

In-Person Requirements Relative to Form I-9 Deferred if Workplace is Operating Completely Remotely

By Karen Adinolfi

Last week, the U.S. Department of Homeland Security (DHS) announced that it will temporarily defer the requirement for employers to review Form I-9 documents in-person with new employees for employers and workplaces that are operating completely remotely. Employers that avail themselves of this option must be prepared to provide written documentation of their remote onboarding and telework policy for each employee. However, the physical documentation review requirements will not be excused and all Form I-9 requirements will remain in effect if any employees are physically present at a work location.

Employers who are operating completely remotely must still inspect the Form I-9's Section 2 documents over video conference, fax, or e-mail and obtain and retain copies of the documents within three business days of the employee's hire. Employers should enter "COVID-19" as the reason for the physical inspection delay in the additional information field in Section 2.

Once normal operations resume, all employees who were onboarded using remote verification must report to their employer within three business days for in-person verification of their identity and employment eligibility documentation. Once the documents have been physically inspected, the employer should add "documents physically examined" with the date of inspection to the Section 2 additional information field.

These provisions are in effect until May 19, 2020, or within three business days after the termination of the national emergency, whichever comes first.

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