A9.680  FORM I-9, EMPLOYMENT ELIGIBILITY VERIFICATION

1. Purpose

To provide procedures and guidelines to verify an employee’s eligibility to work in the United States in accordance with the Immigration Reform and Control Act of 1986 (IRCA) and instructions for properly completing the Form I-9. The University of Hawai‘i (University) is required by law to verify the identity and employment authorization of every individual the University hires after November 6, 1986, including U.S. citizens, permanent residents, and temporary foreign visitors.

If there is any discrepancy between the guidelines contained in this procedure and the instructions contained in the Form I-9 and M-274, Handbook for Employers, Instructions for Completing Form I-9, which are issued by the U.S. Citizenship and Immigration Services, the instructions contained in the Form I-9 and M-274 shall supercede this procedure.

2. Objective

To comply with applicable federal laws requiring employers to hire only individuals who may legally work in the United States such as citizens and nationals of the United States, lawful permanent residents, and aliens authorized to work.

3. Definitions

a. Appointment Date: the “from” date listed on the appointment period on the Payroll Notification Form (PNF) (e.g. August 1 for 9-month faculty, first day of instruction for lecturers).

b. Employee: an individual hired to perform labor or services in return for wages or remuneration.

c. Employment: the service or labor performed by an employee for an employer.
d. Exchange Faculty: a faculty from another institution that participates in an exchange program and receives his/her salary from the “home” institution.

e. Independent Contractor: a service provider having a contractor-customer relationship rather than an employee-employer relationship. The University determines the task to be done, but not the means of doing the task.

f. Remuneration: anything of value given in exchange for labor or services rendered by an individual, which includes but is not limited to food, lodging, parking, athletics/theater tickets, reimbursement for travel and conferences.

g. Volunteer: an individual who performs a service willingly and without pay and no employer-employee relationship has been established.

4. Applicability

a. These procedures and guidelines apply to individuals, citizen and non-citizen, hired after November 6, 1986 to perform labor or services in the United States in return for wages or other remuneration, and who are required to complete the Form I-9, Employment Eligibility Verification (www.uscis.gov/files/form/i-9.pdf).

b. These procedures do not apply to the following individuals who are not required to complete a Form I-9:

   (1) Individuals hired before November 7, 1986, who are continuing in their employment and have a reasonable expectation of employment at all times

   (2) Independent contractors

   (3) Individuals employed by a contractor providing contract services (e.g. employee leasing, temporary agencies, etc.)

   (4) Individuals not physically working on U.S. soil

   (5) Volunteers (See 4. d. for exceptions)

   (6) Exchange faculty

NOTE: An employer cannot contract for the labor of an alien if it knows the alien is not authorized to work in the United States.
c. A Form I-9 shall be completed for individuals that, in the future, may be paid wages or receive other remuneration.

d. In determining whether a volunteer is required to complete the Form I-9, the program shall determine if there is an established employee-employer relationship, if the volunteer's services are charitable in nature as opposed to simply unpaid employment services, if the work is performed under the promise or expectation of remuneration, and if the remuneration is significant. Refer to Administrative Procedure A9.041 Utilization of Volunteer Services at the University of Hawai‘i for the rights, responsibilities and expectations of volunteer relationships and benefits. For example:

(1) A student volunteer travels to a neighbor island to speak at a recruitment informational briefing. The program pays for the air fare and one (1) day per diem. As a token of appreciation, the program gives the volunteer a gift card.

The Form I-9 is required to the extent that an employee-employer relationship has been established (rather than a strictly volunteer relationship). The remuneration, although relatively insignificant, dilutes the charitable nature of the service and the student appears to be working under the promise of expectation of remuneration.

The Form I-9 is not required if the student is speaking about his/her student life experience with no expectation of remuneration.

(2) A guest speaker is flown in to speak at an assembly, class, special event, etc. The program pays for the air fare.

The Form I-9 is not required. The amount of remuneration is small and corresponds to reasonable traveling expenses. The guest speaker is not performing the service for an employment purpose, but rather for a charitable purpose.

(3) The program provides refreshments, lunch, t-shirt, etc. for volunteers.

