

Remote I-9 Documentation Allowed Until December 31, 2020

The Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE) announced an extension of their flexible in-person Form I-9 compliance rules due to the ongoing COVID-19 pandemic. Employers may continue to verify I-9 documents remotely until December 31, 2020.

Under [Section 274A of the Immigration and Nationality Act \(INA\)](#), employers typically must review employee identity and employment authorization documents in the employee's physical presence to complete their Employment Eligibility Verification (Form I-9). However, on [March 20, 2020](#), DHS and ICE announced that they would exercise prosecutorial discretion to defer the physical presence requirements for sixty days. On [November 18, 2020](#), DHS and ICE extended this flexible verification rule to December 31, 2020.

Per the initial guidance, employers must still obtain, inspect, and retain copies of Section 2 verification documents within three business days of hire, however they may inspect the documents remotely, (video link, fax or email, etc). Remote inspection is also permitted to reverify work authorizations of current employees. Employers who decide to inspect I-9 documents remotely must provide written documentation of their remote onboarding and telework policies for each employee.

Once normal operations resume, all employees who were hired using remote verification, must report to their employers within three business days for in-person verification of their verification documents. Employers will need to enter “COVID-19” as the reason for the physical inspection delay in the Section 2 “Additional Information” field once physical inspection takes place.

Employers that are not completely remote also have the option to assign an authorized representative to act on their behalf to complete the I-9 Form. However, employers retain liability for any violations in connection with the form or the verification process.

Not a lot of hiring occurs between now and the end of the year. Remote verification of I-9 forms is a good option, however, for those employers that are hiring.

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