

# Virtual I-9 Changes Part 2:

## Completing the Physical Inspection

May 31, 2023

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Workforce  
Solutions



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# Today's Presenters



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# Today's Agenda



**I-9 Virtual Inspection Recap**

**Now What? Most commonly asked questions**

**Open Q&A**



# Virtual Inspection Recap

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# Virtual Policy Update



On May 4, 2023, ICE announced that the COVID-19 Virtual Policy would terminate as of **July 31, 2023**.

Employers have an additional 30 days (until **August 30, 2023**) to complete all necessary physical inspections.

**Check out our On-Demand webinar covering the basics of this new policy update at: [workforce.equifax.com/latest-resources](https://workforce.equifax.com/latest-resources)**





# Poll #1

Temperature check - How are you currently feeling about the August 30th timeline?  
(can select more than one)

- Completely panicked!
- Stressed but putting together a plan
- Neutral
- Cautiously optimistic
- No concerns at all!



# Getting Started

*FAQs on how to help prepare for I-9 physical inspections by Aug 30, 2023*




**Do we need to physically examine documents of all “remote” I-9s completed during the pandemic?**

The physical inspection requirement only applies to I-9 documents that were inspected “virtually” through video, email, secure upload, etc. If an employer or an authorized representative already met in-person with the employee, no additional action is needed.

## What if the employee verified virtually no longer works for us?

According to the USCIS FAQs, if the employee separates before the physical inspection can be completed, include an explanation with the I-9 and the date of the employee's separation.

## What if I'm not sure which employees were verified virtually?



### Best Practices

Check your electronic system!

Or:

Check the Additional Information box for notes

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Look for when you began and stopped using the virtual inspection process, and employees hired during that time period

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Identify who completed Section 2 or Section 3 and compare their location with the new hire's location

# New I-9 vs. Updated I-9

*Choosing a path for physical inspections*



## When do I need to complete a brand new I-9 for an existing employee?

**You may want to consider a brand new I-9 if:**

The person who verified virtually is not going to verify documentation in person

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If different documents are presented

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**Best practice:** Consider new I-9s for all of your physical inspections so the employee can use the documents of their choosing

**What if we are now fully remote? How can we get new I-9s completed in person?**

## Use of an authorized representative

Employers may designate an authorized representative to complete the Form I-9 on their behalf

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The authorized representative must physically examine original documents in the employee's physical presence

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**Best practice:** Choose a network of trained individuals who are familiar with I-9 rules and procedures



## What considerations should we have in mind when completing a new I-9?

### **I-9 Retention**

Make sure to retain the original I-9 that was completed virtually and keep together with the new I-9 completed for the physical inspection

### **I-9 Start Date**

Use the same employment start date in Section 2 when completing the new I-9

### **E-Verify**

If the employee was submitted to E-Verify when the virtual inspection took place, no additional E-Verify cases should be created

See the [last FAQ here](#) for more information.

## When can I simply update an existing I-9 with the physical inspection?

You may want to consider an update to an existing I-9 if:

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The **same** person who verified virtually is also going to verify documentation in person

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The same documents are presented by the employee

## How do I update the I-9 if the same individual meets with the employee for the physical inspection?

The reviewer could simply write “COVID-19 Documents Physically Examined on mm/dd/yyyy” followed by their initials **on the original I-9**

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### **Documents expired?**

As long as they were unexpired at the time of remote inspection, employer typically should not request new documents

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### **Different documents presented?**

ICE prefers a new Section 2 is completed

# Poll #2

Planning ahead: who will be conducting your physical inspections?

Same individual who virtually examined the documents

Different individual will meet in-person with the employee

Combination of same and different, depending upon the employee

We haven't decided yet



# Dealing with Documents

*FAQs on the physical inspection  
document review process*




## Does the employee need to provide the same documents?

No, according to the USCIS FAQs, the employee may choose to present different documents at the time of the physical inspection\*

**Please note again:** If different documents, a new Section 2 is recommended

## What do I need to keep copies of?



USCIS does not require retention of document copies during the physical inspection process but employers may wish to do so as a best practice (check with your HR and/or counsel)

## What if the employee changes immigration status and has new documentation?

If an employee presents different documents due to a change in immigration status, a new Section 2 may be completed OR the employer can update the existing I-9 with the new document information

