

ADMINISTRATIVE PROCEDURES



Procedure Number: 23-39

Effective Date: 11/13/2007

Revision Date: 06/09/2010

C. D. D. D.
County Administrator

SUBJECT: **VERIFICATION OF AN EMPLOYEE'S ELIGIBILITY TO WORK**

DEPARTMENT RESPONSIBLE: **All County Departments**

I. STATEMENT OF PURPOSE

The Immigration Reform and Control Act of 1986 (IRCA) (Title 8 U.S.C. § 1324a et. seq.), the Aliens and Nationality Act (ANA) (Title 8 U.S.C. § 274a), and the Legal Arizona Workers Act (LAWA) (A.R.S. 23 §211 et. seq.) require verification of the identity and employment eligibility of all newly hired employees. Pima County shall follow the requirements of Federal and State statutes. If the newly hired employee is not eligible to work in the United States, that employee shall be promptly terminated.

Beginning January 1, 2008, the LAWA requires that all Arizona employers verify the legal right or authorization to work in the United States within three days after the date of hire by use of the E-Verify System. The E-Verify System, mandated by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, is an internet-based employment verification program administered by the U.S. Department of Homeland Security and the Social Security Administration. It provides an automated link to federal databases maintained by the Social Security Administration and the U.S. Citizenship and Immigration Services to assist employers to determine the validity of a newly hired employee's Social Security number.

II. PROCEDURE

- A. Prior to the employee's first day of work (start date), the Department Personnel Representative (DPR) shall provide the new hire with a list of acceptable documents that are required to be brought on the first day of work (Day 1). A list of documents is available on the back of the current Form I-9 and on the Pima County Human Resources website. The DPR cannot specify the documents to be submitted. However, documents from List B must contain a photograph to meet the E-Verify System requirements.

A rehired employee will be processed in the same manner as a newly hired employee. A new Form I-9 is required regardless of the time lapse between employment dates.

Existing transferred employees (department to department) or reappointed employees do not need to be processed through E-Verify. It is the department's responsibility to confirm if the employee is a transfer, reappointment or rehire and if a terminating PAF has been created by the departing department. If a terminating PAF has been created and processed, the employee is a rehired employee.

- B. On the Date of Hire (Day 1) and not sooner, each employee is required to complete the current Employment Eligibility Verification (Form I-9). A link to the current Form I-9 is located on the Pima County Human Resources website. Human Resources will notify the DPRs when this form is changed.

Section 1 of the Form I-9 MUST be completed by the employee with assistance of a translator, if required. It is NOT to be completed by the DPR.

If Section 1 of the Form I-9 is completed electronically by the employee, the employee must handwrite "Electronically Completed By" above his/her signature as verification that the employee completed the information.

The employee must include a physical home address or description thereof. Post office boxes, mail stop codes, etc. are not permitted.

The employee must provide acceptable supporting documents within 3 business days of hire and no later than 3 pm on Day 3. If these documents are not received within this time frame, the employee must be terminated. Exception: if employee is hired for only 3 days, documents must be supplied on Day 1.

If the employee is a minor and not able to provide a document from List A or a photo document from List B, the parent or guardian must complete Section 1. In the employee's signature box, "Individual under 18" must be written. The parent or guardian completes the Preparer and/or Translator section of the Form I-9. The DPR will write "Individual under 18" in the List B document verification of Section 2.

- C. All documents submitted to support Form I-9 shall be reviewed by the DPR for any obvious signs of forgery or any other signs that would call into question the authenticity of the document, including the lack of an appropriate signature. If a submitted document is from List B, it must contain a photograph and that photograph is to be verified (the photo must match the person submitting it for employment.)

Any obviously false document in support of Form I-9 shall be rejected and must be reported to the Pima County Attorney's Office. Any questions regarding documents or signatures should be directed to HR-E-Verify as soon as possible so as not to delay processing.

A receipt from the Social Security Administration showing that an employee has applied for a Social Security card (Exhibit 1) is an acceptable List C document, however, the DPR must write "SSN Receipt" in List C. The employee must present the actual card to the DPR within 90 days of the date on the receipt. Failure to do so may result in termination. When the new card is presented, the DPR will make a copy of the card and forward it to HR-E-Verify. A Social Security Number Printout (Exhibit 2) alone is not an acceptable List C Document.

The DPR must make clear and legible copies of the front and back of each document submitted to complete Section 2. Note: if the document provided references other documents, the DPR must also copy the referenced documents.

The DPR must complete Section 2 of the Form I-9 and is responsible for verifying that the employee has correctly completed, signed and dated Section 1.

If additions or corrections to Section 1 must be made, the employee must make the change and initial and date the change. The DPR must NOT make additions or corrections to Section 1.

