

Temporary Policies for US I-9—Employment Eligibility Compliance During COVID-19 Pandemic

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On March 20, 2020, the US Department of Homeland Security (DHS) issued [guidance](#) temporarily providing some flexibility in the manner in which US employers complete the I-9 process during the COVID-19 pandemic.

As we discussed in detail in our recent [blog](#) all US employers are required to properly complete the I-9, [Employment Eligibility Verification Process](#), for all newly hired personnel in the US, regardless of immigration status.

What temporary changes has DHS announced?

Section 2 (Verification Process) – There is no change to current requirements for employees who are physically present at a work location. However, employers operating remotely may obtain, inspect, and retain copies remotely (including video link, fax, or email) of Section 2 documents within three (3) business days of hire. In cases where the I-9 documents are inspected remotely, the employer must enter “COVID-19” in the “Additional Information” field and a physical inspection of the I-9 documents must take place after normal operations resume.

Section 3 (Reverification Process) – If the employer is temporarily operating remotely, the I-9 reverification process may also be completed remotely as detailed above and must enter “COVID-19 EXT” in the “Additional Information” field.

Sections 2 and 3 (Expired List B/Driver’s License) – As some states are automatically extending the expiration date of state identification documents, including driver’s licenses, DHS has confirmed that it is acceptable to use an expired state identification document or driver’s license as a List B document for I-9 purposes, provided that the state issuing the license has extended the expiration date due to COVID-19.

E-Verify – For those employers who participate in [E-Verify](#) and any E-Verify case creation is delayed due to COVID-19, the employer should select “Other” from the drop-down menu and enter “COVID-19” as the reason for the delay.

Furthermore, although unconnected to COVID-19, it is important to note that on May 1, 2020, employers must begin utilizing the version of the newest of the 10/21/2019 edition of the I-9 [form](#). After May 1, 2020, no older edition of the form may be utilized and failure to utilize the new form edition can result in civil penalties for noncompliance.

Navigating these exceptional times requires flexibility and sound legal advice. Count on Moodys Tax to help your company remain compliant and ready for the recovery.