding the nature of the information collection, the estimated burden (i.e. the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

Established in 1946, AILA is a voluntary bar association of more than 16,000 attorneys and law professors practicing, researching, and teaching in the field of immigration and nationality law. Our mission includes the advancement of the law pertaining to immigration and nationality and the facilitation of justice in the field. AILA members regularly advise and represent businesses, U.S. citizens, U.S. lawful permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration laws. Our members' collective expertise and experience makes us particularly well-qualified to offer views that will benefit the public and the government.

**Introduction**

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<sup>1</sup> [1](https://www.federalregister.gov/documents/2022/03/30/87-fr-18377) 87 FR 18377 (March 30, 2022).

AILA appreciates the efforts of USCIS to simplify the completion of Form I-9 for employees and employers. Our comments are intended to provide recommendations for further improvements for USCIS to consider in this effort. The Form I-9 was introduced in 1986 as a means of minimizing the hiring of unauthorized workers by employers. It was never intended to be a primary means of penalizing well intentioned and compliance-focused employers for paperwork errors. Hence, the 1997 Virtue Memorandum<sup>2</sup> effectuated the Good Faith Amendment to the Immigration Reform and Control Act by providing 10 days to correct minor errors which were not likely to lead to the hiring of unauthorized workers. More recently, the Department of Homeland Security (DHS) Secretary Mayorkas' Memorandum of 2021<sup>3</sup> prioritizes enforcement towards "unscrupulous employers" as opposed to employers making good faith efforts to comply and undocumented workers who are contributing to their communities. Accordingly, we believe that any changes to Form I-9 should begin with the goals of simplifying compliance and easing procedural burdens on employers

Having said that, we agree, as a basic concept, AILA believes that a shorter form with fewer instructions would seem to be an improvement, as long as such reduction will ensure clarity, be more comprehensible, and eliminate redundancy. However, thirty-six years of experience counseling employers grappling with the complexity of changing requirements leads inexorably to the conclusion that efforts to decrease the length of the form may lead inevitably to a corresponding increase in confusion and mistakes.

The Form I-9 has been a two-page form for almost a decade. For more than the prior two decades, it had been a one-page form. Therefore, we have direct practical experience with both one-page and two-page versions of Form I-9s. In our extensive and collective experience, the change from one-page to two pages had the very real effect of reducing the number of inadvertent errors made by both foreign nationals and employers because the respective responsibilities of employers and employees are clearly delineated on two separate pages and there is adequate space for all relevant information.

As USCIS noted on its [website](#), the stated need for this revision to Form I-9 is to "compress sections 1 and 2 from two pages to one page to reduce paper use and storage burden on employers" as well as to "simplify the instructions from 15 pages to 7 pages, further reducing paper usage." Electronic form preparation and retention has existed for many years and it is reasonably foreseeable that more employers will continue to gravitate toward electronic Forms I-9. Broader utilization of electronic forms will reduce paper use and storage burden, as well as provide greater flexibility to provide useful completion guidance. We believe the government's focus would better be placed on the promotion and facilitation of electronic versions of Form I-9. Additionally, as explained in more detail below, we believe the compression of the form from two pages to one page does not improve quality, utility, clarity, or reduce the effective burden of the Form I-9. The

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<sup>2</sup> Memorandum: Interim Guidelines: Section 274A(b)(6) of the Immigration and Nationality Act Added by Section 411 of the Illegal Immigration Reform and Responsibility Act of 1996. Immigration and Naturalization Service, Office of Programs. HQIRT 50/5.12 (March 6, 1996).

<sup>3</sup> Memorandum: Worksite Enforcement: The Strategy to Protect the American Labor Market, the Conditions of the American Worksite, and the Dignity of the Individual. Department of Homeland Security Policy Statement 065-06 (October 21, 2021).

compressed form will send employers back in time to an era full of inadvertent but costly errors, and occasionally may lead to the unintentional hiring of unauthorized workers.

We provide the following comments with sincere appreciation for the efforts of USCIS to initiate this conversation and we look forward to being partners with USCIS in modernizing not only the Form I-9, but also the entire employment verification compliance system in a manner that encourages employer compliance and minimizes the hiring of unauthorized workers.

