# After the Notice

## An I-9 Readiness Guide for Employers

What auditors review, which errors cost the most now, and what to fix before the next one

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**This guide is for employers who have been through an I-9 inspection, or who know someone who has and would rather not be next. It explains what an inspection is, what changed in how ICE counts errors, where the errors actually show up on the form, and how to build a record you can stand behind the next time someone asks for it.**

It is built on Janice Kephart's series Inoculating Against I-9 Worksite Enforcement Raids: What Employers Should Do Now, updated for the enforcement changes of 2026.

**Not legal advice.** *ZipID is a technology company, not a law firm. Nothing here is legal advice, and nothing here creates an attorney-client relationship. I-9 obligations turn on specific facts, and how to respond to an active inspection is a question for qualified immigration or employment counsel. What follows is practical guidance and publicly available information about the enforcement environment.*

## 1. What a Notice of Inspection actually is

An I-9 inspection begins when ICE, through Homeland Security Investigations, serves the employer with a Notice of Inspection. It is an administrative request for records, not a raid, and it usually arrives as a letter handed to whoever is at the front desk.

### The three business day clock

The notice gives the employer at least three business days to produce its Forms I-9. The notice will often ask for more than the I-9s: a list of current employees, payroll records, and basic business documents such as registrations and licenses.

Three business days is enough time to find and copy what you have. It is not enough time to fix it. Whatever condition your records are in when the notice arrives is, for practical purposes, the condition ICE sees.

### What happens after you hand over the binder

ICE reviews the forms and responds in writing. Depending on what it finds, an employer may receive a notice that it is in compliance, a notice of technical or procedural failures that can still be corrected, a notice of suspect documents or discrepancies concerning particular workers, a warning notice, or a notice of intent to fine. Each of those carries its own deadlines and its own choices, and each is a moment to have counsel involved rather than to improvise.

## 2. Substantive versus technical: the line that costs money

For nearly two decades, I-9 errors fell into two buckets. Technical or procedural errors came with a window of at least ten business days to correct them before any fine applied. Substantive errors were fineable on sight.

In March 2026, ICE updated its inspection fact sheet and moved roughly ten common errors from the first bucket to the second. There was no Federal Register notice and no public announcement. For those errors, the correction window that protected employers for a generation is gone.

Employment counsel reviewing the change have reported that the reclassified errors include missing employee information, incomplete employer information in Section 2, failure to record document details, and use of the Spanish-language form outside Puerto Rico. They have also noted that keeping copies of the employee's documents no longer offsets information missing from Section 2. A small group of errors, such as a missing employer business name or address in Section 2, reportedly remains technical and correctable.

**The practical meaning:** errors that were survivable in an audit two years ago are not survivable now. Compliance has to happen at the moment of hire, because there may be no second chance to fix it.

## 3. What this costs

Penalty amounts did not rise in 2026. The 2026 inflation adjustment was not issued, so the levels published in the Federal Register on January 2, 2025 carry forward. What changed is which errors are charged.

| Violation | Range | Basis |
|---|---|---|
| Paperwork or substantive violation | \$288 to \$2,861 | Per Form I-9 |
| Knowingly hiring or continuing to employ an unauthorized worker, first offense | \$716 to \$5,724 | Per worker |
| Knowingly hiring, third or subsequent offense | \$8,586 to \$28,619 | Per worker |

Source: 8 CFR 274a.10, as adjusted in the Federal Register, January 2, 2025.

Because the fines run per form, exposure scales with headcount. The law firm Morgan Lewis has illustrated it this way: an employer with 200 forms carrying errors that were previously treated as technical, and possibly never remediated after an earlier audit, could face roughly \$57,600 to \$572,200 under the new framework.

The question Part 4 of the Inoculating series asked still stands, at the updated number. Is it worth risking \$2,861 on a single form?

## 4. The errors that show up most

Three problems drive most paperwork violations: staff who do not know the I-9 requirements, errors that turn into fines, and forms that are not completed on time. Here is where they land on the form.

### Section 1, completed by the employee

- The citizenship or immigration status attestation box left unchecked.
- A missing signature.
- A missing date.

### Section 2, completed by the employer

- Completed late. Section 2 is due within three business days of the employee's first day of work for pay.
- Documents recorded from the wrong list, or a List B document with no List C document beside it.
- Missing document title, issuing authority, number, or expiration date.
- Missing employer certification: the name, title, signature, and date of the person who examined the documents.

### Supplement B, formerly Section 3

- Reverification missed when temporary work authorization expired.
- No system for tracking expiration dates in the first place.

Most of these are not judgment calls. They are blanks. That is why a process that will not let a form be finished with a blank in it does more for audit readiness than any amount of training.

## 5. Corrections after a notice: a question for counsel

**Do not correct anything mid-audit without counsel.**

Whether a given error can be corrected after a Notice of Inspection, and how, is a legal determination. It depends on the error, the timing, and the inspection itself. Well-meant changes made in the three-day window can look worse to an inspector than the original error.

Two principles hold regardless of the answer:

- Corrections are never hidden. No correction fluid, no replacing a page, no recreating a form as if it were the original.
- Nothing is ever backdated. A correction carries the date it was actually made.

