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USCIS' Fraud Detection Efforts Continue: Employment Authorization Document and Permanent Residence Card Redesigned

EAD and "Greencards" undergo redesign to deter fraud and increase security; employers should become familiar with the new cards to maintain compliance with immigration laws

U.S. Citizenship and Immigration Services (USCIS) began producing new Employment Authorization Documents ("EAD cards") and Permanent Resident ("Green") cards on May 11, 2010. The new cards are intended to assist employers and the Department of Homeland Security ("DHS") in verifying the identities of foreign nationals working in the United States and in protecting the American public from potential foreign threats as well as document fraud.

New EAD Card

EAD card revisions were announced on May 26, 2010. The new EAD contains the following changes:

- Inclusion of a machine-readable zone in compliance with International Civil Aviation Organization standards
- Removal of the two-dimensional bar code on the backside of the card
- Shifting of the informational box of text to the area just below the card's magnetic stripe

The revised card retains all of the existing security features of the previous EAD card, including the photograph, fingerprint, signature, DHS seal, and holograms. Employers should take note that all photographs in the revised card should be "forward-facing."

These revisions are the result of extensive collaboration between the various entities of DHS, particularly USCIS, U.S. Immigration and Customs Enforcement (ICE), and Customs and Border Protection (CBP).



The EAD card, also titled Form I-766, is considered a List A document for I-9 purposes and is valid as a form of both work authorization and identity verification. An employee presenting any List A document, including the EAD card satisfies both the employment eligibility and the identity verification requirements. Accordingly, if the EAD card appears facially valid, employees should never be asked to present any alternative or additional documents. However, EAD cards do expire and the work authorization must be re-verified prior to the expiration of the EAD card. Employers should maintain a tracking system to ensure that EAD cards are properly re-verified in a timely manner. Greenberg Traurig suggests creating a "tickler file" where Forms I-9 with work authorization expiration dates are maintained, as well as an electronic spreadsheet or other electronic tracking system to help in tracking these dates. Forms I-9 with work authorization expirations should be maintained separately, as a best practice, with reminders going out to the employees at least 120 days in advance of the work authorization expiration.

New Green Card

While the look and feel of the new EAD is very similar to the previous version, the permanent resident card (a.k.a. "green card") has undergone a major design change. USCIS Director Alejandro Mayorkas stated that "[r]edesigning the Green Card is a major achievement for USCIS," and that "the new security technology makes a critical contribution to the integrity of the immigration system."

The new card features enhanced state-of-the-art biometric technology, anti-fraud/anti-counterfeiting and anti-tampering elements, including:

- Color-shifting ink in visual designs (e.g., eagle's head)
- Use of complex architecture to incorporate patterns nearly impossible to produce
- Integrated standard card design and personalized features to deter fraud (e.g., laser-engraved fingerprints)
- Ultraviolet technology and tactile clues to allow for card authentication at border crossings
- Radio Frequency Identification (RFID) which allows inspectors to read a card's unique, 192-bit serial number from a distance and link information to personal data on file



- Holograms
- Optical media stores

Further changes to the card include:

- The Color: The new "green card" is actually green in color, making it intuitive for employers to recognize when presented
- The Placement: The USCIS number is now listed on the front of the card while the alien registration number (i.e., A#000-000-000) is listed on the back of the card
- The Photos: Photographs are more detailed to allow for easier identification of the card bearer
- Enhanced address/security feature: Personalized return address on back of card doubles as security feature and as customer service enhancement to facilitate easy return of lost cards to USCIS

The new card went into production on May 11, 2010, and is currently being issued to newly-approved lawful permanent residents as well as applicants for replacement and renewal cards. Initially GT noticed a small delay in the issuance of new cards from USCIS Service Centers and this may be partly due to the change over in production. Fortunately, we have confirmed that production has increased and the new cards are being mailed out in a timely manner to permanent residents.

Should I Accept Earlier Versions of the Green Card?



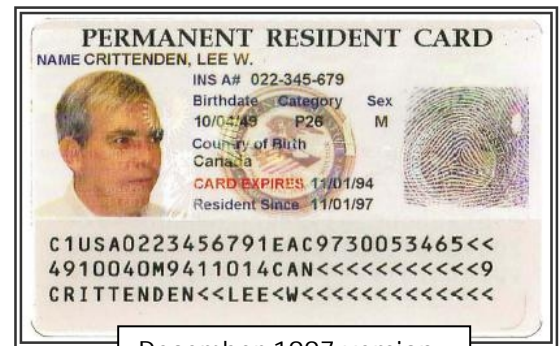
Yes.

