

Temporary Remote I-9 Completion Policy Announced by DHS for New Hires During COVID-19 Crisis

The Department of Homeland Security (DHS) announced on March 20, 2020, a new process to allow some employers to temporarily complete the Form I-9 process remotely for new hires during the COVID-19 crisis. The DHS announcement indicates that employers may temporarily complete Section 2 of a Form I-9 by remotely reviewing the identity and employment eligibility documentation provided by a new hire, provided that the employer (1) has a remote onboarding and telework policy in place; (2) obtains, inspects and retains copies of the documents presented by the employee for completing Section 2 of the Form I-9; (3) physically re-examines the actual documents from the employee once their normal operations resume; and (4) is operating remotely.

This new remote document review policy will be in place until May 18, 2020, or until three business days after the termination of the National Emergency, whichever comes first. This temporary exception to the in-person document review requirement does not apply to employers whose entire workforce is not operating remotely. If an employer has employees physically present at its work location, then the employer must follow the standard requirement of having an in-person verification of the identity and employment eligibility documentation presented by the employee for completion of Section 2 of Form I-9.

However, if newly hired employees or existing employees are subject to COVID-19 quarantine or lockdown protocols, DHS will evaluate an employer's utilization of the new temporary remote document review process on a case-by-case basis (presumably at the time of any future Form I-9 audit). It will therefore be important for employers to document the extent to which their workforce was operating remotely, the existence of any government imposed or internally imposed remote work orders, and other basis utilized to apply this temporary reprieve to the in-person document review requirement. Employers should also keep in mind their ability to designate an authorized representative to perform the in-person document review and to complete Section 2 of Form I-9 for new hires on their behalf. An authorized representative can be any person the employer designates to complete and sign Form I-9 on their behalf.

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Employers should also be aware that a [new version of Form I-9 is available](#) and should now be used. This new version contains minor changes to the form and its instructions. Employers may continue [using the prior version of the form \(Rev. 07/17/2017 N\) until April 30, 2020](#). After that date, they can only use the new form with the 10/21/2019 version date. The version date is located in the lower left corner of the form.

For questions about this new process, please contact Ben Kurten at (414) 298.8222 or bkurten@reinhartlaw.com, or your Reinhart attorney.

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