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Immigration

DHS Extends I-9 Flexibility to April 30, 2022

Legal Update

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By Immigration Group

This article was prepared with the assistance of ABIL, the Alliance of Business Immigration Lawyers, of which Loan Huynh, Fredrikson Immigration Department Chair, is a member.

The Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE) announced an extension of the flexibility policy in complying with certain physical inspection requirements related to Form I-9, Employment Eligibility Verification. The flexibility policy was set to expire December 31, 2021, but because of ongoing pandemic issues, DHS extended it until April 30, 2022.

DHS said that eligible employees working exclusively in remote settings are temporarily exempt from the physical inspection requirements associated with the Employment Eligibility Verification (Form I-9) until they undertake non-remote employment on a regular, consistent, or predictable basis, or the extension of the flexibilities related to such requirements is terminated, whichever is earlier. If employees are physically present at a work location, *no exceptions* are being implemented now for in-person verification of identity and employment eligibility documentation.

Employers are advised to monitor the DHS and ICE workforce enforcement announcements for updates on ending the extension and resuming normal operations. E-Verify participants who meet the criteria and choose the remote inspection option should continue to follow current guidance and create cases for their new hires within three business days from the date of hire, DHS said.