

DHS Makes Notable Changes to I-9 Process as Remote Verification Deadline Looms

Article By:

Matthew P. Gunn

Dwight D. Myfelt

The Department of Homeland Security (DHS) has announced that the policy it put in place in March of 2020 allowing employers to remotely review Form I-9 employment authorization verification documents during the COVID-19 pandemic will end on July 31, 2023. United States Citizenship and Immigration Services also announced that employers must complete the required physical (in-person) inspection for all Forms I-9 created under the temporary policy no later than August 30, 2023.

This requirement will significantly impact any employers who have not gone back and completed the physical inspection of documents for Forms I-9 that were created while taking advantage of the temporary COVID-19 policy. It is important to note that the August 30, 2023, deadline is significant due to the fact that a lack of Form I-9 related compliance and/or completion of the physical inspection may result in substantial fines to employers.

New Form I-9 and Alternate Document Inspection Procedure

DHS also announced it will launch a new version of the Form I-9 on August 1, 2023. The new Form I-9 will help implement an alternate document review procedure for E-Verify employers.

DHS has created an alternative to the traditional in-person review of Form I-9 supporting documents for E-Verify employers which allows them to remotely examine these supporting documents going forward, and to satisfy the aforementioned August 30, 2023 deadline. To participate in the remote examination of Form I-9 documents under the DHS-authorized alternative procedure, employers must:

1. **Be (or have been) enrolled in E-Verify,**
2. **Examine and retain copies of all documents,**
3. **Conduct a live video interaction with the employee**
4. **Create an E-Verify case if the employee is a new hire.**

Employers who were participating in E-Verify, and created a case for employees whose documents were examined during COVID-19 flexibilities (March 20, 2020 to July 31, 2023), may choose to use the new alternative procedure starting August 1, 2023 to satisfy the physical document examination requirement by August 30, 2023. Employers who were not enrolled in E-Verify during the COVID-19 flexibilities period must still complete an in-person physical examination by August 30, 2023.

The bottom line is that if you were an E-Verify employer during the COVID-19 flexibilities period, the implementation of this new Form I-9 and remote inspection procedure will make meeting your August 30, 2023 deadline considerably easier. If you have not previously been an E-Verify employer, this new remote I-9 document review procedure gives you a significant incentive to join the program in this era of remote work.

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