The Form I-9 is not required. The remuneration provided is insignificant, and volunteers in these situations likely do not perform the services in expectation of receiving remuneration.
5. Guidelines to Complete the Form I-9

a. The employee shall complete Section 1, Employee Information and Verification, of the Form I-9 before or on the appointment date. Section 1 may be completed earlier than the appointment date, as long as the individual has been offered and accepted the job. For example:

(1) An employee hired in a civil service, administrative, professional and technical (APT) or executive position shall complete the Form I-9 as early as the date the job was offered and accepted, but no later than the first day of work.

(2) A 9-month faculty appointment is usually effective August 1 and continues through July 31. The faculty may complete the Form I-9 as early as the date the job was offered and accepted, but no later than the start of the appointment (August 1). If the employee completes Section 1 after August 1, the earliest the appointment may begin is the date Section 1 was completed.

(3) A lecturer’s appointment period is normally effective the first day of instruction to mid-January or the end of May, depending on the semester hired (e.g. August 25 – January 15; January 12 – May 31). The lecturer shall complete Section 1 by the appointment date (August 25 or January 12 in the example). If the employee completes Section 1 after the first day of the semester, the earliest the appointment may begin is the date Section 1 was completed.

b. In Section 1, the employee enters full name and maiden name, if applicable; enters current address and date of birth; and enters city, State, zip code, and Social Security number. The Social Security number is optional unless the hiring unit is participating in the United States Citizenship and Immigration Services (USCIS) Electronic Employment Eligibility Verification Program (E-Verify). The employee attests to his or her citizenship or immigration status and signs and dates the form.

c. The employee presents original document(s) that establish identity and employment eligibility to the personnel representative or designee. The employee presents one (1) document from List A, or presents two (2) documents – one (1) from List B and one (1) from List C (www.uscis.gov/files/form/i-9.pdf):

(1) List A - documentation establishing both identity and authorization to work
(2) List B - documentation establishing only identity

(3) List C – documentation establishing only authorization to work

d. The personnel representative or designee accepts any document(s) which reasonably appears on its face to be genuine and to relate to the person presenting it, reviews the document(s), and completes Section 2 of the Form I-9 within three (3) business days of the appointment.

e. For hiring units participating in the E-Verify system, any List B document accepted must bear a photograph.

f. The personnel representative or designee records the document title(s), issuing authority, document number, expiration date, if any, and the appointment date.

g. The personnel representative or designee shall attest to examining the document(s) provided by filling out the signature block. There is no requirement to photocopy the document(s) presented, with the exception of the Form I-551 (Permanent Resident Card) or I-766 (Employment Authorization Document). These documents must be photocopied if the hiring unit is participating in the E-Verify system.

h. In certain instances, the employee may present receipts (see 5. j. for examples) in lieu of original documents to complete Section 2 of the Form I-9. The receipt is valid for a temporary period. For example, receipts may be acceptable in situations in which an employee is employment authorized at the time of initial hire or reverification, but is not in possession of a document listed on page 5 of the Form I-9.

i. The personnel representative or designee shall record the document title in Section 2 of the Form I-9 and write the word “receipt” and any document number in the “Document #” space. When the employee presents the actual document, the personnel representative or designee shall cross out the word “receipt” and any accompanying document number, insert the number from the actual document presented, and initial and date the change.

j. Receipts and other documents that employers may accept as proof of temporary employment eligibility include:

(1) A receipt for a replacement document which has been lost, stolen or damaged. The receipt is valid for 90 days, after which the employee must present the replacement document to complete the Form I-9.
(2) Forms I-94 or I-94A containing a temporary I-551 stamp and photograph is considered a receipt for the Permanent Resident Card (Form I-551). The employee must present Form I-551 by the expiration date of the temporary I-551 stamp; or within one (1) year from the date of issuance of Form I-94 or I-94A if the I-551 stamp does not contain an expiration date.