- The permanent resident card was last revised in November 2004, when it was modified to contain the DHS seal and a more detailed hologram. This previous version of the card features a white background and can still be accepted for I-9 purposes, assuming the card has not expired and is genuine. These cards were issued for 10 year periods and generally contain a frontal facing photograph of the Permanent Resident.
- Other versions that are still acceptable for I-9 purposes include the January 1977 revision which features the card title "Resident Alien Card" on a pink background and the bearer's signature and fingerprint. This card does not have an



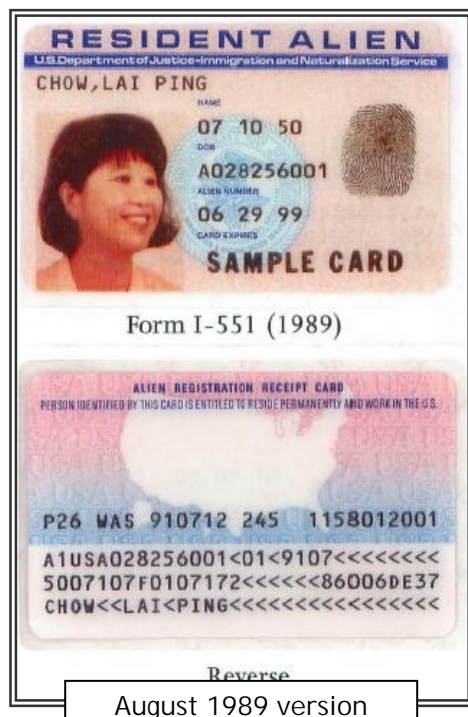
expiration date and therefore continues to be valid.

- The December 1997 revision features card title "Permanent Resident Card" with a three-line machine readable zone and hologram on a white background. These cards will be accepted until the end of 2014.



Are there Versions of the Green Card that are No Longer Acceptable?

Yes, therefore it is critical that employers understand the differences in these documents, be trained on what should be accepted as a reasonably genuine document.



August 1989 version

- The August 1989 revision of the Resident Alien Card featuring an expiration date and a pink background should no longer be accepted by employers due to the fact these cards were only valid for 10 years and contained an expiration date on every card. Based on the last date these cards were issued (approximately January 1992) there are no longer any valid cards in existence rendering this version unacceptable for I-9 purposes.
- The January 1992 revision of the card featuring an expiration date, a pink background and a white box behind the fingerprint should no longer be accepted by employers as these cards were only valid for 10 years and

contained an expiration date

on every card. Based on the introduction date of the new type of card in December of 1997, there are no longer any valid cards in existence, also rendering this version unacceptable for I-9 purposes.

While employers are not required to be document experts, the reasonable person standard described in the immigration regulations must be utilized when reviewing work eligibility. Individuals responsible for I-9 verification should become familiar with the new card designs so that they are able to recognize fraudulent documents. Attorneys at Greenberg Traurig are



January 1992 version

available to assist you in maintaining compliance with immigration laws and train your Human Resource team to identify fraudulent documents and properly record document information on Form I-9.

DHS continues to focus on worksite compliance and the new card design is just one example of their efforts. We recognize that managing I-9 documentation and verification is a significant challenge for employers and offer assistance to ease the burden placed on employers. Organized programs, tight standard operating procedures, complemented by ongoing training is invaluable to companies attempting to ensure immigration compliance.

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[Greenberg Traurig's Business Immigration and Compliance Group](#) has extensive experience in advising multinational corporations on how to minimize exposure and liability regarding a variety of employment-related issues, particularly I-9 employment eligibility verification matters. In addition to assisting in H-1B (Labor Condition Application) audits, GT develops immigration-related compliance strategies and programs and performs internal I-9 compliance inspections. GT has also successfully defended businesses involved in large-scale government worksite enforcement actions, I-9 Audits and Department of Labor Wage and Hour investigations. GT attorneys provide counsel on a variety of compliance-related issues, including penalties for failure to act in accordance with government regulations, IRCA anti-discrimination laws-Office of Special Counsel Investigations, and employers' responsibilities when faced traditional no-match situations as well as more serious workplace identity theft or other alleged misrepresentations made by employees.

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