- D. On the Date of Hire (Day 1), after completion of Form I-9, the DPR will fax the completed Personnel Action Form (PAF) and the Form I-9, along with clear and legible copies (front and back) of the documents used to complete Section 2 of the Form I-9 to Human Resources E-Verify (HR-E-Verify) using the RightFax capability at 791-6514. The use of RightFax is required because these documents are deemed confidential. Nothing in this procedure precludes Human Resources from substituting some other secured method of transferring or sharing I-9 documents.

Copies of Section 2 documents must be attached to the original I-9 and sent to Human Resources' Records with the original PAF. No copies of the Form I-9 or supporting documentation may be maintained by the department.

If the employee's Date of Hire (Day 1) should be on a non-business day (e.g. weekend or holiday) or during a shift outside of DPR's work hours, DPR may complete and fax the required information as soon as possible but not later than 3 pm on Day 3.

- E. Upon receipt of the fax from the DPR, HR-E-Verify will review the Form I-9 and accompanying documents. If there is a difference among the documents, HR-E-Verify will contact the DPR and request

that the appropriate corrections be made and the documents re-faxed to HR-E-Verify.

- F. As per the applicable Federal Regulations for E-Verify, a verification query must be performed within 3 business days of hire. On the Date of Hire (Day 1), but no later than close of business on Day 3, HR-E-Verify will determine each newly hired employee's eligibility to work by using the E-Verify Program.
- G. The E-Verify Program will return one of three results: Employment Authorized, SSA Tentative Non-confirmation, or DHS Verification in process.
- H. If the result is Employment Authorized, HR-E-Verify will copy the Case Verification Number onto the Form I-9, make a screen print and attach it to the Form I-9, and file the form in the official I-9 files in accordance with the Federal retention schedule for I-9 documents.
- I. If the result is Tentative Non-Confirmation, the following steps must occur:
 - 1. HR-E-Verify will verify that the information entered into the E-Verify Program is correct. This verification is to be made using the I-9, the copies of the attached documents, AND the PAF. If the information as entered was not entered correctly, HR-E-Verify will reenter the correct information.
 - 2. If the information was entered correctly, HR-E-Verify will contact the employee as soon as possible by telephone and a notification letter will be issued to the employee no later than the following day regarding the Tentative Non-Confirmation status. If the employee is a minor, HR-E-Verify will contact the minor employee's parent. The employee may contest or not contest the Non-Confirmation.
 - 3. If the employee chooses "No Contest" on the Tentative Non-Confirmation form or does not respond to HR-E-Verify within eight (8) business days from the date of notification letter, the initial Non-Confirmation will be considered a Final Non-Confirmation and the employee will be terminated.
 - a. HR-E-Verify will login into the E-Verify Program and re-enter the case. When the resolution screen appears, HR-E-Verify will click on 'Self Terminated' and 'Submit Resolve Case' buttons. HR-E-Verify will make a screen print of the final resolution screen.
 - b. With the approval of the Human Resources (HR) Director or designee, HR-E-Verify will notify the DPR to immediately terminate the employee.

- c. The DPR will create a PAF with termination code '95 – I-9 Non-Confirmation' and send it to Human Resources Records. The termination notice from HR-E-Verify is to be attached to the terminating PAF. The DPR will also provide HR-E-Verify with a copy of the employee's Time Attendance Form (TAF) for hours worked.
 - d. HR-E-Verify will complete a Direct Demand for wages due within the current pay period and send to Pima County Finance for processing.
 - e. HR-E-Verify will file the Final Non-Confirmation document and a copy of terminating PAF with the official I-9 files in accordance with the Federal retention schedule for I-9 documents.
 - f. When required, the Human Resources Director or designee will notify Immigration and Customs Enforcement by telephone to provide the relevant information about the individual.
4. If the employee wishes to contest the Non-Confirmation, the employee has eight (8) business days from the date of notification letter to visit or call the appropriate agency and resolve the discrepancy. The employee must notify HR-E-Verify no later than the eighth business day whether or not the employee has contacted the appropriate agency to resolve the discrepancy.
 5. Once the employee resolves the discrepancy in his/her records and notifies HR-E-Verify, HR-E-Verify will log in to the E-Verify Program and resubmit the case.
 6. Because it may take the appropriate agency longer than eight (8) business days to resolve any discrepancy, once the employee notifies HR-E-Verify that the employee has contacted the appropriate agency to resolve the discrepancy, the E-Verify program will provide a "pending" or "continuing" response. HR-E-Verify shall check the E-Verify system to verify the employee's status on a daily basis.
 7. Upon resubmission and after appropriate agency action, the results will be either 'Employment Authorized' or 'Final Non-Confirmation'.
 - a. If the result is Employment Authorized, HR-E-Verify will copy the Case Verification Number onto the Form I-9, make a screen print, attach it to the I-9, and file the I-9 in the official I-9 files in accordance with the Federal retention schedule for I-9 documents. HR-E-Verify will notify the employee by phone and/or mail that the contest has been resolved.

