



FORM I-9 FINE CALCULATION

Fine Calculation	Amount	Reference
Base Fine Amount		A
Fine Adjustment (%)		B
Enhanced Fine Amount		
Number of Violations		
Total Fine		

A. BASE FINE AMOUNT

The overall percentage of substantive violations provides a standard base fine amount depending on whether this is the employer’s first, second, or subsequent offense. These base fine amounts can be found in the federal register (FR). A link is provided below. Please note these figures are updated every year due to adjustment for inflation.

First go to the federal register website at <https://www.federalregister.gov>. Then search the website by typing in DHS and Civil Monetary Penalty Adjustments for Inflation in the search function on the top right portion of this website. This will provide you with a copy of all notices on this website linked to DHS and the civil monetary penalty adjustments for inflation.

Substantive Violations/Uncorrected Technical or Procedural Failures Fine Schedule (Effective for penalties assessed after **Insert Date from most recent FR, whose associated violations occurred after November 2, 2015.)**

Substantive Verifications Violations	Standard Fine Amount		
	1 st Offense Insert figures from FR	2 nd Offense Insert figures from FR	3 rd Offense+ Insert figures from FR
0% - 9%	Smallest amount		Largest amount
10% - 19%			
20% - 29%			
30% - 39%			
40% - 49%			
50% or more			



Table A contains a breakdown of employees.

Table B contains the number and type of substantive violations identified.

Table C contains the error rate calculation.

Table A: Breakdown of Employees per Respondent’s Records

Number of Employees Working at (insert Business Name)	
Total Employees Requiring Form I-9	
<i>Total Employees Considered for NIF Calculation</i>	

Table B: Number and Type of Substantive Violations

Type of Substantive Violations	Number of Substantive Violations
For Example: Failure to comply with verification requirements.	
<i>Total Number of Substantive Violations</i>	

Table C: Error Rate Calculation

Total Employees Requiring Form I-9	
Total Substantive Violations	
<i>Error Rate (Substantive Violations/Total Employee Required I-9) x 100%</i>	

B. FINE ADJUSTMENT

Title 8 U.S.C. § 1324a(e)(5) requires the consideration of five factors in determining a civil monetary penalty for violation of the verification, or paperwork requirements. These factors are considered in enhancing or mitigating the penalty with respect to substantive violations. Each of the five factors may impact the fine amount by +/- 5%, increasing or decreasing the total amount of the fine by up to 25%. Calculation of the fine adjustment and supporting rationale in this case are as follows:

Enhancement Matrix

<u>Factor</u>	<u>Aggravating</u>	<u>Mitigating</u>	<u>Neutral</u>	<u>Auditor Evaluation</u>
Business Size	+5%	-5%	0%	
Good Faith	+5%	-5%	0%	
Seriousness	+5%	-5%	0%	
History	+5%	-5%	0%	
Unauthorized Non-citizens	+5%	-5%	0%	
<i>Total Adjustment</i>				



- Base fine/penalty for violations is \$
- Base fine/penalty for violations with a % aggravating increase \$

The five statutory factors do not apply to the “Knowing hire” or “Knowing continue to employ” charges. A separate fee calculation sheet should be prepared if there are paperwork violations along with “knowing hire” or “Knowing continue to employ” violations. Please see sample matrix below.

Knowing Hire/Continuing to Employ Fine Schedule (Effective for penalties assessed after Insert Date from most recent FR, whose associated violations occurred after November 2, 2015.)

	Standard Fine Amount		
Knowing Hire and Continuing to Employ Violations	1 st Tier Insert figures from FR	2 nd Tier Insert figures from FR	3 rd Tier+ Insert figures from FR
0% - 9%			
10% - 19%			
20% - 29%			
30% - 39%			
40% - 49%			
50% or more			

U.S. Immigration and Customs Enforcement (ICE), working with interagency partners, has implemented amendments to regulations to adjust ICE civil monetary penalties for inflation, according to a statutory formula found in the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, which became effective on November 2, 2015. These changes included penalties regarding: Violations of INA section 274C(a) (document fraud); Violations of INA section 274A(g) (prohibition of indemnity bonds); Violations of INA section 274A(a) (knowingly hiring, recruiting, referring, or retaining unauthorized aliens); and Violations of INA section 274A(b) (I-9 paperwork violations). In accordance with the Act, on January 13, 2023, updated penalties were published in the Federal Register, Vol. 88, No. 9, Fed. Reg. 2175.

Types of Violations That Civil Money Penalties Can Be Applied to During a Form I-9 Inspection

- 1) Uncorrected Technical Violations
- 2) Knowingly hire, or to have knowingly recruited or referred for a fee, an unauthorized alien for employment in the United States.
- 3) Knowingly continue to employ an unauthorized alien in the United States.
- 4) Failure to comply with retention requirements.
- 5) Failure to comply with verification requirements.