

The U.S. Immigration and Customs Enforcement (ICE) department is charged with the investigation and enforcement of immigration laws in the workplace. Monetary penalties for knowingly hiring and continuing to employ unauthorized workers range from \$375 to \$16,000 per violation, with repeat offenders receiving penalties at the higher end. Penalties for substantive violations, which includes failing to produce a Form I-9, range from \$110 to \$1,100 per violation.

If you receive a Notice of Inspection from ICE, you'll have three days to produce the Forms I-9 for inspection by officials. ICE will notify the audited party, in writing, of the results of the inspection once completed. The following are the most common notices:

1

**Notice of Inspection Results:** Also known as a "compliance letter," used to notify a business that they were found to be in compliance.

2

**Notice of Suspect Documents:** Advises the employer that, based on a review of the Forms I-9 and documentation submitted by the employee, ICE has determined that an employee is unauthorized to work and advises the employer of the possible criminal and civil penalties for continuing to employ that individual. ICE provides the employer and employee an opportunity to present additional documentation to demonstrate work authorization if they believe the finding is in error.

3

**Notice of Discrepancies:** Advises the employer that, based on a review of the Forms I-9 and documentation submitted by the employee, ICE has been unable to determine their work eligibility. The employer should provide the employee with a copy of the notice, and give the employee an opportunity to present ICE with additional documentation to establish their employment eligibility.

4

**Notice of Technical or Procedural Failures:** Identifies technical violations identified during the inspection and gives the employer ten business days to correct the forms. After ten business days, uncorrected technical and procedural failures will become substantive violations.

5

**Warning Notice:** Issued in circumstances where substantive verification violations were identified, but circumstances do not warrant a monetary penalty and there is the expectation of future compliance by the employer.

6

**Notice of Intent to Fine (NIF):** May be issued for substantive, uncorrected technical violations and for knowingly hiring and continuing to employ unauthorized workers.

In instances where a NIF is served, charging documents will be provided specifying the violations committed by the employer. The employer has the opportunity to either negotiate a settlement with ICE or request a hearing before the Office of the Chief Administrative Hearing Officer (OCAHO) within 30 days of receipt of the NIF. If the employer takes no action after receiving a NIF, ICE will issue a Final Order. If a hearing is requested, OCAHO assigns the case to an Administrative Law Judge (ALJ), and sends all parties a copy of a Notice of Hearing and government's complaint, thus setting the adjudicative process in motion.