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AGC of America
THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA
Quality People. Quality Projects.



May 29, 2012

VIA ELECTRONIC SUBMISSION: <http://www.regulations.gov> and uscisfrcomment@dhs.gov

Ms. Sunday Aigbe
Acting Chief
Regulatory Coordination Division
USCIS, Office of Policy and Strategy
Department of Homeland Security
20 Massachusetts Avenue, NW
Washington, DC 20529

Re: Revision of Form I-9, Employment Eligibility Verification Form
(OMB Control Number 1615-0047)

Dear Sir or Madam:

On behalf of the Associated General Contractors of America (hereinafter "AGC"), let me thank you for the opportunity to submit the following comments on the U.S. Citizenship and Immigration Services' (hereinafter "USCIS") comment request regarding proposed revisions to Form I-9, the Employment Eligibility Verification Form, as published in the *Federal Register* on March 27, 2012.

AGC is among the oldest and largest of the nationwide trade associations in the construction industry. It is a non-profit corporation founded in 1918 at the express request of President Woodrow Wilson, and it now represents more than 32,000 firms in nearly 100 chapters throughout the United States. Among the association's members are approximately 7,000 of the nation's leading general contractors, more than 12,000 specialty contractors, and more than 13,000 material suppliers and service providers to the construction industry. These firms, both union and open shop, engage in the construction of buildings, shopping centers, factories, industrial facilities, warehouses, highways, bridges, tunnels, airports, water works facilities, waste treatment facilities, dams, water conservation projects, defense facilities, multi-family housing projects, municipal utilities and other improvements to real property.

AGC would like to applaud USCIS on its efforts to update Form I-9, and, generally, we are pleased that some parts of the form are now clearer and easier to understand. As members of the U.S. Chamber of Commerce (hereinafter "the Chamber"), AGC supports the recommendations of the Chamber regarding the proposed revisions to the form and we ask that USCIS take them

into consideration. In addition to the Chamber's recommendations, AGC would like to address a few key points that specifically concern construction employers.

First, because the construction industry lawfully employs a significant number of Spanish-speaking workers, AGC recommends that USCIS make the Spanish version of Form I-9 available for use throughout the United States, not just in Puerto Rico. According to a [U.S. Department of Labor 2012 report on the Latino labor force](#), Latinos account for nearly 25% of construction industry workers in the U.S. While not all Latinos in the U.S. claim Spanish as their first language, the number who do is presumably high. Offering both the Spanish and English versions of the form will add to a positive on-boarding experience for new employees who speak Spanish as their first language.

Second, AGC recommends that USCIS clarify, on the form itself in addition to including in the instructions, circumstances that would result in the completion of section three of the form with regard to the re-verification and re-hiring of employees. If not on the form itself, to include this information on same page as the list of acceptable documents would also be helpful, as this page is referred to often by employers. In the construction industry, work is often seasonal and/or temporary. As a result, many workers are often re-hired by the same and/or different companies throughout the year, and it is often unclear when re-verification should occur.

Third, with regard to the coordinated use of Form I-9 and E-Verify, AGC recommends that USCIS consider extending the window of time allowed for employers to input data from Form I-9 into the E-Verify system. A great many AGC member firms use E-Verify in addition to Form I-9 to verify employment eligibility, either because they are required to do so under the Federal Acquisition Regulation or state law, or because they choose to do so on voluntary basis. In the construction industry, hiring is often decentralized, and the completion of paperwork for new hires, such as Form I-9, is often handled on construction jobsites and managed by an individual who is not a trained HR professional. Many construction jobsites are located in remote areas and even when they are not, depending on the stage of the construction project, the jobsite may not have the administrative office equipment necessary to transfer a copy of the completed Form I-9 to a headquarters facility where it can be entered into E-Verify. Because employees are given three working days from the first day of work for pay to complete his or her portion of Form I-9, and employers are given the same time frame to input the information collected on Form I-9 into E-Verify, compliance challenges are presented when the employee portion of the form is completed on the third day.

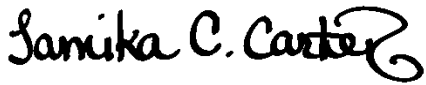
In addition to these specific construction industry concerns, before implementation, AGC would also like to ask USCIS to consider a few general points regarding the form.

- Regarding the new fields for E-mail address and telephone number, although it is listed that including this information will be *optional* for employees, please explain for what purpose this information would be used.
- With regard to the same, it is also important to clarify whether the employee should list his or her personal contact information or contact information at his or her new workplace.

- With regard to the Instructions for Employment Eligibility Verification, page one of the instructions state that “employers must retain completed Form I-9” without explaining the details of the time period employers are required to retain the form. While this is explained in more detail on page six, it is unrealistic to expect that all employers will read through all six pages of instructions. AGC recommends that USCIS either remove the line from page one of the form, elaborate that information on page one, or add text that directs employers to page six for additional information.

AGC recognizes the benefit of identification verification and work authorization and appreciates the opportunity to comment. AGC looks forward to continued dialogue with USCIS concerning all aspects of employment verification.

Sincerely,

A handwritten signature in black ink that reads "Tamika C. Carter". The signature is written in a cursive, flowing style with a large, decorative flourish at the end.

Tamika C. Carter, PHR
Director, Construction HR