

New Form I-9 and Remote Verification Process Available on August 1, 2023

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The U.S. Citizenship and Immigration Services (USCIS) announced that a revised version of Form I-9, Employment Eligibility Verification, will be available on August 1, 2023. A new alternative procedure for remote verification of identity and employment authorization will also be available on August 1, 2023 in connection with the new form for employers enrolled and in good standing in E-Verify.

In its announcement, the USCIS reminded employers that the [COVID-19 flexibilities to the Form I-9 requirements will end on July 31, 2023](#), and that employers will have until August 30, 2023 to reach compliance by physically inspecting original identity and employment eligibility documents for all individuals whose documents were inspected remotely. Qualifying employers who were enrolled in E-Verify at the time the documents were examined remotely under the COVID-19 flexibilities may satisfy the inspection requirement using the new remote verification process.

New Remote Verification Procedure

The new remote verification procedure is an **optional** procedure that will only be available to employers enrolled in E-Verify at the applicable hiring site. To utilize the new remote verification procedure, the employer must be enrolled in E-Verify at the time of the verification, have all users managing and creating E-Verify cases complete the required E-Verify training, and follow the steps below to comply with this new procedure:

1. Offer (but not require) the alternative procedure to employees at the E-Verify hiring site consistently for all employees at that hiring site;
2. Comply with all E-Verify requirements, including creating a new E-Verify case for *all* new hires at the applicable hiring site;
3. Receive and retain clear and legible copies of both sides of the documents presented to complete Form I-9 to ensure documentation reasonably appears to be genuine;

4. Conduct a *live video interaction* with the individual presenting the documentation to ensure that the presented documentation reasonably appears to be genuine and relates to that person; and
5. Complete the corresponding box on the new Form I-9 indicating that an alternative procedure was used to examine documentation to complete Section 2 or for reverification.

To ensure compliance with applicable non-discrimination provisions, the employer must make the remote verification alternative an available option for all individuals at any given hiring site in a consistent manner. It is permissible for an employer to only offer the remote verification option to remote workers and continue to require physical inspection of documents for non-remote workers. Further, the employer cannot deny physical inspection to an employee who is unwilling or unable to complete remote verification.

Use of New Remote Procedure to Comply with Sunsetting COVID-19 Flexibilities

Employers who were enrolled in E-Verify *at the time they performed a remote examination* of Form I-9 documentation under the COVID-19 flexibility policy are eligible to satisfy the physical examination requirement using the new remote verification procedure under certain circumstances. To qualify for this option, the employer must have created an E-Verify case for the individual (except for reverification) and performed the remote inspection between March 20, 2020 and July 31, 2023. Qualifying employers using the new remote verification procedure for this purpose should not create a new E-Verify case for the applicable employees.

Form I-9 Version Date

Starting August 1, 2023, employers should start using the 08/01/2023 edition of the Form I-9. However, employers may continue to use the 10/21/2019 edition through October 31, 2023. An E-Verify employer using the 10/21/2019 edition and inspecting an employee's documents through the new remote verification process should indicate their use of the alternative procedure by denoting "alternative procedure" in the Additional Information field in Section 2.

Improvements to the new 08/01/2023 edition of the Form I-9 include clearer and substantially shorter instructions, which provides guidance on acceptable receipts and the auto-extension of some documents found on the Lists of Acceptable Documents. Among other changes, the new form reduces Sections 1 and 2 to a single-sided sheet, and is designed to be fillable on tablets and mobile devices. The Preparer/Translator section that used to be in Section 1, and the Section 3 Reverification and Rehire section are both being moved to a standalone supplement that employers can use as needed.

Stay tuned for further Vorys Immigration Alerts on this and other related topics. If you have any questions regarding the new remote verification procedures and Form I-9, or any other visa or immigration matter, we encourage you to contact your Vorys attorney.