(3) Forms I-94 or I-94A containing an unexpired refugee admission stamp is considered a receipt for either an Employment Authorization Document (Form I-766) or a combination of an unrestricted Social Security card and List B document. The employee must present acceptable documentation to complete the Form I-9 within 90 days from the appointment date or, in the case of reverification, the date employment authorization expires.

k. A receipt indicating that an employee has applied for initial employment authorization or for an extension of expiring employment authorization shall not be accepted as proof of employment eligibility on the Form I-9.

l. A replacement document shall be presented to the employer within 90 days of hire, or, in the case of reverification, the date employment authorization expires. If the employee is unable to produce the required document(s) within the 90 days, the personnel representative or designee shall meet with the employee to find out the status/reason for the delay and take appropriate action, including termination, based on the reason.

m. If an employee is hired for less than three (3) business days, Section 1 and 2 of the Form I-9 shall be fully completed at the time of the appointment. Receipts are not acceptable if employment lasts less than three (3) business days.

6. Reverifying Employment Authorization for Current Employees

a. When an employee’s employment authorization expires, the personnel representative or designee shall reverify the employee’s employment authorization. Section 3 may be used for the reverification. If Section 3 has already been used for a previous reverification or update, use a new Form I-9. Write the employee’s name in Section 1, complete Section 3, and staple the new form to the original.

b. The employee shall present a document that shows either an extension of the employee’s initial employment authorization or new employment authorization. If the
employee cannot provide proof of current employment authorization (e.g. any document from List A or List C, including an unrestricted Social Security card), the University may not continue to employ that individual.

c. List B identity documents, such as a driver’s license, shall not be reverified upon expiration.

d. An employee with temporary employment authorization shall timely file for new employment authorization or an extension of stay prior to the expiration of his or her current document or authorized period of stay. If the employee is authorized to work for a specific employer and has filed an application for an extension of stay, he or she may continue employment with the same employer for up to 240 days from the date the authorized period of stay expires. If an employee has timely filed for new employment authorization and USCIS fails to adjudicate that application within 90 days, the employee will be granted an employment authorization document for up to 240 days.

e. The employee’s employment eligibility must be reverified no later than the date the employee’s employment authorization expires.

7. Reverifying or Updating Employment Authorization for Rehired Employees

a. When an employee is rehired, regardless if the separation was for a day, the personnel representative or designee shall ensure that he or she is still authorized to work.

b. If the rehired employee previously completed a Form I-9, the personnel representative or designee may reverify on the original Form I-9 or a new Form I-9 if Section 3 of the original has already been used, if:

(1) The employee is rehired within three (3) years of the initial date of hire; and

(2) The employee’s previous grant of employment authorization has expired, but he or she is now eligible to work under a new grant of employment authorization; or

(3) The employee is still eligible to work on the same basis as when the Form I-9 was completed.

c. To reverify, the personnel representative or designee shall:

(1) Record the date of rehire and the employee’s new name, if applicable;
(2) Record the document title, number and expiration date (if any) of the document(s) presented;

(3) Sign and date Section 3; and

(4) If reverifying on a new Form I-9, write the employee’s name in Section 1, complete Section 3, and staple the new form to the original.

d. To update, the personnel representative or designee shall:

(1) Record the date of rehire and the employee’s new name, if applicable;

(2) Sign and date Section 3; and

(3) If updating on a new Form I-9, write the employee’s name in Section 1, complete Section 3, and staple the new form to the original.

8. Retention of the Form I-9

a. The completed Form I-9 must be retained for three (3) years after the date an employee is hired (e.g. appointment date) or for one (1) year after the date of termination of employment, whichever is later.

b. Copies of original documents presented by the employee which are required to be photocopied (e.g. Forms I-551 or I-766) must be retained with the employee’s Form I-9.

c. If copies of other employee documentation are made, they should also be retained with the employee’s Form I-9. In addition, if copies are made, the same must be done for all employees, regardless of national origin or citizenship status, or the practice may be in violation of anti-discrimination laws.

9. Form I-9s for Employees Transferring Within the University

a. When a Board of Regent (BOR) appointee (i.e., APT or faculty) transfers to another University unit, the losing department shall transfer the official personnel file and other necessary records, including the original Form I-9, to the new administrative unit. The employee shall not be required to complete a new Form I-9, unless the employment authorization has expired or is about to expire.

b. No action is required for executive and civil service employees that accept new executive and civil service appointments, as the official personnel records are maintained by the Office of Human Resources (OHR).
c. Should a civil service employee be appointed to an APT position, the OHR Civil Service section will forward the original Form I-9 to the new administrative unit.

d. Should a BOR employee be appointed to an executive position, the losing department shall transfer the official personnel file and other necessary records, including the original Form I-9, to the OHR.

e. Should an executive return to his/her former position or accept a faculty/APT position, the OHR shall transfer the official personnel file and other necessary records, including the Form I-9, to the new administrative unit.

