

LEGAL NEWS ALERT

New Form I-9 and Alternate Verification Process

The United States Citizenship and Immigration Services (USCIS) has announced it will release a new Form I-9 on August 1, 2023. Employers can start using the new form upon its release but can continue to use the old form until October 31, 2023. Beginning November 1, 2023, all employers must use the updated Form I-9.

Significant changes are being made to Form I-9 including a reformatting of the document which is intended to make it easier for completion and downloading/completing on mobile devices. The preparer/translator certification and the reverification/rehire sections are each being moved to separate standalone documents. The employee's attestation field has been edited to provide additional clarification to help avoid errors by employees. The list of acceptable documents has been revised to include acceptable receipts and to provide additional guidance and links regarding automatic extensions of employment authorization documents.

USCIS also announced an alternative procedure for qualified employers to remotely examine an employee's identity and employment authorization documents. The new procedure will take the form of a final rule effective August 1, 2023. Only qualified employers using E-Verify may use the alternative verification method. Qualified employers are those employers enrolled in E-Verify for all hiring sites in the United States for which they seek to use the alternative procedure, are in compliance with all requirements of E-Verify and continue to be in good standing in E-Verify at all times when using the alternative procedure and complete an E-Verify tutorial/training concerning fraud awareness and anti-discrimination.

The alternative procedure will involve the following: within three business days of an employee's first day of employment, a qualified employer (or authorized representative) who chooses to use the alternative procedure must examine complete copies (front and back) of Form I-9 documents to ensure documentation reasonably appears to be genuine; conduct a live video interaction with the individual presenting the document(s) to ensure the documentation reasonably appears to be genuine and related to the individual; complete the correct box on the Form I-9 that an alternative procedure was used to examine documentation to complete Section 2 (or reverification) and retain clear and legible copies of the documentation in accordance with applicable regulations. Qualified employers may use the alternative procedure starting on August 1, 2023, but are not required to do so.

Contact Kathryn Cimera (kcimera@lawmg.com) in our firm's Indianapolis office (317.453.2000) with questions on this change, to obtain copies of the necessary forms, or other employment law matters.