

CLIENT ALERT: USCIS Announces New Form I-9 and Remote Verification for Employers Using E-Verify

Changes are coming to the way employers verify employee work eligibility.

The U.S. Citizenship and Immigration Services (USCIS) **announced** a new Form I-9 for Employment Eligibility Verification. The new Form I-9, which will be available on August 1, 2023, updates the list of acceptable documents an employee can use for verification, streamlines the verification process, and offers employers new options for verifying employee work authorization. Employers may continue to use the old Form I-9 through October 31, 2023, but starting November 1, 2023, all employers must use the updated Form I-9.

One of the biggest changes to the new Form I-9 is that it provides space for employers who use the E-Verify system to use **remote examination** of Form I-9 documents through a new, alternative procedure, known as “Permanent Virtual Verification” (PVV). The new PVV process comes as some of the verification flexibility offered to employers during COVID-19, including remote verification, has **expired**.

Because the COVID-19 temporary policy **has expired**, employers must resume using physical inspections on August 1, 2023. Employers who used remote means to verify Form I-9 information during COVID-19 have until August 30, 2023, to complete the inspection of identity and employment eligibility documents. Employers must do this through physical inspections unless they qualify for and elect to use the PVV process.

Under the PVV process, employers who use E-Verify may verify Form I-9 documentation (front and back) via live video, check the appropriate box in the new Form I-9 (or appropriately reflect the option using the old form), retain all I-9 documents, and create a case in E-Verify.

Notably, PVV is only available to “qualified employers.” To meet this definition, employers must use E-Verify and be in good standing. Employers not already enrolled will be able to enroll in E-Verify and begin using the alternative virtual verification procedure for new employees after August 1, 2023.

Additionally, employers who were participating in E-Verify and created a case for employees whose documents were examined during COVID-19 flexibilities between March 20, 2020 and July 31, 2023, may choose to use the new alternative procedure to satisfy the physical document examination requirement by August 30, 2023. However, employers not enrolled in E-Verify during the COVID-19 flexibilities must continue to complete in-person physical examinations by August 30, 2023.

Please contact your M&J attorney with questions about Form I-9 compliance.

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