



e-Alert: COVID-19

03.27.20

Temporary Flexibility for Employers' I-9 Compliance Rules

Background

As most employers are aware, the Department of Homeland Security (DHS) and US Citizenship and Immigration Services (USCIS) require that employers complete and retain a form I-9 for each of their employees. Typically, Section 2 of the form I-9 must be completed in person so that the company representative can personally inspect the employee's original identification and employment authorization documents.

Given the current COVID-19 outbreak, however, the DHS has issued an exception to this rule in order to accommodate employers that are operating remotely. See a summary below and find the official government report [here](#). These provisions went into effect on Friday, March 20, and will remain in effect for 60 days unless otherwise noted by DHS.

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Summary

Effective Friday, March 20, 2020, employers who are taking “physical proximity precautions due to COVID-19” by having their staff work remotely will not be required to inspect employees’ identification and employment authorization documents in person. Instead, they may inspect remote employees’ documents via video, email, fax, etc. Employers should retain copies of these documents with the form I-9 until a time when they can be inspected in person. In the interim, remote employers should take the following steps:

- Have the new hire complete I-9 Section 1 on or before their date of hire as usual. If you typically perform this task using a paper form in person, instead, have the new hire fill out Section 1 digitally or physically and send it to you for completion.
- You still need to complete I-9 Section 2 within three business days, so have the new hire share their identification and employment authorization documents with you as described above. Pending physical inspection, be sure to retain copies of these documents along with the I-9, even if it is not your usual practice to do so.
- As soon as normal operations resume, have the employee present the same IDs for your physical inspection and verification. At that time, enter “documents physically examined” along with the date of inspection in the additional information field on I-9 Section 2 (or Section 3, if applicable). You should also add “COVID-19” as the reason for the delay.
- Please note that these emergency I-9 processing rules only apply to new hires/employees who are operating remotely. If some of your workforce is remote and others are working on site, physically present employees should complete their I-9 as normal.

Employer Next Steps

- Make your Human Resources team and all hiring managers aware of this new DHS guidance, including the new processes that should be followed until further notice.
- Keep track of all employees whose I-9s are processed in this manner, so that you can physically inspect their IDs and update their forms at the earliest available opportunity.
- Consider scheduling an I-9 audit through HRK or another service provider after reverting to normal processes to ensure that all your form I-9s have been updated correctly.
- If you are a Full-Service or Virtual HR client and would like our assistance with updating your policy, please email us at covid19@hrknowledge.com.

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