

# Remote Inspection of I-9 Documents Now Permitted in Limited Circumstances During Coronavirus Emergency

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## Working Together

03.31.2020



Immigration and Customs Enforcement (“ICE”) has announced that effective immediately, “employers taking physical proximity precautions due to COVID-19” will be temporarily allowed to review new employees’ “section 2” documents remotely when completing I-9 forms. This can include, for example, reviewing the documents via web camera or emailed images. This relaxes long-standing policy that ordinarily requires a physical, in-person inspection.

Bear in mind, however, that:

1. The flexibility is only available when because of COVID-19 arrangements specifically, there are no employees physically present at what would otherwise be the employee’s work location;
2. An employer that uses this option must provide written documentation of its “remote onboarding and telework policy for each employee” – so far, the agency has not provided detailed guidance on what this means;
3. The employer should still retain copies of the remotely-inspected documents – e.g., the photos, still frames from the video, etc.;
4. In the section 2 “additional comments” field of the form, the employer should note the delay in physical inspection and give “COVID-19” as the reason;
5. Once the employer resumes normal operations, it must physically examine the documents, in person, within three business days, and make a notation of this on the I-9 form, including the date on which it was done; and
6. This flexibility will last until the earlier of (i) May 19, 2020, or (ii) the third business day following “the termination of the National Emergency.”

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NOTE: The ICE announcement supersedes a portion of the guidance previously published on this blog in section IV of this March 20, 2020 article.

**Posted in** COVID-19

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