

CLIENT ALERTS

Form I-9 Flexibilities Set to Sunset at the End of the Month

Client Alert

7.13.2023

On July 31, 2023, the U.S. Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE) will end the Employment Eligibility Verification (Form I-9) flexibilities that were put into place in March 2020. In response to the COVID-19 pandemic, DHS exercised its discretion and allowed flexibilities to the physical presence requirements associated with Form I-9. Specifically, this allowed employers taking physical proximity precautions due to COVID-19 to review documents remotely. However, as the world eases back into normalcy post-pandemic, DHS and ICE have decided to sunset this flexibility.

Below are the key points that employers need to know:

- The Form I-9 document inspection flexibilities will sunset on July 31, 2023. Following this, all employee verification documents must be physically inspected for Form I-9.
- Employers will have until August 30, 2023 to perform all required physical examination of identity and employment eligibility documents for individuals hired on or after March 20, 2020, and who have only received a virtual or remote examination under the flexibilities.
- Guidance on how to properly update Form I-9 for employees whose documents were inspected remotely can be found [here](#).

DHS is currently considering adopting a new rule that would allow alternative procedures for the examination of identity and employment eligibility documents. However, the new rule is yet to be finalized and adopted. Therefore, employers should not depend on this potential change and begin taking the steps outlined above as soon as possible to ensure they remain compliant with current Form I-9 policies and procedures.

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For additional information regarding Form I-9 and this recent change, please get in touch with any Butzel Immigration Practice Group member.

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