
DHS Relaxes I-9 Form Requirements for Remote Employers

By Molly DiBianca / Mar 24, 2020

On March 20, 2020, the Department of Homeland Security ("DHS") announced that it would exercise discretion to defer the "physical presence" requirement for remote workplaces in light of the COVID-19 pandemic.

Under the new guidance, employers who move to a completely remote workforce (with no employees physically present in the workplace) will not be required to review the employee's identity and employment-authorization documents in the employee's physical presence. Instead, employers may review the documents via video or can receive them via email or fax. They must obtain copies of the documents within three business days. The employer should enter "COVID-19" in Section 2 as the reason for the delay.

When normal operations resume, the employer must physically inspect the forms and should add "documents physically examined" and the date of inspection to Section 2.

An employer who utilizes this option must provide written documentation of their remote onboarding and telework policy for each employee. Employers should not overlook this obligation.

The relaxed rule will expire on May 19 or within 3 business days from the end of the National Emergency, whichever comes first.

Clark Hill's Labor and Employment Practice Group attorneys will continue to provide critical updates as businesses around the country try to navigate these uncharted waters and are able to assist in any way needed. For more information, please visit Clark Hill's COVID-19 Resources webpage.