

# WHAT YOU NEED TO KNOW FOR REMOTE HIRING



I-9 Compliance



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The workforce has experienced a shift in traditional practices, as the emergence of a large and growing number of individuals working remotely becomes commonplace. This trend can be attributed to a number of factors including economic and technological developments, as well as employee needs and expectations in an increasingly virtual world. From the employer's viewpoint, this development can also be perceived as beneficial, as it allows them to cut costs, optimize programs, processes and resources, while allowing for the implementation of effective management procedures. In addition, the appeal of a remote workforce can be found in the numerous efficiencies afforded to companies, including expansive access to qualified talent regardless of geographic restrictions.

By definition, remote hiring is the practice of hiring employees that work in an off-site or remote location. For further emphasis, remote hires are those employees who do not physically come into the workplace—by virtue of working in another state, location, branch office, or client site.

This practice has been shown to improve employee retention and morale, increase productivity and yield cost-savings, thus it has been adopted by companies in various industries, including health care, sports and entertainment, technology, consulting, and sales and marketing.

## I-9 COMPLIANCE FOR REMOTE HIRES

Despite its recorded benefits, remote hiring is not without its limitations. These drawbacks are typically encountered during the process of complying with U.S. Citizenship and Immigration Services' Form I-9 employment verification for remote employees. The process is frequently perceived as convoluted and daunting, mostly because confusion surrounds stipulations requiring that the employee be physically present during the document review process. But in the case of remote employees, how is this physically possible?

Essentially, Form I-9 requires that employers, or their authorized representative (more on that in a bit), review original documentation in the presence of the employee. Obviously, this presents a challenge for employees working in remote locations.

Ideally, the verification process is as follows:



Key considerations in this process include the presentation of original documents, the requirement that the employee be present in the examination process and the stipulation that the person who examines the documents be the same person who signs Section 2—this individual is the authorized representative, and USCIS has left the selection of said individual open to the employer's discretion.

Essentially, an employer can designate anyone to complete the document review and certification in Section 2 on its behalf.<sup>4</sup> According to USCIS's Handbook for Employers, M-274, an employer may "designate someone to fill out Forms I-9 for you, such as a personnel officer, foreman, agent, or anyone else acting on your behalf, such as a notary public." However, M-274 further notes that even if someone else fills out Form I-9 on behalf of the employer, he or she must carry out the full Form I-9 responsibilities: the designated individual must not only view the employment authorization and identity documents, but must also sign Section 2.

An important takeaway from these terms is that the employer is still liable for any violations or defects in connection with the Form or the verification process. Therefore, it becomes exceedingly critical that the selected representative is properly trained and well-versed in its completion.

## NOTARY CONFUSION DECODED

In accordance with M-274, employers can designate virtually anyone to serve in the capacity of an authorized agent, including a notary public. In this regard, the notary acts as an authorized agent of the employer, and not as a notary per se. There is no notary seal on the Form I-9, and the notary is performing the same actions required from any other authorized representative.

While there is no requirement to use a notary public, many companies in search of a consistent and reliable solution frequently confer the role of authorized representative to these individuals. Oftentimes, there is a perception of credibility and trustworthiness associated with employers who elect to use a notary to complete Form I-9, as notaries are accustomed to reviewing critical, high-priority documents and bearing witness to signatures. Additionally, notaries are widely available nationwide and are generally easy to locate. However, despite being the first-choice for employers seeking an authorized representative, obstacles arise when notaries refuse to sign and notarize a Form I-9 (usually due to state laws that prohibit them from signing and notarizing their own signatures, or assisting in the completion of specific types of documents, including Form I-9). When this occurs, another authorized representative can simply be selected.

