

## Remote worker I-9 flexibilities extended again

U.S. Immigration and Customs Enforcement is again extending the flexibilities in rules concerning Employment Eligibility Verification (Form I-9) compliance that were granted earlier this year. Because of the continued COVID-19 precautions, the Department of Homeland Security [is extending the policy](#) for another 60 days with the accommodations now set to expire November 19, 2020.

### Flexibilities for remote workers

On March 19, 2020, due to precautions implemented by employers and employees associated with COVID-19, DHS announced that it would be exercising prosecutorial discretion to defer the physical presence requirements associated with the Employment Eligibility Verification (Form I-9) under Section 274A of the INA. This policy only applies to employers and workplaces that are operating *remotely*.

Where there are employees physically present at a work location, *no exceptions* are being implemented at this time for in-person verification of identity and employment eligibility documentation for Form I-9, *Employment Eligibility Verification*.

### Remote inspection

As **originally detailed by DHS**, employers with employees taking physical proximity precautions due to COVID-19—such as mandatory work from home, site closures, and shelter in place requirements—will not be required to review the employee's identity and employment authorization documents in the employee's physical presence. However, employers still must inspect the Section 2 documents remotely, such as by video link, fax, or email, and obtain, inspect, and retain copies of the documents within three business days for purposes of completing Section 2.

### Reporting

Employers also should enter "COVID-19" as the reason for the physical inspection delay in the Section 2 Additional Information field *once physical inspection takes place after normal operations resume*. Once the documents have been physically inspected, the employer should add "documents physically examined" with the date of inspection

to the Section 2 additional information field on the Form I-9, or to Section 3 as appropriate.

### **Written documentation**

Employers that avail themselves of this option must provide *written documentation* of their remote onboarding and telework policy for each employee. This burden rests *solely* with the employers.

### **Resumption of normal operations**

Once normal operations resume, all employees who were onboarded using remote verification must report to their employer within *three business days* for in-person verification of identity and employment eligibility documentation for Form I-9. Once the documents have been physically inspected, the employer should add "documents physically examined" with the date of inspection to the Section 2 additional information field on the Form I-9 or to Section 3 as appropriate.

Any audit of subsequent Forms I-9 would use the "in-person completed date" as a starting point for these employees only.

### **New hires and quarantined employees**

Where newly hired employees or existing employees are subject to COVID-19 quarantine or lockdown protocols, DHS will evaluate this on a case-by-case basis.

Further information is detailed in the **March 2020 guidance**. Going forward, DHS will continue to monitor the ongoing national emergency and provide updated guidance as needed. Employers are required to monitor the DHS and ICE websites for additional updates on when the extensions will be terminated and normal operations will resume.