

I-9 Inspection Changes Beginning August 30, 2023

On May 4, 2023, the U.S. Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE) announced that employers will have 30 days to reach compliance with Form I-9 requirements after the COVID-19 flexibilities sunset on July 31, 2023. These flexibilities were first announced in March 2020 and subsequently extended throughout the COVID-19 pandemic. DHS encourages employers who have been using those temporary flexibilities to plan ahead to ensure that all required physical inspection of identity and employment eligibility documents is completed by August 30, 2023.

In March 2020, ICE announced that it would defer the requirement that employers review employees' identity and employment authorization documents in the employees' physical presence, instead allowing that to occur remotely, with the expectation that physical inspection would occur within three business days after normal operations resumed. In follow-on guidance, ICE noted that employers could continue to implement the flexibilities until affected employees undertake non-remote employment on a regular, consistent, or predictable basis or the extension of the flexibilities related to such requirements is terminated, whichever is earlier. In October 2022, DHS and ICE announced that the flexibilities would be extended until July 31, 2023. This most recent announcement clarifies for employers that they have until **August 30, 2023**, to perform all required physical examination of identity and employment eligibility documents for those individuals hired on or after March 20, 2020, and who have only received a virtual or remote examination of identity and employment eligibility documents under the flexibilities.

Once the employer physically examines the employee's identity and employment authorization documents, the employer should add "Documents Physically Examined" and the inspection date to the Section 2 "Additional Information" field on the Form I-9.

We will continue monitoring any new I-9 rules and regulations for additional updates.



Elizabeth A. Olivera

Associate

eolivera@cozen.com
Phone: (312) 382-3139
Fax: (612) 260-9080



Frances Rayer

Member

frayer@cozen.com
Phone: (215) 665-3704
Fax: (215) 665-2013

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