**Best Practice:** USCIS prefers a new Section 2, which can be accomplished by completing a brand new I-9



## What if the employee refuses to provide documentation?

According to the USCIS FAQs, the employer cannot retain an employee who does not fulfill the I-9 documentary requirements

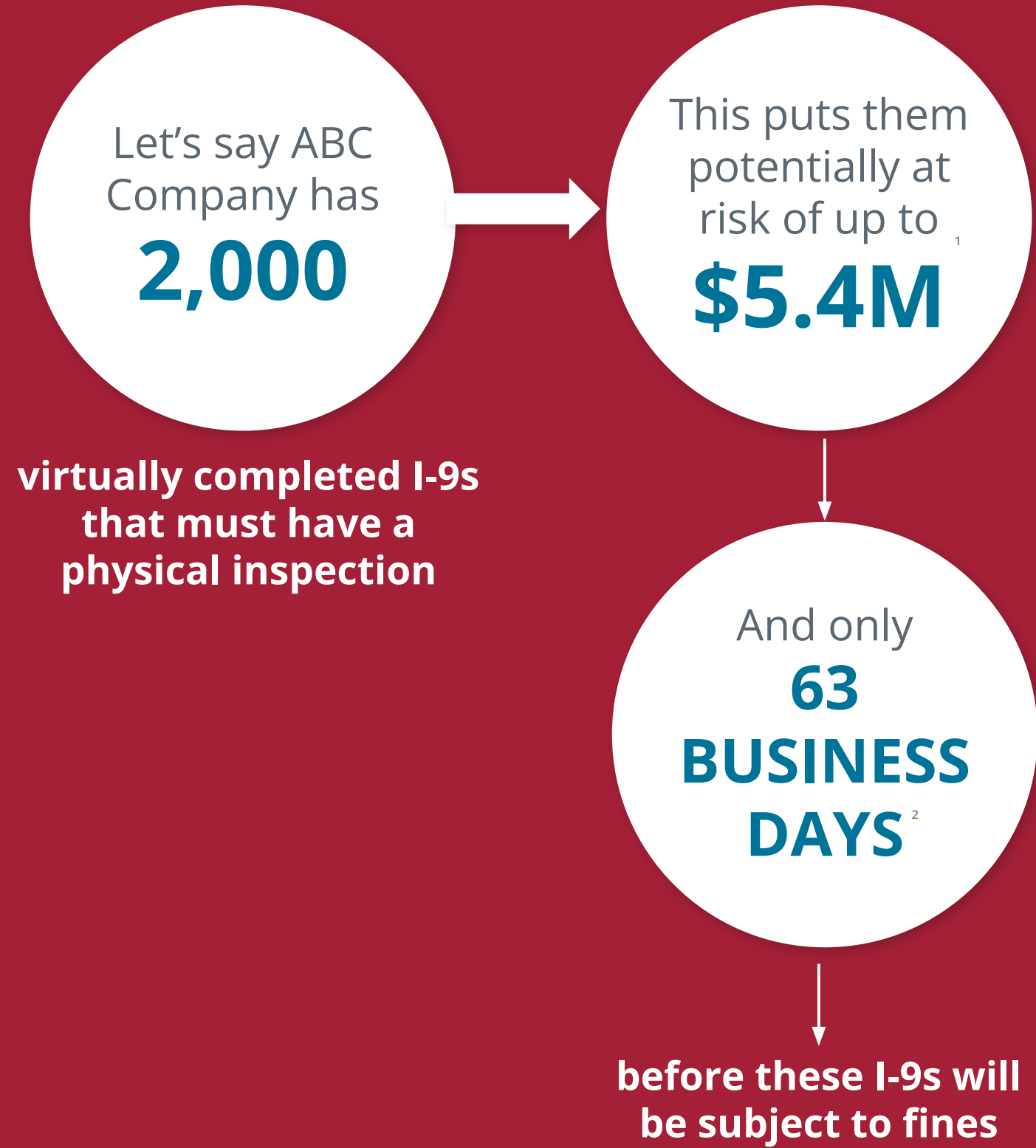
**Best practice:** always speak with your HR and/or counsel before initiating any adverse employment-related actions against an employee for I-9 related failures

# I-9 Audit Preparation

*FAQs on preparing for an I-9 audit*




# What's my risk again?



<sup>1</sup>Assuming all virtually completed I-9s are considered missing and at a maximum fine of \$2,701 per violation. <sup>2</sup> From May 31, 2023 to August 30, 2023 assuming 3 holidays and weekends.

