

New Form I-9 Includes Remote Verification Procedures for E-Verify Users

On Aug. 1, 2023, U.S. Citizenship and Immigration Services (USCIS) published a new version of its Employment Eligibility Verification form, also known as Form I-9. Employers are required to use the new form exclusively beginning on **Nov. 1, 2023**.

The Form I-9 instructions also clarify procedures for employers who are eligible to utilize remote examination as an alternative to physical examination of employees' documentation. Employers enrolled and participating in E-Verify may choose to examine documents remotely.



Dates of Use

The previous version of Form I-9 expired on Oct. 31, 2022, but USCIS instructed employers to continue using this expired form until the new version was published. USCIS has indicated that employers may begin using the new form immediately and that use of the expired form (dated "10/19/2019") will be allowed through **Oct. 31, 2023**.

Beginning **Nov. 1, 2023**, employers will need to use the newest version of the form. Employers who use previous versions of the form after this date will not be in compliance with federal employment eligibility verification requirements.

Employers enrolled and participating in E-Verify may choose to examine documents remotely. However, employers who were not enrolled in E-Verify during the COVID-19 flexibilities must complete an in-person physical examination by **Aug. 30, 2023**.



Form I-9 Updates

USCIS has published a complete list of Form I-9 updates. Some of the most notable changes include the following:

- Sections 1 and 2 have been reduced to a single sheet; all previous fields remain, but some fields have been merged.
- The preparer/translator certification area has been moved to a standalone supplement that employers can use as necessary for initial verification or recertification.
- Section 3 (Reverification and Rehire sections) has been moved to a standalone supplement that employers can use as necessary.
- The list of acceptable documents now includes some acceptable receipts, guidance and links to information on automatic extensions of employment authorization documentation.

The new Form I-9 includes updated instructions. These instructions have been condensed from 15 to eight pages and include additional definitions, streamlined processes and an explanation of how to use the new check boxes to indicate when Form I-9 documents were examined remotely.



Remote Document Verification

Under current requirements, employers must physically inspect Form I-9 acceptable documents to certify their employees are authorized to work in the United States. However, the new form includes alternative remote verification procedures employers enrolled in E-Verify can use to comply with their Form I-9 obligations.

USCIS has published instructions for remote document verification.



E-Verify Participation Required

Employers must participate in E-Verify and be in good standing if they want to examine employee documents remotely. New E-Verify enrollees and users must complete an E-Verify tutorial that includes fraudulent document awareness training. Existing employers already enrolled in E-Verify have access to this tutorial and may retake it at any time.

E-Verify employers are in good standing if they:

- Are enrolled in E-Verify with respect to all hiring sites that use the alternative procedure to examine documents remotely
- Use E-Verify to confirm the employment eligibility of newly hired employees in the United States
- Comply with all other requirements of the E-Verify program



Remote Examination of Documents Procedures

To comply with procedures for the remote examination of documents, employers must:

- Examine copies of Form I-9 documents or an acceptable receipt to ensure the documentation presented reasonably appears genuine and relates to the employee.
- Conduct a live video interaction with the individual presenting the document(s) to ensure the documentation reasonably appears genuine and relates to the individual. The employee must first transmit a copy of the document(s) to the employer and then present the same document(s) during the live video interaction.
- Retain a clear and legible copy of the documentation.

In addition, employers must indicate that they used an alternative procedure on Form I-9 by:

- Checking the box on the Form I-9 dated "08/01/2023"; the box indicates that they used an alternative procedure in the Additional Information field in Section 2; or
- Annotating the Form I-9 dated "10/21/2019," with "Alternative Procedure" in the Additional Information field in Section 2.

Employers using the remote verification option should also review the instructions for rehire, recertification and the retention of documents.



Form I-9 Requirements Impact All Employers

Now is a critical time for employers to review their Form I-9 processes. By understanding Form I-9 requirement changes, implementation timelines and remote verification procedures, employers can better prepare to comply with these new requirements.

Contact us for more information and to request additional Form I-9 resources.

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