

Checklist: Ending Remote I-9 Document Verification Flexibility

The in-person physical document inspection requirements for Sections 2 and 3 of the Form I-9 were suspended by the Department of Homeland Security (DHS) during the COVID-19 pandemic, and employers were given the flexibility to review documents remotely to complete the form. That flexibility ends as of July 31, 2023, and employers must ensure that all I-9s whose Section 2 or 3 was initially completed remotely are now updated with a physical, in-person examination of documents no later than Aug. 30, 2023.

This checklist can be used to develop a process to remain compliant.

Identify all employees whose I-9 documentation was verified remotely, from March 20, 2020, through July 31, 2023. Create a master list and use this to track all notices sent and to indicate when the in-person review was completed and by whom.

Identify any affected employees no longer working for the employer and update the “Additional Information” box in Section 2 of the I-9 with “COVID-19” and a note that their employment terminated and on what date. File and retain as usual.

Determine the current location of the remaining affected employees. Make two lists, one for those now working at or able to report to a company worksite, and another for those who are fully remote.

Determine your in-person document verification process. Either complete a new I-9, Section 2 or 3, and attach it to the original I-9, or update the “Additional Information” box on the original I-9. See [USCIS guidance and examples](#) on updates.

Decide which authorized representatives the employer will allow fully remote employees to use to physically verify the documents. Per the USCIS, an employer may designate any person, excluding the employee themselves, to complete Section 2 or 3 of the I-9 for the employer. The representative could be a notary public (where allowable under state law), an attorney, an I-9 verification service provider, a friend or family member of the employee, a neighbor, etc. The employer may limit these choices or allow all as best meets their needs. Make appropriate arrangements with providers if necessary. In all cases, the employer remains responsible for accurately completed I-9s.

Notify affected employees regarding the need to verify documents in person and by what date. Employees will likely have no idea why this needs to be done and may have some concerns. See [Notice to Employees Regarding I-9 Document Verification](#).

Notify any employees who have been working in the office regularly but did not have their documents reviewed in person upon their return to report to HR immediately to update the I-9. (All employees working in the office regularly, at least partially, should already have had their documents reviewed in person and Section 2 or 3 updated, within three business days of returning to the office on a consistent basis.)

Notify remote employees who are able to report to a company worksite to do so, providing information on the location, to whom they should report, and by what date.

Notify remote employees unable to report to a company worksite of how they are to proceed with the process. Attach or separately send:

A blank I-9, or instructions on how to access an electronic delivery system for the original or new I-9.

Information regarding whom they may use as the authorized representative. If a third party has been engaged by the employer, include the necessary instructions and/or contact information for the employee to meet with the representative.

Details on how the representative should complete Section 2 or 3 of a new I-9 form.

Instructions to the employee on how to return the new I-9 with Section 2 or 3 completed to the employer (contact name, address, postage, DocuSign instructions, etc.)

Review all updated I-9s for accuracy and return the form to the employee if corrections are needed. Attach all updated I-9, Section 2 or 3 forms to the original I-9.

Complete the tracking spreadsheet to ensure all affected I-9s are updated and returned to the employer.

Notify any employees who have not completed the update that their employment will be suspended if this process is not completed by Aug. 30, 2023, and employment may ultimately be terminated. Ensure that no employee without an updated I-9 works beyond Aug. 30, 2023.

[USCIS FAQs](#)

What if the employee presents a different but still acceptable document at the time of physical inspection?

If the employee presents acceptable documents for in-person inspection that are different from the ones they presented for remote inspection, then the employer may either:

- Complete Section 2 or 3 on a new Form I-9 and attach it to the Form I-9 used for remote inspection; or
- Provide the document title, document number, issuing authority, and expiration date (if any) of the new document in the Additional Information field and notate that the employee presented this document at physical inspection.

(As a best practice, DHS recommends option 1.)

What if the document was valid during remote inspection and is now expired during physical inspection?

As long as the employee's document was unexpired at the time of remote inspection, the employer should not request a new document and can proceed with the physical inspection consistent with DHS guidance.

What if the employee changes their immigration status between the time of remote inspection and the in-person inspection?

If the employee presents original documents for in-person inspection that are different from the ones presented for remote inspection because the employee has a different immigration or U.S. citizenship status and may no longer have the original document presented for remote inspection, then the employer may either:

- Complete Section 2 or 3 on a new Form I-9 and attach it to the Form I-9 used for remote inspection; and notate that the employee changed their immigration status in the Additional Information field; or
- Provide the document title, document number, issuing authority, and expiration date (if any) of the new document and notate that the employee changed their immigration status in the Additional Information field.

(As a best practice, DHS recommends option 1.)

What if an employee refuses to meet for a physical document inspection at the end of the flexibilities? Must we terminate this employee, or can we add a memo to the file indicating that we remotely examined the employee's documents but were not able to complete physical inspection?

An employer cannot retain an employee who the employer knows is not authorized to work in the United States or that does not fulfill Form I-9 documentary requirements. This includes presenting documentation for in-person physical examination. Employers are required to complete Form I-9 for all new hires, including the requirement to physically examine identity and work authorization documents.

Our company began operating remotely during COVID-19 and will not return to work in office. Must we still conduct the in-person document inspection for each employee who we hired while using the COVID-19 remote inspection flexibilities?

Yes. Employers must physically examine documents for those employees who were hired on or after March 20, 2020, and for whom the employer has to date only conducted a remote inspection consistent with the flexibilities first announced in March 2020. Employers will have 30 days after the end date of the flexibilities on July 31, 2023 – that is, until August 30, 2023 – to complete in-person physical inspection.

If we are using E-Verify and created a case for the remote worker at the time of hire, do we need to physically examine their documents at the end of the COVID-19 remote inspection flexibilities? If so, do we need to update our E-Verify case or create a new case?

Employers must physically examine documents for those employees who were hired on or after March 20, 2020, and for whom the employer has, to date, only conducted a remote inspection consistent with the flexibilities first announced in March 2020. Employers will have 30 days after the end date of the flexibilities on July 31, 2023 – that is, until August 30, 2023 – to complete in-person physical inspection. Employers should not create a new E-Verify case for this employee, nor should they update the existing E-Verify case, in connection with this physical inspection.