

Form I-9 Requirement COVID-19 Flexibility Extended until August 31

Article By:

Raymond G. Lahoud

U.S. Immigration and Customs Enforcement (ICE) has announced an extension of its interim policy that allows employers to inspect the Form I-9 requirement virtually through August 31, 2021. This flexibility was first issued by ICE in March 2020, due to the pandemic, and has been extended multiple times since.

COVID-19 Flexibility Extended

Form I-9 flexibility policy was set to expire on May 31, 2021. The policy applies only to employers and workplaces that are operating remotely. If the workplace is functioning even partially at the work location, the employer must implement an in-person verification process. Employers who meet the criteria for remote operation must diligently create cases for their new hires within three business days from the date of hire.

The announcement had no new information apart from that regarding the extension but encouraged employers to monitor the USCIS website for any latest guidance.

Form I-9 Requirement

Form I-9 is a mandatory form that employers must complete and maintain with its records, confirming the employment authorization of individuals hired for employment in the United States. Employers must verify the documents of the new hire within three days of hire, and both employee and employer must complete the form. The list of acceptable documents can be found on the last page of the form.

The Department of Homeland Security (DHS) inspects, either randomly or on tips or complaints, the records the employers maintain. The purpose of the audit is to ensure that the employers are following legal hiring practices. When an employee receives a Notice of Inspection (NOI) from the DHS about an upcoming audit, it is best to hire an attorney and have staff from Human Resources handle the audit. If the DHS finds discrepancies in the records, they issue a warning notice and provide time to correct the violations. If the violations are not rectified, the DHS issues a Notice of Intent to Fine; often the amount of the fine is huge.

National Law Review, Volumess XI, Number 159

Source URL: <https://natlawreview.com/article/form-i-9-requirement-covid-19-flexibility-extended-until-august-31>