### **General Information Regarding the Nature of the Information Collection,**

From a legal, technical and practical perspective, the Department of Homeland Security's proposal to return to a one-page Form I-9, rather than the current two-page form is unnecessary because the Form I-9 is not burdensome and the change will likely create more problems for employers and employees than it solves. Our reasons for this belief are as follows:

1. Error rates, particularly paperwork errors, were substantially reduced when the USCIS introduced the two-page Form I-9 on March 8, 2013. Based on our direct experience auditing and advising employers on their Form I-9 compliance programs, we observed a considerable drop in error rates on the part of both employers and employees. Notably, the bifurcation of the Form into two sections in which only the Employee (Section 1, located on page 1) or Employer (Section 2, located on page 2) is permitted to enter data significantly enhanced the integrity of data being entered. We believe that reverting to the one-page Form I-9 is likely to cause an increase in instances in which the employer inadvertently makes entries/edits to the Form in a section in which only the employee should enter data. Moreover, the instructions for the proposed Form I-9 do not explicitly state that the employer is prohibited from typing/entering any data in Section 1 on behalf of the employee.
2. Creating a one-page Form I-9 that will increase error rates, both substantive and technical, by well-meaning employers, as opposed to "bad actor" employers, is contrary to the intent of Mayorkas' Memo. In the memorandum, Secretary Mayorkas says DHS will pursue "unscrupulous employers", who "exploit their employees' immigration status and vulnerability to removal by, for example, suppressing wages and maintaining unsafe working conditions." Employers who make inadvertent errors on Form I-9 are not "unscrupulous employers."
3. The technical errors that will inevitably increase with a reduction in clarity of the Form is also contrary to the previously mentioned Virtue memo, which prioritized mistakes that "are likely to the lead to the hiring of an unauthorized [worker]." In the overwhelming majority of circumstances, paperwork errors will not typically lead to an unauthorized worker being hired. Rather than creating a new and confusing version of the Form I-9 to facilitate paper-based completion of the employment verification process, USCIS would better serve the public by creating an electronic employment verification system that provides ease of access and reduces the burdens and obligations on employers attempting to comply in good faith with the law.

## **The Estimated Burden: Impact on the Burden to Prepare**

Again, based on our several decades of experience advising employers on the proper completion of the form, we believe the stated time estimates do not reflect the actual burden and time required to fully comply with the form's requirements. A stated objective to the current proposed revisions is to shorten the written form's instructions that employers must provide to all employers. Putting aside for the moment the obvious concern that shorter instructions may negatively impact compliance, even if a shorter set of instructions is provided, review of the instructions and the actual completion of the Form I-9 will be largely unaffected by this change and, in any event, will take significantly longer than currently estimated.

It is imperative that sufficient time is acknowledged by USCIS to set realistic expectations for employers in terms of resourcing the employment verification process, as the form is signed under penalty of perjury with possibly significant penalties for noncompliance. To that end, we respectfully submit that the language on the face of the form should be revised to clearly reflect the seriousness of noncompliance for both the employee and employer signatories. Our proposed language is as follows: "NOTE: Information provided on this form may be used against you in future immigration proceedings."

As a result of the changes to the employment environment due to COVID, it is reasonable to anticipate that employers will likely have a significantly higher need for use of agents to complete the form for new hires working remotely.<sup>4</sup> USCIS's instructions should make clear to potential agents the risks assumed when requested to complete the form so agents can make fully educated decisions on whether to sign Section 2 of the form and take all necessary steps to ensure compliance. Most importantly, to effectively reduce the burden on employers and to align the actual burden with the estimated .33 hours per form, a permanent virtual verification option, where a well-trained and centralized Human Resources (HR) team may complete the employer sections and review the content provided by the employee in real time, is essential.

Finally, we note that the Federal Register notice indicates that "[t]he estimated total annual cost burden associated with this collection of information is \$0. Any requirements to support the verification process are already available through other approved collections of information that may be employment related or occur as a part of the hiring process. There is no submission to USCIS of materials which eliminates mailing and photocopying costs." This wholly unrealistic language suggests that there are no costs associated with Form I-9 preparation or compliance as employers are developing form information in the onboarding process, separate from the specific process of Form I-9 completion. While employers may develop some of the information necessary for completion of Form I-9 independent of the employment verification process, this overly broad statement fails to recognize the tens of millions of dollars that employers spend annually on training, implementation, oversight and auditing of their employment verification records.

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<sup>4</sup> A simpler and more employer-friendly solution to the changes created by the Covid-19 pandemic would involve allowing for a virtual Form I-9 verification process on a permanent basis.

## **Recommendations**

To ensure that the Form I-9 is easy to use by employers and employees to ensure full compliance, AILA makes the following recommendations.

