



DEPARTMENT OF DEFENSE
DEFENSE CIVILIAN PERSONNEL ADVISORY SERVICE
4800 MARK CENTER DRIVE
ALEXANDRIA, VA 22350-1100

FOR: CIVILIAN PERSONNEL POLICY COUNCIL MEMBERS

FROM: Defense Civilian Personnel Advisory Service Director, Mr. Daniel J. Hester

SUBJECT: Alternative Procedures for Form I-9 Compliance

AUDIENCE: Appropriated Fund and Nonappropriated Fund Personnel

ACTION: Disseminate to Department of Defense (DoD) Human Resources Practitioners and Hiring Managers

SUSPENSE: August 30, 2023

REFERENCES:

- a. Defense Civilian Personnel Advisory Service Message (DCPAS) 2023068, "Expiration of Flexibility in Requirements Related to Form I-9 Compliance During the Coronavirus Disease 2019 Emergency," August 2, 2023 (attached)
- b. U.S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement News Release, "ICE updates Form I-9 requirement flexibility to grant employers more time to comply with requirements," May 4, 2023, <https://www.ice.gov/news/releases/ice-updates-form-i-9-requirement-flexibility-grant-employers-more-time-comply>
- c. DHS, U.S. Citizenship and Immigration Services Form I-9 notice, "E-Verify Employers May Use Alternative Procedure for Form I-9 Documents Examined Remotely During COVID-19 Temporary Flexibilities," August 1, 2023, <https://www.uscis.gov/i-9-central/form-i-9-related-news/new-e-verify-employers-may-use-alternative-procedure-for-form-i-9-documents-examined-remotely-during>

BACKGROUND/INTENT: Since the issuance of the DCPAS Message at reference (a), DHS released new information related to the expired Form I-9 (Employment Eligibility Verification) flexibility. The DHS News Release at reference (b) summarized the intent of the March 2020 temporary Form I-9 flexibility, the associated July 31, 2023, expiration date, and emphasized a deadline of August 30, 2023, for employers to comply with the required physical examination of supporting documents that were virtually or remotely examined under this temporary flexibility.

The DHS notice at reference (c) authorizes an optional alternative procedure to the in-person physical examination of the documentation to establish identity and employment authorization to complete the Form I-9. As an E-Verify employer, DoD Components may use the new alternative procedures if criteria in reference (c) is met. If not, a physical examination of identity and employment eligibility documents must be completed. Employers must still complete the required steps of the new alternative procedures to finalize the Form I-9 no later than August 30, 2023.

DCPAS recently secured approval from DHS for a DoD-unique process to facilitate the physical inspection requirement in reference (b). During COVID-19, newly hired DoD employees were required to provide proof of identity to obtain a common access card, which was physically examined at Real-Time Automated Personnel Identification System (RAPIDS) sites. Therefore, DCPAS and the Defense Data Management Center has partnered to review the documentation that previously submitted to RAPIDS sites at the time of CAC issuance to validate the identity documents. Once this review is completed, DCPAS will provide DoD Components with a memorandum documenting the alternate validation process was completed and should be maintained on file. This self-audit validation process meets the DHS requirements for the secondary I-9 review.

In the event there are employees that cannot be validated through this alternate process, DCPAS will provide DoD Components with a list of employees who will require further action. DoD Components will then need to physically inspect the required documentation or use the alternative procedures in reference (c). DoD Components who choose to use the alternative procedure must retain clear and legible copies of all documents presented by the employee seeking to establish identity and employment eligibility for the Form I-9. Additionally, reference (c) includes examples (e.g. Figures 1 and 2) on how to document the Form I-9 based on the preferred option.

POINT OF CONTACT: Employment and Compensation, Employment Policy, dodhra.mc-alex.dcpas.list.ec-policy@mail.mil

Attachment:
As stated



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FOR: CIVILIAN PERSONNEL POLICY COUNCIL MEMBERS

FROM: Defense Civilian Personnel Advisory Service Director, Mr. Daniel J. Hester

SUBJECT: Expiration of Flexibility in Requirements Related to Form I-9 Compliance During the Coronavirus Disease 2019 Emergency

AUDIENCE: Appropriated Fund and Nonappropriated Fund Personnel

ACTION: Disseminate to Department of Defense (DoD) Human Resources Practitioners and Hiring Managers

REFERENCES:

- a. U.S. Immigration and Customs Enforcement News Release, May 4, 2023, <https://www.ice.gov/news/releases/ice-updates-form-i-9-requirement-flexibility-grant-employers-more-time-comply>
- b. U.S. Office of Personnel Management Memorandum, "On-Boarding Processes for New Employees During the COVID-19 Emergency," March 24, 2020, <https://www.chcoc.gov/content/boarding-processes-new-employees-during-covid-19-emergency>

BACKGROUND/INTENT: On May 4, 2023, the Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), published reference (a), notifying employers that the flexibility in rules related to Form I-9 compliance expired July 31, 2023, and will not be extended. As of August 1, 2023, DoD Components are required to conduct physical examinations to verify the identity and employment authorization of individuals. Additionally, DoD Components must perform all required physical examination of identity and employment eligibility documents for those individuals hired on or after March 20, 2020, and who have only received a virtual or remote examination under the flexibilities listed in reference (b). This must be completed no later than August 30, 2023, and all Form I-9s must be updated to reflect the date of the physical examination.

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