

- Prepare a communication plan if employee pay changes will occur so that discussion of the changes will be a smooth transition and not a stressful experience for the employees and the employer; and
- Be prepared to train both managers and newly non-exempt employees on the differences that exist between being exempt and non-exempt which could include not only different pay practices but potentially different benefits.

Employers should plan for these proposed changes to occur in order to properly assess organizational impact and develop a proactive plan to address the changes. As noted, there are still hurdles that could derail the effectuation of this proposal, but it is unlikely. It is more likely that the rule will be effectuated with some changes due to comments collected during the notice period, so employers should be prepared to pivot should the requirements change upon finalization.

ADDITIONAL RESOURCES

[DOL News Release](#)

[Proposed Rule](#)

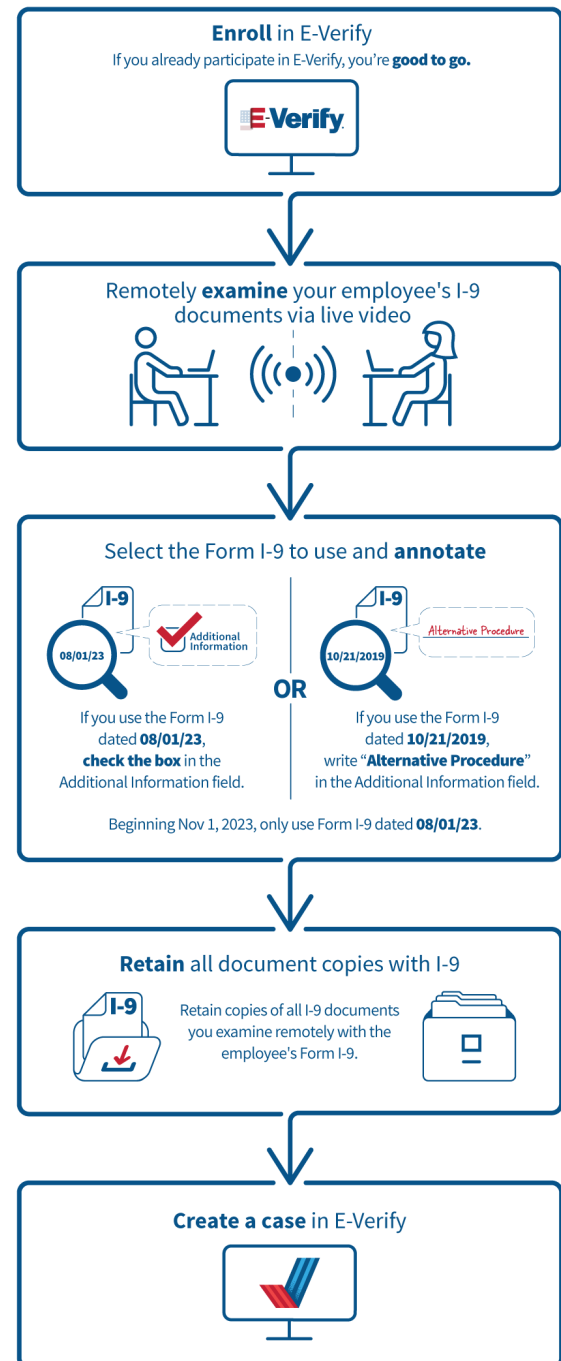
New Form I-9 Alternative Procedure to Remotely Examine Employee Documents

The United States Department of Homeland Security (DHS) recently announced changes regarding Form I-9, Employment Eligibility Verification. Effective August 1, 2023, the new I-9 form allows qualified E-Verify employers to use an alternative document inspection procedure when completing Sections 2 or 3. Under this alternative procedure, E-Verify employers may complete document verification remotely instead of physically examining the original document(s) during an in-person meeting with the new hire (or existing employee during reverification).

DHS is allowing employers three months to transition to the new version of Form I-9. Thus, employers may lawfully continue to use the existing version of Form I-9 (issuance date of October 21, 2019) through the end of business on October 31, 2023. By November 1, 2023, all employers must use the new version of Form I-9 for new hires and reverifications. There are several steps employers must take to meet the new requirements.

- 1) Employers that wish to use remote document verification must be enrolled in the E-Verify program and be in "good standing" at the time that they rely on the new procedure.
- 2) The employer must examine copies (front and back, if the document is two-sided) of Form I-9 documents or an acceptable receipt to ensure that the documentation presented reasonably appears to be genuine and relates to the employee and must then conduct a live video interaction with the individual

How do I participate in the remote examination of Form I-9 documents?



presenting the document(s) to ensure that the documentation reasonably appears to be genuine and relates to the individual.

- 3) On the Form I-9 dated 08/01/2023, the employer must check the box to indicate that they used an alternative procedure in the Additional Information field in Section 2. On the Form I-9 dated 10/21/2019, the employer must notate "Alternative Procedure" in the Additional Information field in Section 2.
- 4) Employers must retain a clear copy (front and back, if two-sided) of all documents examined in a paper or electronic format, or in an acceptable combination, for as long as the employee works for the employer, plus the specified period after their employment has ended. In the event of a Form I-9 audit by a federal government inspector, the employer must make available copies of the identity and U.S. work authorization documentation the employee presented for remote document examination.

DHS provided the flow chart on the previous page to help properly guide employers through the new I-9 process. Keep in mind that E-Verify employers are not required to use the I-9 remote document verification procedure. If E-Verify employers choose to use this new procedure, they may do so for all employees or for only those Forms I-9 associated with employees who are working remotely. Employers must apply I-9 procedures fairly and consistently. Therefore, employers should not require certain remote employees to appear in-person at the company's offices to complete the I-9 process while allowing other remote employees to complete the I-9 process using the new standards.

ADDITIONAL RESOURCES

[Summary of Changes to I-9 Form](#)

[USCIS Remote Examination Alternative Procedure Summary](#)

[E-Verify Enrollment](#)