

# Form I-9 and E-Verify

## *Temporary Policy Changes to Form I-9 and E-Verify due to COVID-19*



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# COVID-19:

## Form I-9 Physical Document Review Flexibility

On March 20, 2020, the Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE) announced flexibility in complying with requirements related to Form I-9, due to COVID-19. These provisions have been extended through **March 31, 2021.**

- Applies only to employers and workplaces that are operating remotely and employers must provide written documentation of their remote onboarding and telework policy for each employee. This burden rests solely with the employers.
- Employers must inspect the Section 2 documents remotely and obtain, inspect, and retain copies of the documents, within three business days of the employee's start date.
- Enter "Remote Inspection completed on MM/DD/YYYY" in the Section 2 Additional Information field.
- **Within 3 business days of resuming normal operations, physically inspect documents with the employee present.**
- Write "COVID-19 - Documents physically examined on MM/DD/YYYY" as well as the initials of the person who performed the physical inspection to the Section 2 Additional Information field on the Form I-9, or to section 3 as appropriate.

See [Form I-9 completion examples](#) and [the ICE news release](#) for additional information.

# COVID-19:

## Temporary Policy for List B Identity Documents

Beginning on May 1, 2020, List B docs set to expire on or after March 1, 2020, and **not otherwise extended** by the issuing authority, may be treated the same as if the employee presented a valid receipt for an acceptable document for Form I-9 purposes.

### When your employee provides a List B document not extended by the issuing authority you should:

- Record the document information in Section 2 under List B; and,
- Enter the word “COVID-19” in the **Additional Information Field**
- Within 90 days after DHS’s termination of this temporary policy, the employee will be required to present a valid unexpired document to replace the expired document presented when they were initially hired.

### When the employee later presents an unexpired document, you should:

- In the **Additional Information Field**, record the number and other required document information from the actual document presented;
- Initial and date the change.

#### Notes:

*\*It is best if the employee can present the replacement of the actual document that was expired, but if necessary, the employee may choose to present a different List A or List B document or documents*

*\*E-Verify participating employers should use the employee’s expired List B document number from Section 2 of the Form I-9 to create an E-Verify case as usual within three days of the date of hire.*

# COVID-19:

## Temporary Policy for List B Identity Documents continued

If the employee's List B identity document expired on or after March 1, 2020, and the issuing authority **has extended** the document expiration date due to COVID-19, the document is acceptable as a List B document for Form I-9 (not as a receipt) during the extension timeframe specified by the issuing authority.

### **When your employee provides a List B document extended by the issuing authority you should:**

- Enter the document's expiration date in Section 2; and,
- Enter "COVID-19 EXT" in the Additional Information Field.

Employers may also attach a copy of a webpage or other notice indicating that the issuing authority has extended the documents. Employers can confirm that their state has auto-extended the expiration date of state IDs and driver's licenses by checking the state Motor Vehicle Administration or Department of Motor Vehicles' website.

#### Note:

*\*For extended documents, the employee is not required to later present a valid unexpired List B document.*

*\*E-Verify participating employers should use the employee's expired List B document number from Section 2 of the Form I-9 to create an E-Verify case as usual within three days of the date of hire.*

# COVID-19:

## Extended Timeframe for Taking Action to Resolve TNC

E-Verify is extending the timeframe to take action to resolve Social Security Administration (SSA) Tentative Nonconfirmations (TNCs) due to SSA office closures to the public. \*DHS TNC timeframe to take action may be extended in certain circumstances.

- Employers must notify the employee and complete the referral process within 10 federal workdays
- After the employee is notified of their TNC and decides whether to take action to resolve the TNC, the employee should acknowledge the decision on the Further Action Notice, and the employer should notify E-Verify of their employee's decision
- Employees who choose to take action to resolve a TNC are referred to SSA and/or DHS
- Employers may **not** take any adverse action against an employee because the E-Verify case is in an **interim case status**, including while the employee's case is in an extended interim case status

# Temporary Policy Resources related to COVID-19

## **Form I-9 Physical Document Review for Section 2**

Employers and workplaces that are operating remotely may follow the DHS [news release](#) that announced flexibility in requirements related to Form I-9. See [Q&A webpage](#).

## **Renewal of List B Identity Documents**

DHS has issued a temporary policy regarding expired List B identity documents used to complete Form I-9, Employment Eligibility Verification. Additional information at [I-9 Central What's New](#).

## **Form I-9 Completion by Non E-Verify Agricultural Employers of Certain H-2A workers**

On April 20, 2020, the Department of Homeland Security published a [temporary final rule to amend certain H-2A requirements](#) to help U.S. agricultural employers avoid disruptions in lawful agricultural-related employment during the coronavirus (COVID-19) public health emergency. The temporary final rule expires on August 18, 2020. See more information at the [H-2A Temporary Agricultural Workers](#) page.

## **Form I-9 Completion by Employers of Certain H-2B Nonimmigrants**

On May 12, 2020, the Department of Homeland Security published a [temporary final rule](#) to change certain H-2B requirements to help secure the U.S. food supply chain and reduce the economic impact of the coronavirus (COVID-19) public health emergency on H-2B employers. The temporary flexibilities are available through Sep. 11, 2020.

## **E-Verify Extended Timeframes to take action to resolve Tentative Nonconfirmations**

E-Verify is extending the timeframe to take action to resolve certain Tentative Nonconfirmations (TNCs) due to SSA and other office closures to the public. See [E-Verify What's New](#) for TNC.



# Customer Support

- Form I-9 E-Mail: [I-9Central@uscis.dhs.gov](mailto:I-9Central@uscis.dhs.gov)
- E-Verify E-Mail: [E-Verify@uscis.dhs.gov](mailto:E-Verify@uscis.dhs.gov)
- Form I-9 Website: [www.uscis.gov/I-9Central](http://www.uscis.gov/I-9Central)
- E-Verify Website: [www.e-verify.gov](http://www.e-verify.gov)
- Employer Hotline: (888) 464-4218
- Employee Hotline: (888) 897-7781

QUESTIONS ?