

Welcomed Flexibility Related to Form I-9 Compliance

By Giselle Carson, Esq. Marks Gray, P.A.

Employers now have a welcomed flexibility for the in-person Form I-9 verification requirements. Here is what you need to know.

Who Is Eligible for This Flexibility?

If you're an employer practicing social distancing because of the pandemic, you can now remotely review new hires identity and employment authorization documents.

This flexibility only applies to employees working remotely. If the employee is physically present at a work location, there are no exceptions to the typical in-person document verification.

During an audit, employers must be able to provide written documentation of their remote onboarding and telework policy for each worker.

What Are You Still Required to Do for this process?

Employees complete Section 1 no later than the first day of employment.

Employers inspect documents and complete Section 2 within three business days of hire. If performing remote documents inspections (over video link, fax or email), employers must also later perform a physical inspection of the documents.

When do the Documents Need to Be Physically Inspected?

Once normal operations resume, the employer is required to physically inspect the documents within 3 business days. The person completing this process should enter in the Section 2 "Additional Information" field or in section 3 as appropriate:

- "Documents physically examined" with the date of inspection.
- "COVID-19" as the reason why the physical inspection was delayed.

How Long Is This Flexibility for In-Person I-9 Verification in Effect?

For a period of 60 days starting on March, 20 2020, or within 3 business days after the National Emergency is terminated — whichever comes first.

[Learn more about this new provision on ICE's website.](#)

[Learn more about USCIS' Q&A about this temporary policy](#)

Don't Forget about the New Form I-9

Starting Friday, May 1, 2020, a new version of the Form I-9 is required for employment verification.

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