

## Blog Post

# Homeland Security Eases Policy on Expired Documents and Extends Remote Verification for Form I-9

June 3, 2020

By [Rachel L. Perez](#)

In light of COVID-19, the federal government has extended temporary guidance relating to remote verification and relaxed restrictions on documents supporting I-9 verification. With respect to the latter, given ongoing stay-at-home orders and restrictions on renewing state driver's licenses, state ID cards, and other forms of List B identity documents due to COVID-19, the Department of Homeland Security (DHS) has issued a temporary policy regarding expired List B identity documents used to complete Form I-9, Employment Eligibility Verification. As of May 1, 2020, employers may treat List B identity documents that expired on or after March 1, 2020, and are not otherwise extended by the issuing authority, the same as if the employee presented a valid receipt for an acceptable document when completing Form I-9. Employers must also be sure to complete the 10/21/19 edition of Form I-9, which became mandatory on May 1, 2020.

## Procedure for Expired List B Documents Not Extended by the Issuing Authority

When an employee provides an acceptable expired List B document that has not been extended by the issuing authority, the employer should complete the following steps:

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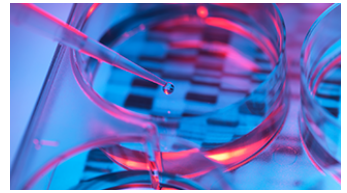
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1. Record the document information in Section 2 under List B, as applicable;
2. Enter the word “COVID-19” in the Additional Information Field in Section 2; and
3. Ensure that within 90 days after DHS’s termination of this temporary policy, the employee presents a valid unexpired document to replace the expired document presented during the initial onboarding process.

If possible, within that 90-day window the employee should present the original renewed version of the actual expired document that was presented when they initially completed Form I-9. However, employees are not required to do so. Employers should bear in mind that, if necessary, the employee may choose to present a different List A or List B document or documents within 90 days after DHS’s termination of this temporary policy.

When the employee later presents an unexpired document, the employer should record the new document information in the Section 2 Additional Information Field as follows:

1. Record the number and other required document information from the actual document presented; and
2. Initial and date the change.

### Procedure for List B Documents Extended by an Issuing Authority

According to the DHS, “If the employee’s List B identity document expired on or after March 1, 2020, and the issuing authority has extended the document expiration date due to COVID-19, the document is acceptable as a List B document for Form I-9” purposes during the extension timeframe specified by the issuing authority. DHS’s temporary policy makes clear that, during the I-9 verification process, expired List B documents extended by an issuing authority are not treated the same as receipts

for lost, stolen or damaged documents. Those would require the employee to present the actual unexpired document for which the receipt was issued within 90 days from the date of hire or, in the case of reverification, 90 days from the date employment authorization expired. Instead, for List B documents extended by the issuing authority, employers should be aware that employees are not required to later present a valid unexpired List B document.

When an employee provides an acceptable expired List B document that has been extended by the issuing authority, the employer should:

1. Enter the document's expiration date in Section 2;
2. Enter "COVID-19 EXT" in the Section 2 Additional Information Field; and
3. Attach a copy of a webpage or other notice indicating that the issuing authority has extended the validity of such document(s).

Employers enrolled in E-Verify should use the employee's expired List B document number from Section 2 of the Form I-9 to create an E-Verify case no later than the third business day after the employee starts work for pay.

Employers are advised to review the state Motor Vehicle Administration or Department of Motor Vehicles' website to confirm if the state authority has automatically extended the expiration date of state IDs and driver's licenses.

To complete Section 3 of Form I-9 for reverification and rehires, it's important to note that employees must present unexpired documents from either List A or List C showing authorization to work (unless a rehired employee is still authorized to work and his or her employment authorization documentation is still valid). Even if the original documentation the employer relied on for I-9 verification has expired, employers are not permitted to reverify:

- U.S. citizens and noncitizen nationals;
- Lawful permanent residents who presented a Form I-551, Permanent Resident (Green) Card for Section 2, including conditional residents; and
- List B documents.

## Relaxed Form I-9 Requirements Extended For 30 Days

On May 14, 2020, DHS and U.S. Immigration and Customs Enforcement (ICE) announced the extension of temporary guidance relating to remote verification for an additional 30 days due to COVID-19. The temporary policy, which was issued on March 20 and originally set to expire on May 19, provides employers flexibility with obtaining, inspecting and retaining identity and employment eligibility documents to complete Section 2 of Form I-9 while complying with social distancing requirements. The federal immigration agency extended this policy in light of ongoing precautions related to COVID-19

As discussed in our blog, this temporary policy only applies to employers and workplaces that are operating remotely. Employers should regularly monitor the DHS and ICE websites for additional updates about when the extension ends and normal operations resume.

E-Verify participating employers who meet the necessary requirements and avail themselves of remote inspection should continue to follow current guidance and create cases for new hires within three business days from the date of hire.

The temporary policy extension also applies to employers who were served notices of inspection (NOIs) by ICE during the month of March 2020 and had not already responded. Under the March 20 guidance, these employers were granted an automatic extension of 60 days from the effective date (i.e., until May 19) to respond to NOIs. ICE has

now granted an additional extension of 30 days to these employers.

For assistance with immigration compliance issues, contact your Akerman lawyer.

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