### ***1. Nature of the Information Collection and the Information Collection Instrument***

We appreciate the USCIS revisions that allow for the easier completion of the Form I-9 by both the employee and employer. Specifically, the proposed revised version of the Form I-9 includes some beneficial changes, such as the following:

- The removal of the requirement to insert “N/A” into the blank fields will assist both employees and employers when it is logical to imply that a blank field generally means, not applicable, especially when a field such as "Other Last Names Used" in Section 1 specifically states “(if any)”. Requiring employees to write in “N/A” in such a field is redundant. The same is true with respect to the fields in Section 2 that require “Expiration Date (if any)”. Requiring employers to add “N/A” to such fields is also redundant.
- The consolidation of all the attestation language for Section 1 in one location makes it easier for the employees to complete Section 1 with fewer errors.
- The proposed attestation to be completed by the employee in Section 1 is clear.
- The removal of the check boxes for the “Preparer/Translator” certification also reduces the likelihood of errors by employees when completing Section 1, especially when a Preparer/Translator was not used.
- The change in the reference of “document” or “documents” to “documentation” on both the Form I-9 and in the Instructions makes it clearer for the employer, as well as the employee when completing the fields in the Form I-9.
- The additional information referencing the M-274 in List C of the list of Acceptable Documents is a much welcome addition as it provides both employees and employers with guidance as to where to find the information on the USCIS website.
- The “Acceptable Receipts” section that has been added to the List of Acceptable Documents is also a welcome addition that should assist employers when completing the Form I-9 as this has often been confusing and some employers have not known where to find specific guidance related to the acceptance of “receipts”.

### ***2. Suggested improvements to the proposed revised Form I-9 if both Section 1 and Section 2 are on the Same Page***

While there have been welcome changes to the Form I-9 and the instructions, there have been many changes that have increased the likelihood of mistakes to be made by the employer and employee that cannot be justified on the basis of efficiency.

We suggest the following improvements to the proposed Form I-9, should it remain with both Section 1 and Section 2 on the same page:

## **I. Section 1**

- a. Retaining the separate field for the “Apartment Number (if any)” as it is more likely that employees will fail to include the Apartment Number if it is included in the same field as the “Street” Address.
- b. Adding boxes for the digits to be entered for the Social Security Number should be included in the U.S. Social Security Number field.
- c. Indicating “Optional” on the fields for “Employee’s E-mail Address” and “Employee’s Telephone Number” as this information is not required and will otherwise create confusion.
- d. Restoring the three separate fields in Section 1, “Check one of the following boxes to attest to your citizenship or immigration status” under #4 (Alien Registration Number/USCIS Number; Form I-94 Admission Number; Foreign Passport Number and Country of Issuance). The proposed change not only requires an employee to squeeze the information into a narrowly condensed space, but also makes it unclear as to who is to complete this field as it is a “floating” line on the form and could be interpreted by an employee to be a requirement to be completed by all employees.
- e. Changing the language for Section 1, Box #4 to “A nonimmigrant authorized to work” and add two boxes for the employee to select (A) without expiration or (B) temporarily (expiration date (mm/dd/yyyy)) to make it clear whether the employee is authorized to work indefinitely or with limitation.
- f. Keeping the three types of documents in Section 1, Box #4 on separate lines with “OR” between them so that the employee knows to complete this information only if checking Box #4 as his/her status.
- g. Adding the following language to the attestation so that employees understand how this information may be used against them – “NOTE: Information provided on this form may be used against you in future immigration proceedings.”
- h. Relocating the Preparer/Translator Certification to the top of Page 2 in Section 2. This will allow for more room for the employer to properly complete the information pertaining to the required documentation for Lists A, B and C. Also, adding a line, if deemed necessary for compliance purposes, immediately after the signature block of Section 1 indicating, “If a Preparer or Translator assisted in the completion of Section 1 of this form, that person is required to complete the Preparer and/or Translator Certification on Page 2.’

AILA has drafted a “one-page” version of Form I-9 with proposed revisions to Section 1 that is included with this comment.

## **II. Section 2**

- a. Increasing the size of the lines on the Form I-9 for the employer to insert the information for the relevant documentation for Lists A, B and C, as the proposed lines are extremely small and will create errors by employers, not to mention making it difficult for internal employer auditors and the government to review.