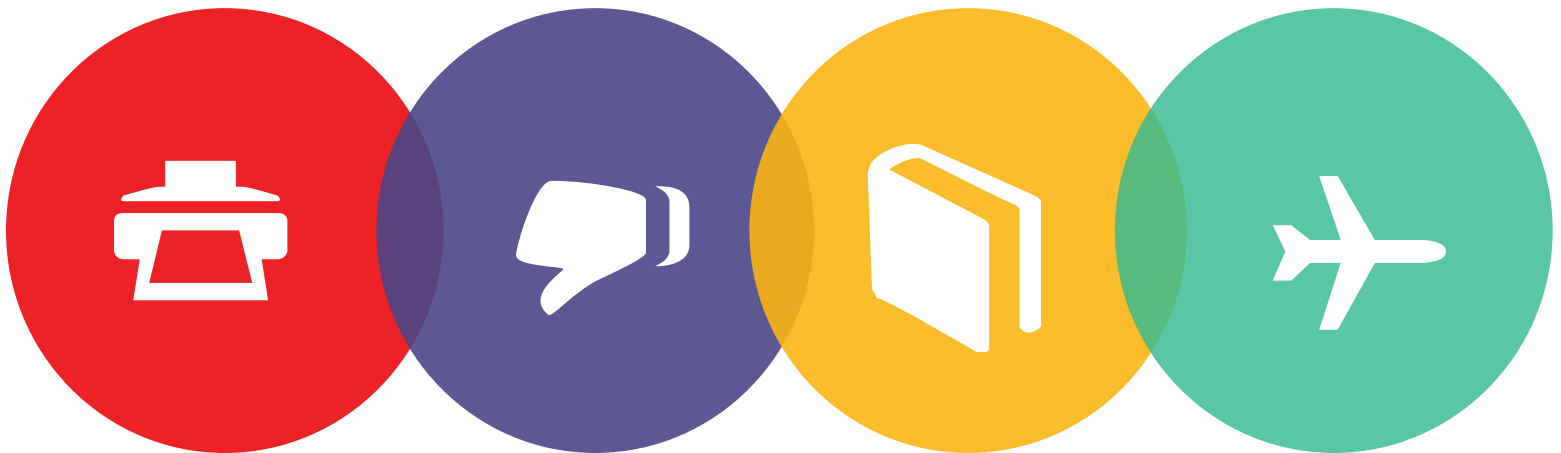


To reiterate, almost anyone, including a friend, spouse or neighbor, can complete Section 2 of the I-9, as there is no requirement for notarization. Signing the Section 2 attestation is simply an act performed by an individual, not by the office or position the individual holds. Yet, using an outside agent with a reputation for credibility and trustworthiness is invaluable, because this reduces the impression of bias and partiality that deviate from best practices and raise red flags.



## COMMON MISTAKES TO AVOID

To ensure the proper and accurate completion of Form I-9, there are certain practices that the employer must avoid, especially the use of tools to establish a “virtual presence,” for example, FaceTime, Skype or Webcam to examine original documents is strictly prohibited, as this disregards the clause requiring the physical presence of the employee during the review process, as well as the following:



The acceptance of document copies, faxes, or emails.

Using inexperienced agents without a compliant I-9 solution.

The absence of standard operating procedures.

Failing to organize logistics and schedules.

Undoubtedly, Form I-9 requirements present significant compliance challenges in the onboarding process for remote employees, often with dire consequences. Given the fact that the average fine for errors on a Form I-9 is approximately \$935 per incident, it pays employers to minimize potential risks.

Unfortunately for one company, improper compliance practices led to costly repercussions—\$227,000 in civil fines. The issue arose when copies of documents were sent to a payroll administrator who completed Section 2 of the Form I-9 following the hiring manager’s review of the original documents. This did not comply with Form I-9 procedural requirements as the individual completing Section 2 did not view the original documents in the presence of the employee. As we’ve learned, compliance requires that only the person who reviews original verification documentation in-person and in the presence of the employee may complete the section 2 attestation as the employer representative.



## BEST PRACTICES

**Use a notary network:** A readily-available and accessible network of notary public agents or designated attorneys acting as agents on the company's behalf is recommended. This also allows for advanced vetting of potential agents in the selected locale.

**Develop Standard Operating Procedures (SOPs):** It is imperative to develop SOPs for representatives to follow. At a minimum, the procedures should include: completion steps for the agent to follow, subsequent instructions to the employee following completion by the representative and if needed, instructions to the notary (if designated) to sign any additional business documentation, such as an attestation that the person is in front of them, the documents have been reviewed and the documents reasonably appear to be genuine and relate to the person presenting them.

**Create a written agreement:** Although not mandatory, a written agreement between the employer and authorized agent is sensible. A brief memo indicating the agent's role and assignment in completing the Form I-9 may prove beneficial in the face of a government audit.

**Employ the right technology:** An efficient electronic platform can help to ensure compliance, while simplifying the overall remote hiring process. Such a tool would be invaluable in minimizing costly errors and streamlining management and reporting procedures.



## HIRE REMOTELY FROM ANYWHERE

The I-9 Remote™ system offers a comprehensive web-based solution to address these needs. This eliminates the hassle of organizing logistics of a remotely based employee by reducing processing times, and offering configurable options for administrators, users, and branch locations. The mobile-enabled software also provides the convenience of allowing Form I-9 to be completed via smartphone, tablet, or computer.

I-9 Remote delivers the most flexible solution for authorized agents to complete Section 2. These options include:

- Access to a national network of mobile notaries trained on completing Form I-9
- Access to national I-9 agent centers
- Employee or employer chosen agents with access to vetting and screening tools

I-9 Remote helps organizations achieve compliance with federal regulations, while streamlining the hiring process.

I-9 Remote accompanies additional compliance solutions for Form I-9 & E-Verify such as: I-9 Advantage™, a cloud-based platform for compliantly creating and managing new I-9s, and I-9 Medic™, a tool used to digitally convert and correct existing paper I-9s. Each solution integrates with your existing HR platform, and our proprietary error-checking, data validation, and correction guidance algorithms help to ensure compliance with federal regulations. To learn more, please visit: [i9advantage.com](http://i9advantage.com) or contact a sales representative: [Sales@i9advantage.com](mailto:Sales@i9advantage.com).

