

Department of Homeland Security Extends Temporary I-9 Flexibility for COVID-19

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On August 31, 2021, the US Department of Homeland Security (DHS) announced an extension of the agency's March 23, 2020 [guidance](#) temporarily providing some flexibility in the manner in which US employers and employees complete the I-9 process during the COVID-19 pandemic.

As we discussed in detail in our previous [blog](#), all U.S. employers are required to properly complete the I-9, [Employment Eligibility Verification Process](#), with all newly hired personnel in the US, regardless of immigration status.

What temporary changes have DHS announced?

- **Section 2 (Verification Process)** – There is no change to current requirements for employees who are physically present at a work location. However, employers operating remotely may obtain, inspect, and retain copies remotely (including video link, fax, or email) of Section 2 documents within three (3) business days of hire. In cases where the I-9 documents are inspected remotely, the employer must enter “COVID-19” in the “Additional Information” field and a physical inspection of the I-9 documents must take place after normal operations resume.
- **Section 3 (Reverification Process)** – If the employer is temporarily operating remotely, the I-9 re-verification process may also be completed remotely as detailed above and must enter “COVID-19 EXT” in the “Additional Information” field.
- **Sections 2 and 3 (Expired List B/Driver's License)** – As some states are automatically extending the expiration date of state identification documents, including driver's licenses, DHS has confirmed that it is acceptable to use an expired state identification document or driver's license as a List B document for I-9 purposes, provided that the state issuing the license has extended the expiration date due to COVID-19.
- **E-Verify** – For those employers who participate in E-Verify (see <https://www.e-verify.gov/>) and any E-Verify case creation is delayed due to COVID-19, the employer should select “Other” from the drop-down menu and enter “COVID-19” as the reason for the delay.

Navigating these exceptional times requires flexibility and sound legal advice. Count on the MPC immigration team to help your company remain compliant and out of the crosshairs of the U.S. and Canadian immigration and tax authorities!