



How Do You Complete Or Update I-9s When Your Company Is Remote?

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The Department of Homeland Security (DHS) granted a temporary lifeline to employers struggling to meet their I-9 obligations while operating remotely on March 20.

While some employers are dealing with layoffs and furloughs due to the unexpected suspension of many business activities, other employers in essential fields continue to hire new workers. Additionally, U.S. employers must continue re-verifying existing employees with expiring work authorization. However, when health experts recommend social distancing, how does an employer complete or re-verify an I-9 in person, as required by law?

Fortunately, in response to COVID-19's impact on the economy, the DHS announced a narrow exemption from the requirement to complete an I-9 in person for employers whose operations are remote. The new hire would still need to complete Section 1 on the first day of employment and provide a copy to the employer (a scan would suffice). The employer would then need to complete Section 2 by day four of employment, but could rely on a video, fax, or email review of the I-9 supporting documents.

The employer would need to document the reason for the delay in physically examining Section 2 documents by notating "COVID-19" in the Section 2 additional information field.

Once normal operations resume, employers must physically examine the

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Section 2 supporting documents and notate “documents physically examined” with the date of inspection in the Section 2 additional information field or in Section 3, as appropriate. This physical inspection must occur within three days of the resumption of normal operations.

These emergency procedures are permissible until three days after the national emergency ends, or 60 days from the date of the announcement, whichever comes first.

Employers are cautioned that DHS will require a written explanation of their teleworking and remote onboarding policies. Additionally, employers should consider putting in writing the adoption of such temporary I-9 procedures, where applicable, to ensure reliability for a future internal or DHS audit.

E-Verify TNC extensions

ICE has also authorized a temporary extension of the period within which an individual may respond to a Tentative Non Confirmation (TNC), recognizing that TNCs, may not be resolved within the typical 10-day timeframe due to the closure of certain individual-facing federal offices such as the Social Security Agency. During this extended period, an employer may not take an adverse action against the prospective hire.