- b. If the result is Final Non-Confirmation, a screen print will be made and attached to the Form I-9.
- (1) With the approval of the Human Resources Director or designee, HR-E-Verify will notify the DPR to immediately terminate the employee.
 - (2) The DPR will create a PAF with termination code '95 – I-9 Non-Confirmation' and send it to Human Resources Records. The termination notice from HR-E-Verify is to be attached to the terminating PAF. The DPR will also provide HR-E-Verify with a copy of the employee's Time Attendance Form (TAF) for hours worked.
 - (3) HR-E-Verify will complete a Direct Demand for wages due within the current pay period and send to Pima County Finance for processing.
 - (4) HR-E-Verify will file Final Non-Confirmation document and copy of terminating PAF with the official I-9 files in accordance with the Federal retention schedule for I-9 documents.
 - (5) The Human Resources Director or designee will notify Immigration and Customs Enforcement by telephone providing the relevant information on the individual, as required.

J. Employment during the Tentative Non-Confirmation Contest Period

The employee who contests a Tentative Non-confirmation must be treated as a regular employee during the contest period. Under no circumstances may any action be taken against the employee because of the Tentative Non-Confirmation or while the employee's status is listed as "pending" or "continuing," until the final resolution of the contest.

III. OFFICE OF PRIMARY RESPONSIBILITY

Each Operational Department is responsible for the employee's completion of the I-9, verification and certification of documents submitted in support of the I-9, for faxing the completed PAF, I-9, and associated documents to HR-E-Verify and for forwarding the hard copies of the above documents to Human Resources Records, as per this procedure. This does NOT take the place of actions required by Administrative Procedure 22-17, Personnel Action Form.

HR-E-Verify is responsible for determining the employee's eligibility to work for Pima County and has the authority to instruct departments to terminate unauthorized new hires based on the policies and procedures of E-Verify.

IV. REQUESTS TO REVIEW OR RECEIVE A COPY OF AN I-9

Form I-9 contains confidential information, and Human Resources must ensure that this confidential information is safeguarded. Therefore, access to the I-9s is limited and will be determined by the Human Resources Director on a case-by-case basis.

Any request to review a Form I-9 or to receive a copy of a Form I-9 must be in writing and/or by email and approved by the Human Resources Director. HR-E-Verify will complete an affidavit to accompany the copies of document(s).

V. RECORD RETENTION SCHEDULE

Pursuant to Federal and State law, the Form I-9 and supporting documentation, such as the E-Verify case resolution record, will be maintained at least three (3) years after the employee's date of hire (DAY 1) or 1 year after the employee's termination date, whichever is longer. Please note that prior to use of E-Verify, the case resolution records were not required.

Exhibit 1

Social Security Administration
Important Information

Social Security Administration
 SOCIAL SECURITY
 88 W 38TH ST STE 100
 TUCSON, AZ 85713-4884
 Date: May 5, 2010

██████████
 ██████████

This is a receipt to show that you applied for a Social Security card on May 5, 2010. You should have your card in about 2 weeks. Any document(s) you have submitted are being returned to you with this receipt.

If you do not receive your Social Security card within 2 weeks, please let us know. You may call, write or visit any Social Security office. If you visit an office, please bring this receipt with you. To protect your privacy, we will not disclose a Social Security number over the telephone.

The Social Security Administration is required by law to limit replacement Social Security cards to three per year and ten per lifetime. Do not carry your Social Security card with you. Keep it in a safe location, not in your wallet.

Field Office Manager

Exhibit 2

*** ██████████ 123810 ██████████ PGEZ CIPQYAB PQAB (F-PGE) ***

NUMI DTE:05/05/10 SSN: ██████████ XC: UNIT:RIV PG:001

SOCIAL SECURITY ADMINISTRATION
 SOCIAL SECURITY NUMBER PRINTOUT

OUR RECORDS INDICATE THAT SOCIAL SECURITY NUMBER ██████████
 IS ASSIGNED TO ██████████ , , ██████████ , .

YOUR SOCIAL SECURITY CARD IS THE OFFICIAL VERIFICATION OF YOUR SOCIAL SECURITY NUMBER. THIS PRINTOUT DOES NOT VERIFY YOUR RIGHT TO WORK IN THE UNITED STATES.

PROTECT YOUR SOCIAL SECURITY NUMBER FROM FRAUD AND IDENTITY THEFT. BE CAREFUL WHO YOU SHARE YOUR NUMBER WITH.

Social Security Admin
 88 W 38th St Ste 100
 Tucson, AZ 85713