10. Unlawful Discrimination

Employees shall be treated equally when verifying employment authorization and identity during the Form I-9 process. The campus/school/program shall not:

a. Set different employment eligibility verification standards or require that different documents be presented by employees because of their national origin and citizenship status. Each employee must be allowed to choose the documents that he or she will present from the lists of acceptable Form I-9 documents.

b. Request to see employment eligibility verification documents before hire and completion of Form I-9 because someone looks or sounds "foreign," or because someone states that he or she is not a U.S. citizen.

c. Refuse to accept a document, or refuse to hire an individual, because a document has a future expiration date.

d. Request that, during reverification, an employee present a new unexpired Employment Authorization Card if he or she presented one (1) during initial verification.

e. Limit jobs to U.S. citizens unless U.S. citizenship is required for the specific position by law; regulation; executive order; or federal, state or local government contract.

11. Use of Notary Public or Personnel Representative of a Higher Education Institution to Complete the Form I-9

a. For employees hired to work in a remote or off-site location or for employees who will be reporting to duty after the appointment date, a notary public or personnel representative of a higher education institution may be designated to complete the Form I-9.
b. When the employee reports to work, the personnel representative or designee shall verify the accuracy of the completed Form I-9 by reviewing the original documents presented by the employee at the remote or off-site location.

c. Notary Public:

(1) The personnel representative or designee shall complete the department contact information on the Remote Notice (see attachment 1) and forward that document and the following documents to the employee: the Form I-9 and instruction sheet, the list of acceptable documents, employee instructions (see attachment 2), notary public instructions (see attachment 3), Remote Notice, Acknowledgement Form (see attachment 4), and self-addressed stamped envelope.

(2) The employee shall complete Section 1 by the close of business of the appointment date.

(3) The employee shall take the documents listed in c. (1) and original identity/employment eligibility document(s) to a notary public within three (3) business days from the appointment date.

(4) The notary public shall inspect the document(s) and complete Section 2 of the Form I-9. The notary public shall also complete the Acknowledgment Form and affix the notary seal.

(5) The notary public shall make a copy of the Form I-551 (Permanent Resident Card) or Form I-776 (Employment Authorization Document) if presented as documentation and the employee requires e-verification.

(6) The notary public shall mail the Form I-9, any copies of the Form I-551 or Form I-776 if presented, and the Acknowledgement Form in the provided self-addressed stamped envelope.

(7) The employee shall be responsible for the non-reimbursable notary public’s fee for services (if applicable).

(8) The personnel representative or designee shall retain the Form I-9 together with the Acknowledgment Form in the Form I-9 file folder.

d. Personnel Representative of Higher Education Institute:

(1) The employee shall provide the name, title, and contact information of the remote or off-site
personnel representative to the University representative.

(2) The University representative shall contact the personnel representative and determine if he/she is able and willing to assist with the completion of the Form I-9.

(3) The University representative shall compose a letter (see sample letter - attachment 5) and complete the department contact information on the Remote Notice (see attachment 1).

(4) The University representative shall forward the letter, Remote Notice, Form I-9 and instruction sheet, the List of Acceptable Documents, and self-addressed stamped envelope to the personnel representative.

(5) The employee shall take the original identity/employment eligibility document(s) to the personnel representative on the scheduled meeting date (within three (3) business days from the appointment date).

(6) The personnel representative shall make a copy of the Form I-551 (Permanent Resident Card) or Form I-776 (Employment Authorization Document) if presented as documentation and the employee requires e-verification.

(7) The personnel representative shall mail the Form I-9 and any copies of the Form I-551 or Form I-776 if presented in the provided self-addressed stamped envelope.