- b. Restoring the fields for the third requirement documentation in List A as its elimination will lead to additional errors by employers, by either failing to include the information related to the third required document or failing to include all of the required information for the third document if required to squeeze the information into the margins and/or the “Additional Information” box.
- c. Increasing the size of the box for “Additional Information” as it is too small and will not provide sufficient space for the additional information that is required for explaining common circumstances, such as automatic extensions, etc.
  - i. A further challenge with the Additional Information box is that the line appears to allow for three options, which is problematic for electronic Form I-9 providers as they need to know how to report this information and typically need a field for every different category of response. A long blank line with multiple options does not allow these vendors to enable a rule to follow for this entry and does not allow for the use of Artificial Intelligence (AI) for the entry.
- d. Moving the “Preparer/Translator Certification” section to the top of the Reverification and Rehire Supplement to Form I-9, as this would permit more room for the “Additional Information” section. The Supplement should then be renamed “Preparer/Translator, Rehire, Update and Reverification Supplement to Form I-9”.
- e. Including checklists for the employer in the Additional Information<sup>5</sup> section, which should include fields for the employer to add specific information relating to:
  - i. Automatic Extensions;
  - ii. Optional Tracking Details (such as EAD category code and TPS country);
  - iii. Optional E-Verify Details; and
  - iv. Receipts: including fields for this specific information, employers will be able to better understand when a receipt is required/acceptable and under what List of Acceptable Documents the information should be placed.
- f. Adding “in the U.S.” after “Employee’s First day of Employment” in the box requesting this information in order to clarify request relates to the first day of employment in the U.S. when employees may have transferred to the U.S. from the employer’s offices abroad.

AILA has drafted a “one-page” version of Form I-9 with recommended changes to Section 2 that is included with this comment.

### **III. The Reverification and Rehire Supplement for Form I-9.**

- a. As noted previously, given the increased likelihood that employees and employers will make errors in Sections 1 and 2 if the Form I-9 is condensed to one page, moving the “Preparer/Translator Certification” section to the Reverification and Rehire Supplement to Form I-9 and renaming the Supplement “Preparer/Translator, Rehire,

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<sup>5</sup> Note that, for electronic systems, open ended data field in the Additional Information field is problematic as vendors have no ability to monitor or apply rules to the data potentially added here, leading to a more chaotic data field than an efficient Form I-9 management system.

update and Reverification Supplement to Form I-9”. This will allow for significant additional room for the employee and employer to more accurately complete Sections 1 and 2.

- b. Adding the following instruction: “Use this section if someone assisted your employee in completion of the Form I-9” to the Preparer/Translator Certification in this Supplement
- c. Defining more clearly the “Reverification, Update, Rehire, or Name Change” section of the Supplement with the specific heading and providing clear instructions to the employer about when and how to complete this Supplement with the required information. (See the proposed “Preparer/Translator, Rehire, update and Reverification Supplement to Form I-9” included with this comment.)

AILA has drafted a proposed Supplement to Form I-9 for the “one-page” version of Form I-9 that is included with this comment.

With the proliferation of alternative acceptable employment authorization documents, typically those listed at Column C, item #7, an area that now more than ever confuses employers, employees and Form I-9 vendors, it is important that USCIS provide a simpler and more user-friendly method of completing Form I-9 in this scenario. The substantial number of document combinations makes it hard for employers, and employees, to know what to use, when to use it and how and what to track for the expiration date. This expanding numbers of items is also creating greater difficulty for Form I-9 technology vendors and increases the potential for non-substantive technical errors and the appearance of discrimination. In this context, we believe that maintaining an accurate and up to date list of acceptable documents in a prominent location on the USCIS I-9 Central website, combined with specific instructions on how Form I-9 is to be completed with this information and how expirations dates should be tracked, is a prerequisite for ensuring that all stakeholders know how to properly document employment authorization in these complicated scenarios.

***3. Suggested improvements to the proposed revised Form I-9 if the Form I-9 remains a two-page form with Section 1 and Section 2 on separate pages.***

The creation of the Form I-9 as a two-page document with Section 1 and Section 2 each on their own page was a welcome change for all parties involved in employment verification compliance as it made it easier to determine which party completed which section and allowed for space to provide all required information. The reduction of the Form I-9 to a single page that contains both Section 1 and Section 2 is unlikely to accomplish the primary purpose of the form (enhanced employment verification) and will increase the likelihood of mistakes, not only technical errors and substantive errors, but more importantly the hiring and/or retention of individuals without valid work authorization, therefore AILA recommends that Section 1 should remain as its own separate Page 1 and Section 2 should remain in its own separate Page 2. To that end, AILA makes the following recommendations:

**I. Page 1, Section 1**



- a. Leaving the separate field for the “Apartment Number (if any)” as it is more likely that employees will fail to include the Apartment Number if it is included in the same field as the “Street” Address.
- b. Including the boxes for the digits to be entered for the Social Security Number in the U.S. Social Security Number field.
- c. Indicating “Optional” on the fields for “Employee’s E-mail Address” and “Employee’s Telephone Number” as this information is not required and removing the word will create confusion.
- d. Restoring the three separate fields in Section 1, “Check one of the following boxes to attest to your citizenship or immigration status” under #4 (Alien Registration Number/USCIS Number; Form I-94 Admission Number; Foreign Passport Number and Country of Issuance).. The proposed change not only requires an employee to squeeze the information into a narrowly condensed space, but also makes it unclear as to who is to complete this field as it is a “floating” line on the form and could be interpreted by an employee to be a requirement to be completed by all employees.
- e. Changing the language for Section 1, Box #4 to “A nonimmigrant authorized to work” and add two boxes for the employee to select (A) without expiration or (B) temporarily (expiration date (mm/dd/yyyy)) to make it clear whether the employee is authorized to work indefinitely or with limitation.
- f. Keeping the three types of documents in Section 1, Box #4 on separate lines with “OR” between them so that the employee knows to complete this information only if checking Box #4 as his/her status.
- g. Adding the following language to the attestation so that employees understand how this information may be used against them – “NOTE: Information provided on this form may be used against you in future immigration proceedings.”
- h. Delineating the Preparer/Translator Certification on Page 1 so that it is clear that this Certification only needs to be completed if a preparer and/or translator assisted with the completion of Section 1.
- i. Adding an optional box entitled: “OPTIONAL: RETENTION CALCULATOR” for employers to complete once the employee’s employment has been terminated. This will increase the likelihood of employers retaining the Form I-9 for the required period of time, facilitate both internal corporate and government audits and creates a more uniform way to indicate the retention date information on the Form I-9.

AILA has drafted a “two-page” version of the form with proposed revisions to Page 1, Section 1 that is included with this comment.

## **II. Page 2, Section 2**

- a. Retaining Section 2 of the Form I-9 as its own section on Page 2 of the form just as it is in the current version of the Form I-9.
  - i. This structure provides a clear delineation about which party is to complete each section of the form.

- ii. It also allows for sufficient room for the employer to include all required information for the documentation provided by the employee to prove identity and work authorization, as well as for both internal auditors and government agents to review.
- b. Retaining the Section 2 fields for the third document that is required in certain circumstances for List A documentation in order to alleviate inadvertent errors and/or omissions by employers.
  - i. Without the third document fields, employers will likely fail to include the information related to the third required document or fail to include all of the required information for the third document.
  - ii. The prior “one-page” version of Form I-9 with fields for only two documents in List A led to employers having to squeeze the information into the margins and/or the “Additional Information” box and, in many instances, led to increased errors.
- c. Enhancing the “Additional Information” box to include checklists to provide employers with much needed guidance related to these confusing situations. Such checklists should include fields for the employer to add information about:
  - i. Automatic Extensions
  - ii. Optional Tracking Details (such as EAD category code and TPS country)
  - iii. Optional E-Verify Details
  - iv. Receipts: including this additional detail will better enable employers to understand when a receipt is acceptable and under what List of Acceptable Documents the information should be placed.
- d. Adding “in the U.S.” after “Employee’s First day of Employment” in the box requesting this information in order to clarify request relates to the first day of employment in the U.S. when employees may have transferred to the U.S. from the employer’s offices abroad.
- e. Reorganizing the Rehire, Reverification, Update Section into separate sections to aid employers.
  - i. Section 3(A) Rehires is a section recommended on Page 2 under the Employer Certification for Section 2. This section would be used solely for rehires and would provide specific guidance for employers to compete when necessary.
  - ii. The Update and Reverification portion would best be included in a separate Supplement to Form I-9. Please see information below.

AILA has drafted a “two-page” version of Form I-9 with a proposed revisions Page 2, Section 2 that is included with this comment.

### **III. Update and Reverification Supplement for Form I-9**

- a. Incorporating additional guidance to assist employers in determining when to “update” and when/how to “reverify” work authorization into a new Supplement to Form I-9 on Page 3.
- b. Adding multiple “Update or Reverification” fields on this Page 3 to make it more employer friendly.