## 6. Running a self-audit that actually helps

Part 3 of the Inoculating series put it in three verbs: conduct the internal audit, correct, and memorialize the audit and the corrections. The documentation is the point. It is the evidence of good faith.

### Before you start

- Decide the scope: every form, or a sample. If you sample, choose by a neutral method, such as by date range or location. Never select forms based on a worker's national origin, citizenship status, or appearance.
- Reconcile first. Compare your list of current employees against your I-9s on file, in both directions. Missing forms are the first finding.
- Assign reviewers who know the form, and give them a written checklist so every reviewer applies the same standard.

### How corrections are made

- Draw a single line through the incorrect information, enter the correct information, and initial and date the change with the current date.
- Section 1 errors are corrected by the employee. Section 2 errors are corrected by the employer.
- If a form is missing entirely, complete one now, dated now. Do not backdate it.
- Attach a short signed note explaining what was found and what was done.

### Memorialize it

Keep a record of the audit itself: when it ran, who did it, what population it covered, what was found, and what was corrected. An employer that can show a regular, documented self-audit is in a very different position from one that cannot.

Be careful not to ask employees for new or different documents except where the law requires it, such as reverification. Over-documentation is its own violation.

## 7. Retention that survives an audit

The rule is short. Keep each Form I-9 for three years after the date of hire, or one year after employment ends, whichever is later. Keep it for as long as the person works for you.

Retention fails audits in two directions. Forms that should exist cannot be found. And forms that should have been purged are still in the file, carrying errors that no longer had to be there. Both come from the same place: no written policy, or a policy nobody follows.

### A policy that holds up

- A written schedule that calculates the purge date for every separated worker.
- I-9s stored apart from general personnel files, so they can be produced without producing everything else.
- One system of record. Paper in one office and scans in another is how forms go missing.

- For electronic records, a system that meets the federal standards for electronic I-9 storage, including an audit trail of every change.

## 8. The gap paperwork cannot close

Every section above is about the form. Part 2 of the Inoculating series pointed at the harder problem: job-related identity fraud.

The I-9 asks an employer to confirm that documents reasonably appear to be genuine and that they relate to the person presenting them. A completed I-9 proves a form was filled out. It does not prove the person who filled it out is the person being hired. A real document presented by the wrong person produces a perfectly clean form.

That gap used to be covered, imperfectly, by a person looking at a face across a desk. Remote hiring removed the desk.

### Where identity verification fits

Confirming a person is a different operation from reviewing a document. A live biometric comparison between the new hire and the photo on the document they present answers the identity question directly, and it produces a verified record that sits next to the form, built at the moment of hire rather than reconstructed afterward.

ZipID was built to do this. It confirms the new hire matches the photo on the document presented, screens the capture for liveness and synthetic images, and completes the I-9 in under eight minutes with the verification record attached. It does not authenticate the document itself, and any vendor that blurs those two capabilities is worth a second question.

## 9. Have a plan before the knock

Part 7 of the Inoculating series reduced it to one instruction: have a plan for who to call and what to do, and have your I-9s audited and ready. A plan is short. It answers four questions before anyone needs them answered.

- **Who receives it.** Name the person who receives a Notice of Inspection and make sure the front desk knows that name.
- **Who they call.** Identify outside counsel now, not during the three-day window.
- **Where the records are.** Know every place an I-9 is stored, including old systems and acquired businesses.
- **Who produces them.** Know who pulls, copies, and logs what is produced, so you have a record of exactly what you handed over.

## One-page readiness checklist

Keep this one. Anything you cannot check today is worth an hour of somebody's week.

### People

- ☐ Everyone who completes Section 2 has been trained, and you can show when.
- ☐ A named person receives any Notice of Inspection, and the front desk knows who that is.
- ☐ Outside immigration or employment counsel is identified in advance.

### Forms

- ☐ Every current employee has an I-9, and every I-9 matches a current or properly retained former employee.
- ☐ Section 2 is completed within three business days of the first day of work, every time.
- ☐ You are using the current edition of Form I-9.
- ☐ Expiring work authorization is tracked and reverified on time in Supplement B.

### Audit and correction

- ☐ You have run a documented self-audit in the last twelve months.
- ☐ Corrections are made with a single line, initialed, and dated with the actual date.
- ☐ Nothing in your files has been backdated, recreated, or covered over.

### Retention

- ☐ You have a written retention and purge schedule, and someone follows it.
- ☐ I-9s are stored apart from personnel files, in one system of record.
- ☐ You could produce every I-9 within three business days, and you have tested that.

### Identity

- ☐ You know whether any step in your process confirms the person, as distinct from the documents.
- ☐ Remote hires follow a documented procedure, not whatever the hiring manager improvised.

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**About the author.** Janice Kephart founded ZipID after 25 years in federal identity policy. She served as Border Counsel to the 9/11 Commission, drafted the federal identity theft criminal statute as counsel to the Senate Judiciary Committee, was an author of the REAL ID Act, and architected the biometric border entry and exit mandate. She was Homeland Security Director at MorphoTrak, has testified before Congress 19 times, and owns Identity Strategy Partners, which has supplied senior engineering and policy support to the federal government for nearly ten years.

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