



## New Form I-9 Requirements: Employers Must Comply by August 30th

As with many of the allowances that were made to employment requirements during the heart of the COVID-19 pandemic, the prior leniency for remote inspection of Form I-9 documents is now reverting to pre-pandemic status. In May 2023, U.S. Immigration and Customs Enforcement (ICE) announced that employers have until August 30, 2023, to physically inspect documents for I-9 purposes for those employees who had previously taken advantage of relaxed COVID-19 remote inspection rules. As a result, prior to the end of this month, most employers must conduct in-person reviews of I-9 documents for those employees who had previously provided such documentation remotely.

However, for employers who participate in the E-Verify program, there is an alternative to physically inspecting documents in person. On July 25, 2023, the Department of Homeland Security published an alternative procedure for I-9 document examination, if an employer meets the following requirements:

- The employer performed remote examination of an employee's documents between March 20, 2020, and July 31, 2023;
- The employer had been enrolled in E-Verify at the time they completed the Form I-9 for that employee;
- The employer created a case in E-Verify for that employee (except for reverification); and
- The employer is currently enrolled in and continues to participate in E-Verify.

For businesses that meet the above requirements, ICE has created guidelines for those eligible employers that elect to use the newly created alternative procedure. Under this new procedure, an employer must remotely inspect the employee's Form I-9 documents through a live video interaction for each employee whose documents were examined remotely during the COVID-19 flexibility period. This means, if an employer previously used fax, email or a live video interaction during COVID-19, they must now conduct a live video interaction by August 30, 2023 and annotate such on the Form I-9. ICE has provided examples of how to properly annotate the Form here.

**If an employer does not meet all four requirements set forth above, the employer must perform an in-person physical inspection of documents by August 30, 2023.** The new inspection must be annotated in the "Additional Information" section of the Form I-9.

Impacted employers must immediately conduct in-person verifications or new live video inspections, as applicable, prior to August 30, 2023. If you have any questions regarding the new I-9 requirements, or any other employment related issues, please contact:

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