12. Payroll Notification Form (PNF) for 9-month Faculty hired after August 1.

a. A 9-month faculty who is hired before the on-duty date but after the August 1 appointment date is due the entire advance prorata summer pay.

b. The appointment date and the effective date of hire on the PNF is the date the employee completes Section 1 on the Form I-9.

c. The appointment period shall run from the appointment date through July 31.

d. On the employee’s first pay check, the faculty shall be paid for the advance prorata summer pay as a lump sum payment.
e. For example, a 9-month faculty is hired on August 5, 2009. The New Hire PNF shall reflect the effective date of hire 08-05-09 and appointment period from 08-05-09 to 07-31-10. As the faculty was hired before the on-duty date, the faculty is due the entire advance prorata summer pay. To pay the entire advance prorata summer pay, the New Hire PNF shall include the following two (2) actions: 1) hire action and 2) action/reason Data Change 419 (Pay Advance Prorata Summer Pay), effective date 08-05-09. In remarks, the campus/school/program shall include the following: “Pay from August 1, 2009 to include entire advance prorata summer pay.” The Payroll Office will then pay the entire semi-monthly amount to the faculty.
REMOTE NOTICE

EMPLOYEE INFORMATION:

Name:
Last ________________ First ________________ M.I. ____________

EMPLOYEE’S APPOINTMENT DATE: ______________________
(This is the employment date and must be entered in the
Certification Section of the Form I-9)

REQUIRES E-VERIFICATION: Yes_______ No_______

DEPARTMENT CONTACT INFORMATION - to be completed by the Personnel
Representative or Designee

University of Hawai‘i
School: ______________________________________________________
Department: _________________________________________________
Contact Name: _______________________________________________
Contact Title: ________________________________________________
Mailing Address: _____________________________________________

___________________________________________________________

Contact Phone Number: (______) __________________________
Contact Fax Number: (______) ____________________________

Department Contact Signature ______________________ Date _________
Employee Instructions for Notary Public Completing Form I-9

The U.S. Citizenship and Immigration Services (USCIS) requires all employees to complete the Employment Eligibility Verification Form I-9 and to present original document(s) to their employer that establish the employee’s identity and employment eligibility within three (3) business days from the employment date (e.g. appointment date). If you have been hired to work at a remote or off-site location and/or are not physically available on campus to present the original document(s), a procedure has been established to facilitate the completion of the Form I-9.

Follow the steps below to complete the process:

1. Your hiring unit will provide you the following items:
   a. Form I-9 instructions, Form I-9 and list of acceptable documents
   b. Remote Notice
   c. Notary Public Instructions for Completing Form I-9
   d. Acknowledgement Form
   e. Self-addressed stamped envelope

2. Complete Section 1 of the Form I-9 by the appointment date.

3. Have the Notary Public complete Section 2 of the Form I-9 within three (3) business days of the appointment date.

4. Take the following items to a Notary Public:
   a. Form I-9 instructions, Form I-9 and list of acceptable documents
   b. Remote Notice
   c. Notary Public Instructions for Completing Form I-9
   d. Acknowledgement Form
   e. Original identity/employment eligibility document(s) (from list of acceptable documents)
   f. Self-addressed stamped envelope
5. Present the original identity/employment eligibility document(s) to the Notary Public.

6. The Notary Public shall inspect the original document(s) and complete Section 2 of the Form I-9.

7. The Notary Public shall also complete the Acknowledgement Form and affix the notary seal.

8. The Notary Public shall make a copy of the Form I-551 (Permanent Resident Card) or I-766 (Employment Authorization Document) if presented as documentation and your appointment requires E-Verification.

9. The employee shall be responsible for any Notary Public’s fee for services. This cost is non-reimbursable.

10. The Notary Public shall mail the completed documents in the self-addressed stamped envelope.

Additional information regarding employment eligibility and the Form I-9 may be found on the U.S. Citizenship and Immigration Services web site. See http://www.uscis.gov/portal/site/uscis, enter “About Form I-9” into the Search field, and select the result item entitled “About Form I-9, Employment Eligibility Verification”.

NOTARY PUBLIC INSTRUCTIONS FOR COMPLETING FORM I-9

Federal law requires the University of Hawai‘i to verify its employees’ identity and eligibility to work in the United States in accordance with the Immigration Reform and Control Act of 1986. We are requesting your assistance to examine the employment identification papers for a new University of Hawai‘i employee and to complete the Form I-9, Employment Eligibility Verification.