- c. AILA has drafted a proposed Page 3, Update and Reverification Supplement, for the “two-page” version of the form that is included with this comment.

While reducing paper usage and form storage requirements are generally worthwhile concepts, AILA believes it is of paramount importance that USCIS provide employers and employees with a Form I-9 that is intuitive, easy to complete and incorporates comprehensive and readily understandable guidance. We believe our proposed version of Form I-9 will help prevent errors that not only lead to fines, but also the employment of individuals without valid work authorization, the overarching goal of this process.

### **Minimizing the burden of information collection through use of automation technology.**

In our professional opinion, the emphasis on reducing the length of Form I-9 so that its paper version can consist of only one page seems misplaced and runs counter to the overall direction of USCIS toward facilitating the use of technology to engage stakeholders. A more consistent and, in fact, more environmentally sensitive approach would be to invest in expanding access to an electronic Form I-9 processing system that is widely available and requires no paper.

This USCIS goal of returning to a one-page form (for section 1 and 2), seems disconnected from the trending toward software-based Form I-9 solutions, as the number of physical pages is irrelevant in an electronic environment. Regardless, if, as per federal regulations, the electronic Form I-9 is to mirror whatever form design USCIS adopts, compliance will be more difficult in the proposed compressed format.

Rather than attempting to facilitate greater use of a paper version of Form I-9, we believe USCIS should consider enhancing its electronic Form I-9 guidelines (e.g., audit trail requirements, correction procedures, etc.) to provide additional clarity and certainty for users, thus encouraging even greater use of software-based compliance solutions. Given the inexorable migration to electronic Forms I-9, this guidance would be a significant, forward-looking approach.

Enhanced reliance upon electronic Forms I-9 would also more closely align employment verification with the Administration’s modernization goals for the U.S. immigration system. Focusing primarily to electronic verification tools would have the added benefit of facilitating the integration of technological enhancements in AI such as Intelligent Automation, which is a combination of Robotic Process Automation and AI technologies that empowers rapid end-to-end business process automation and accelerates digital transformation. For modernization to occur in the manner and at the pace envisioned by the Administration, the Form I-9, like most government data collection forms, should be designed and built to leverage this functionality. For the Form I-9, this path forward is clear as many private Form I-9 solution providers apply Intelligent Automation to their systems, but it must be included into the design’s building blocks.

We also understand that the proposed changes to Form I-9 are significant from a vendor software development perspective in that they will require, particularly at the new Section 3, completely new programming and a new workflow. Generally, this increased difficulty is because

electronic systems can more easily map existing fields to a new form but it is much more difficult to allow reporting across new forms and old forms if they use new or different fields. This is particularly the case if USCIS modifies a field's meaning or content, in which case systems need to determine if and how reporting is to be allowed across the old and new fields at the same time. If USCIS proceeds with this proposed revision to Form I-9, we encourage the agency to invite Form I-9 software representatives to discuss the impact and implementation timeline of the new form well in advance of publication, as vendors will need adequate time to adjust their software accordingly.

Again, we believe the best strategy for enhancing compliance is not creating a condensed and potentially more confusing one page Form I-9, but rather maintaining the current two-page architecture while simultaneously enhancing the design and functionality of electronic employment verification. Since the inception of the employment verification process in 1987, a clear and consistently stated objective of this process is not unduly burdening employers with the performance of a primarily governmental function (i.e. ensuring that all foreign workers have government authorization to be employed in the U.S.).<sup>6</sup> Accordingly, as USCIS moves to a more fully digital interface with its user community, we believe the employment verification process should be at the forefront of this effort and we encourage USCIS to focus on the efficiencies and environmental advantages of electronic employment verification.

### **Conclusion**

AILA appreciates the opportunity to provide feedback to the agency regarding its proposed revisions to Form I-9. AILA looks forward to a continuing dialogue with USCIS on this and related matters.

Please address any concerns or questions to AILA Director of Government Relations Sharvari Dalal-Dheini at [SDalal-Dheini@aila.org](mailto:SDalal-Dheini@aila.org).

Sincerely,

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION

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<sup>6</sup> As previously noted, another enhancement to the employment verification process that would reduce the burden on employers would be the permanent implementation of the virtual verification of employment authorization. Given the dramatic changes to the nature of work resulting from the Covid-19 pandemic and the corresponding acceleration of remote work options, it is critically important that employers continue to have the flexibility to fulfill their Form I-9 obligations in a virtual environment.