



Immigration ADVISORY ■

MARCH 21, 2022

Partial End to COVID-19 I-9 Flexibility Provisions – Accepting Expired List B Documents

In May 2020, the Department of Homeland Security (DHS) announced some flexibility in requirements for employment eligibility verification (Form I-9) compliance during the COVID-19 pandemic. At the time, many locations were under stay-at-home orders and agencies responsible for issuance and renewal of state drivers' licenses, ID cards, and documents that could be used as List B identity documents for Form I-9 compliance were either closed to the public or experiencing restrictions in operations. DHS [temporarily allowed](#) employers to accept expired List B identity documents.

Last week, DHS announced that effective May 1, 2022, employers will no longer be permitted to accept expired [List B](#) documents. Employers that accepted expired List B documents between May 1, 2020 and April 30, 2022 must update their Forms I-9 by July 31, 2022.

If the employee who presented the expired List B document is no longer employed, no action is needed. Action is also not required if the List B document presented has been auto-extended by the issuing authority. However, if the employee is still employed and the expired List B document was not auto-extended, then the following actions must be taken by July 31, 2022:

- The employee who provided an expired document must present an unexpired document that establishes identity. The employee may present one of:
 - A renewed List B document
 - A different List B document
 - A document from List A
- The employer must enter the following information about the document in the “Additional Information” field of Section 2 of the Form I-9:
 - Title
 - Issuing authority
 - Number
 - Expiration date

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- The employer is required to initial and date the changes made.

On March 20, 2020, DHS announced [other flexibility provisions](#) for Form I-9 compliance due to the pandemic. Those provisions relate to the relaxation of the *in-person verification requirement*. DHS temporarily allowed for “remote verification” and electronic review of documents presented by the employee for Form I-9 completion, allowing employers, in certain circumstances, to complete Section 2 remotely or via email, fax, or video link. The flexibility provisions only apply to employers and workplaces operating remotely or for employees hired after April 1, 2021 who work exclusively in a remote setting due to COVID-19 precautions.

DHS has subsequently extended the in-person verification requirement flexibility provisions on several occasions throughout 2020 and 2021, with the [most recent extension](#) announced on December 15, 2021, extending the flexibility provisions until April 30, 2022.

We will continue to monitor these provisions and provide updates on any changes.

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