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## What if we incorrectly marked or annotated an I-9 as virtual?



Employers may consider adding an explanatory note to the I-9 to clarify that a physical inspection has already been completed

**We don't have a formal telework policy. How should we prepare for an audit?**

Employers should consider working with HR and/or counsel to create a telework or remote onboarding policy which reflects their I-9 practices and procedures as a result of COVID-19

## What else should we be doing for the physical inspections?

### **I-9 Tracking**

Keep track of all pending and completed physical inspections with an eye towards the August 30, 2023 deadline

### **I-9 Audit and Review**

Once the physical inspections have been completed, consider performing a more thorough audit and review to help ensure everything was completed properly

# How We Can Help

Local network to support employees with completion of Section 2 and 3

## We support a more frictionless process:

Software that can help you with your in-person inspections prior to the August 30 deadline

Broad, exclusive and highly trained provider network

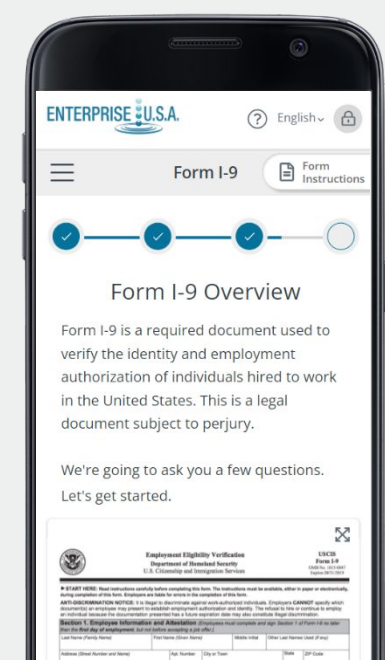
Helps remove roadblocks through an employee-driven approach



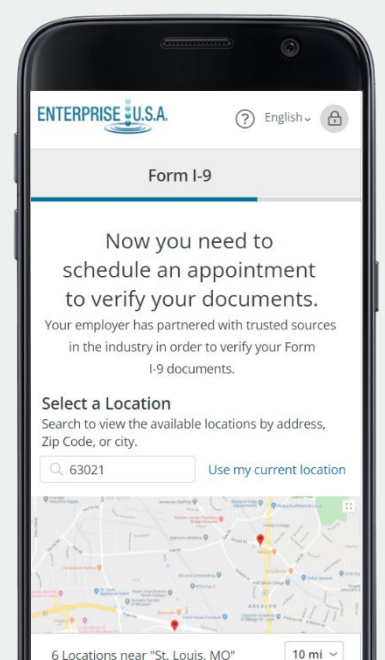
# How It Works For Your Employees

I-9 Anywhere is as easy as 1,2,3...

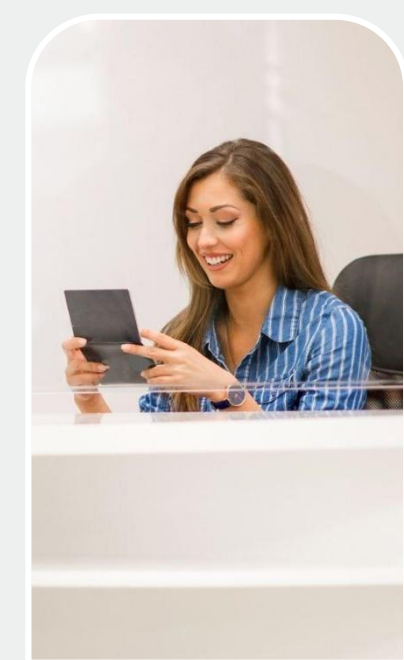
**1** Complete Section 1 from any device



**2** Schedule a convenient time to complete Section 2 or 3



**3** Meet the completer





# Q&A

# Next Steps



## 1 SURVEY

Complete the survey through the webinar console



## 2 CONTACT

Want to talk to someone about your I-9s that were virtually verified? Click on the “Want to Get In Touch” button on your webinar console or contact us at:

[workforce.equifax.com/contact](https://workforce.equifax.com/contact)



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