Please find attached the Form I-9, List of Acceptable Documents, Remote Notice, and Acknowledgment Form. Prior to completing Section 2 of the Form I-9, please verify that the employee has fully completed Section 1. The employee shall choose which document(s) he or she wants to present from the “List of Acceptable Documents.”

The employee may present either:

1. Any one (1) document from List A or
2. Two (2) documents, one (1) from List B (identity) and one (1) from List C (eligibility).

Please complete “Section 2 - Employer Review Verification” of the Form I-9.

1. Examine the original document(s) and complete Section 2 of the Form I-9.
2. Record the document title, issuing authority, document number and expiration date in a month/day/year format (if any). NOTE: accept only original documents. Faxes, photocopies and laminated social security cards are not acceptable documents (except a certified photocopy of a birth certificate).
3. If employee is required for e-verification as indicated on the Remote Notice, make a copy of the Form I-551 (Permanent Resident Card) or I-766 (Employment Authorization Document) if presented as documentation.

Complete the “CERTIFICATION” area in Section 2 of the Form I-9 as follows:

1. Read and enter the employee’s appointment date (obtained from the Remote Notice).
2. Complete information, sign and date (enter the date the document(s) were reviewed).

Complete the Acknowledgement Form and stamp the notary seal. Mail the completed forms in the self-addressed stamped envelope.

Questions shall be directed to the contact person listed on the Remote Notice. Thank you for your assistance.
ACKNOWLEDGMENT FORM

In accordance to the University of Hawai‘i employment eligibility verification requirements under the Immigration Reform and Control Act of 1986, I further attest that:

1. The person named has completed Section 1 of the Form I-9 (Employment Eligibility Verification);
2. I have examined the original document(s) presented as described on the “List of Acceptable Documents”;
3. I have completed the Document Title, Issuing Authority, Document Number and Expiration Date in a month/day/year format (if any) in the space provided in Section 2 of the Form I-9, as appropriate;
4. I have made a copy of the Form I-551 (Permanent Resident Card) or I-766 (Employment Authorization Document) if presented as documentation and the employee is required for e-verification. (“Yes” is marked as “Requires E-Verification” on the Remote Notice)
5. The document(s) presented to me appear on their face to be genuine and relate to the person presenting them; and
6. I have completed the information, signed and dated the attestation in Section 2 of the Form I-9, as appropriate.

The Notary Certification below is required:

State of ______________________
County of ______________________
On this _____ day of _________________, 20_____, before me personally appeared ____________________________, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, have been duly authorized to execute such instrument in such capacity.

Affix your Official Seal

Notary Public, State of _____________ _______Circuit
My commission expires ______________________

Document Description: Form I-9, Employment Eligibility Verification

Doc. Date: _________________________ # Pages: ______
Commission No. _______________________________
Notary Name: ________________________________

Notary Signature ___________________ Date

March 2010
Mr. John Smith  
Director of Human Resources  
University of California  
Human Resources Office  
123 South Street  
San Diego, California 92101

Dear Mr. Smith,

Thank you for agreeing to help the University of Hawai‘i complete the Form I-9 Employment Eligibility Verification process for Employee’s Name, who is to begin employment with the University of Hawai‘i at Mānoa as a research assistant with the Hawai‘i Institute of Marine Biology.

Enclosed are the Form I-9 and instructions, List of Acceptable Documents, Remote Notice and a self addressed stamped envelope.

As we discussed over the phone, the University of Hawai‘i has received a signed acceptance job offer from Employee’s Name and a Form I-9 is required. Employee’s Name will report to your office at the date and time you decide to verify the employee’s identity and work authorization.

Please enter the employee’s appointment date from the Remote Notice in the “CERTIFICATION” area. If the employee is required for e-verification, the U. S. Citizenship and Immigration Services requires a photocopy of the Form I-551 (Permanent Resident Card) or I-766 (Employment Authorization Document) if presented as documentation. Please return the completed Form I-9 and any document(s) photocopied in the self-addressed stamped envelope.

If you have questions, please contact Employer Contact at 808-956-0000.

The employee’s day time phone number is 808-721-2009 and his/her e-mail is sletterwri@hawaii.edu.

Thank you for your assistance. If our office can assist you in any way, please let me know.

Sincerely,

Name of Personnel Representative or designee  
Human Resource Specialist

Enclosures