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BLOGS

Archives;Immigration;Social Media & Technology

Help! How Do I Complete the Form I-9 for a Remote Hire?

While making a presentation to clients yesterday, I was reminded of the practical and logistical problems many employers face when trying to complete the I-9 process for remote employees. One of my presentation hypotheticals involved a scenario in which a Minnesota company hired a California employee and wanted to complete Section 2 of the I-9 by having the new hire send scanned copies of her identification and employment authorization documents by email. Sounds like a logical and modern approach to I-9 completion, right? Unfortunately, it doesn't comply with I-9 requirements.

The new version of the [Form I-9](#), released on March 8, 2013, and effective for all employers as of May 7, 2013, makes clear in the introduction to Section 2 that the employer must physically examine one document from List A or a combination of documents from Lists B and C. So, alas, reviewing copies of documents or a virtual examination of I-9 documentation using Skype or other video conferencing technology will not meet the requirements of law and are not a workable solution for employers who hire employees in remote locations.

Does that mean that the employer in my hypothetical has to buy a plane ticket and send its HR Director out to California to complete the I-9 process? The USCIS says the answer is no, but the solution it suggests isn't ideal. The [M-274 Handbook for Employers](#) confirms that an employer can designate an agent to complete the I-9, including a foreman, personnel officer or a notary public acting on the employer's behalf. If the employer does so, however, the Handbook also makes clear that the designated agent must not only review the new hire's I-9 documentation, but must also sign Section 2 of the form for the employer. This has created a practical issue when employers have used notaries as their agents in other states. In some cases, notaries have refused to sign the Form I-9 on behalf of the employer, claiming that state regulations prevent them from doing so.

So, what other options are available for employers who hire remote employees? One option may be to consider enrolling in an electronic I-9 program with a service provider that offers a network of designated agents in various localities and can provide I-9 support. If an electronic I-9 program is not right for your business, you can consider asking a business contact in the state where the remote hire is based to act as your agent in reviewing the new employee's documentation and filling out the Form I-9. Your legal counsel may also have contacts at a local law firm that can assist with the I-9 process.

Maybe someday USCIS will adapt the I-9 process to better meet the needs of an increasingly mobile workplace. Until then, employers will need to comply with the somewhat old-fashioned requirement that I-9 documentation be reviewed in person.