

# Form I-9: Sunsetting of COVID-19 Temporary Flexibilities and the Use of Authorized Representatives

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On May 5, 2023, DHS [announced](#) that the COVID-19 temporary flexibility for Form I-9, Employment Eligibility Verification will end July 31, 2023. Employers must complete in-person physical document inspections for employees whose documents were inspected remotely during the temporary flexibilities by Aug. 30, 2023.

In light of this announcement, employers must act swiftly to complete in-person physical inspection of identity and employment verification documents for those remotely reviewed during the flexibility period. Further, employers should only utilize in-person review of documents moving forward beyond the sunset period.

The America Immigration Lawyers Association (AILA), through its Verification and Documentation Liaison Committee, [previously issued](#) an FAQ compiling options for completing Form I-9 in remote-work scenarios as [previously covered](#) by this blog. Two options that remain viable after the sunset of COVID-19 temporary flexibilities include:

**Process 1: In-person New Employee and HR/Admin Document Review:** HR/Admin timely reviews the employee's identity and employment authorization documents in the employee's physical presence.

**Process 2: "Remote Hire" In-Person New Employee & Employer Authorized Representative Document Review:** This is the so-called "Remote Hire" process, typically used in situations of onboarding and new remote employee. Note that this is still an *in-person* document review conducted by a third party designated by the employer who acts as the agent.

The option of utilizing an authorized representative to complete Section 2 is as old as the Form I-9 itself, but it has become increasingly popular during the transition to remote work and in light of the pandemic. Key points that should be considered when utilizing an authorized representative include:

- Any person (even a friend, neighbor or family member) can act as an authorized representative of the company when completing Section 2 of Form I-9. Employers should provide clear instructions to anyone who will serve as an authorized representative to ensure that the I-9 verification process is done properly and any additional state requirements are

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met by the individual serving as the authorized representative. As an example, the California Secretary of State's office has stated that California notaries may not complete or certify Form I-9s unless they are a bonded immigration consultant.

- An employer remains liable for any violations in connection with form or verification process, including violations of the employer sanction laws, committed by an authorized representative.

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