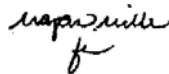


## TEXAS WORKFORCE COMMISSION LETTER

<b>ID/No:</b>	WD 70-07, Change 2
<b>Date:</b>	April 3, 2009
<b>Keyword:</b>	ES; WorkInTexas.com
<b>Effective:</b>	Immediately

**To:** Local Workforce Development Board Executive Directors  
Commission Executive Offices  
Integrated Service Area Managers



**From:** Laurence M. Jones, Director, Workforce Development Division

**Subject:** **Revised Form I-9 and List of Acceptable Documents for Verifying Employment Eligibility**

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### **PURPOSE:**

To provide Local Workforce Development Boards (Boards) with:

- the revised Form I-9, Employment Eligibility Verification (Rev. 02/02/09);
- information and guidance on the revised list of acceptable documents for verifying the employment eligibility of job seekers referred for temporary H-2A agricultural and H-2B nonagricultural job postings; and
- a revised Quick Reference Desk Aid for Form I-9.

### **BACKGROUND:**

The U.S. Department of Labor's (DOL) Foreign Labor Certification H-2A agricultural and H-2B nonagricultural nonimmigrant visa program permits employers to hire foreign workers to perform temporary or seasonal agricultural and nonagricultural labor or services. Prior to filing a petition for one or more H-2A or H-2B workers with the U.S. Department of Homeland Security's U.S. Citizenship and Immigration Services (USCIS), employers must file an application with DOL certifying that:

- there are not sufficient workers who are able, willing, qualified, and available at the time and place where the H-2A or H-2B worker is to perform the work; and
- employment of the H-2A or H-2B worker will not adversely affect the wages and working conditions of similarly employed U.S. workers.

Under new U.S. Department of Homeland Security regulations, effective April 3, 2009, the list of acceptable documents for verifying employment eligibility on Form I-9 (Rev. 02/02/09) has been revised. Form I-9 (Rev. 02/02/09), along with basic instructions, is included as Attachment 1, and is available at <http://www.uscis.gov/i-9>.

**PROCEDURES:**

Boards must be aware that:

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- USCIS has released a new Form I-9 (Rev. 02/02/09) for use on and after April 3, 2009;
- expired documents are no longer acceptable for verifying the employment eligibility of job seekers referred to temporary H-2A agricultural and H-2B nonagricultural job postings; and
- the list of acceptable documents for verifying employment eligibility on Form I-9 (Rev. 02/02/09) has been revised. See Form I-9 (Rev. 02/02/09) for the current list of acceptable documents.

Boards must ensure that appropriate staff uses Form I-9 (Rev. 02/02/09) to verify employment eligibility for H-2A and H-2B referrals.

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A revised Quick Reference Desk Aid for Form I-9 is included as Attachment 2.

**INQUIRIES:**

Direct inquiries regarding this WD Letter to [wfpolicy.clarifications@twc.state.tx.us](mailto:wfpolicy.clarifications@twc.state.tx.us).

**ATTACHMENTS:**

Attachment 1: Form I-9, Employment Eligibility Verification

Attachment 2: Quick Reference Desk Aid for Form I-9

**RESCISSIONS:**

Attachments 1 and 2 to WD Letter 70-07, Change 1

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**REFERENCE:**

- Immigration and Nationality Act (Pub. L. 82-414), as amended by Immigration Reform and Control Act of 1986 (Pub. L. 99-603)
- 8 C.F.R. Part 274a, Control of Employment of Aliens
- 20 C.F.R. Part 655, Subpart A, Labor Certification Process and Enforcement of Attestations for Temporary Employment in Occupations Other Than Agriculture or Registered Nursing in the United States (H-2B Workers)
- 20 C.F.R. Part 655, Subpart B, Labor Certification Process for Temporary Agricultural Employment in the United States (H-2A Workers)
- United States Department of Labor Training and Employment Guidance Letter No. 11-07, Change 1, issued November 14, 2007, and entitled "Clarification of Certain Procedures for Processing H-2A Labor Certification Applications"
- WD Letter 70-07, Change 1, issued February 3, 2009, and entitled "Form I-9: Verification of Employment Eligibility for Temporary H-2A Agricultural and H-2B Nonagricultural Job Seekers—*Update*"

**FLEXIBILITY RATINGS:**

**No Local Flexibility (NLF):** This rating indicates that Boards must comply with the federal and state laws, rules, policies, and required procedures set forth in this WD Letter and have no local

flexibility in determining whether and/or how to comply. All information with an NLF rating is indicated by “must” or “shall.”

**Local Flexibility (LF)**: This rating indicates that Boards have local flexibility in determining whether and/or how to implement guidance or recommended practices set forth in this WD Letter. All information with an LF rating is indicated by “may” or “recommend.”