



Labor and Employment Law Seminar

**2026
LAS VEGAS**

SMALL BUSINESS AND GROWTH EMPLOYERS: I-9S, ICE, AND E-VERIFY: WHAT EMPLOYERS SHOULD FIX BEFORE AN AUDIT



Presented by

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SMALL BUSINESS AND GROWTH EMPLOYERS: I-9S, ICE, AND E-VERIFY: WHAT EMPLOYERS SHOULD FIX BEFORE AN AUDIT

WORKSITE INVESTIGATIONS

Why Would ICE Be At The Worksite? Raids vs. Audits

- ICE may come to the worksite to:
 - Start an **I-9 audit** (Document will be called “Notice of Inspection”);
 - **Workplace raid** – **must have a judicial warrant**;
 - Detain a specific person – **must have a judicial warrant**.



DHS Raids – ICE vs. CBP

- ICE and CBP are both agencies of the Department of Homeland Security

CBP	ICE
Enforces customs and immigration law at and near the border	Enforces customs and immigration laws at the border as well as in the interior of the United States. ICE is typically the agency involved in worksite investigations (I-9 and related)
Activity usually centers around individuals who committed criminal activity	Investigations target unauthorized employment as well as individuals who have committed criminal activity

What protections are available?

- Employers and employees have rights under law, regardless of status
 - 4th Amendment – protects people against unreasonable search and seizure of their home, person and belongings
 - 5th Amendment – right to remain silent
- **Worksite Raids** must be accompanied by a Judicial Warrant signed by a judge and give a specific scope of search and seizure.
- **Home Searches** must also be accompanied by a Judicial Warrant
- **Warrants**
 - An administrative warrant authorizes an ICE agent to make an arrest or seizure, **but not to search**
 - An ICE warrant does not authorize an ICE agent to enter a private space or home without consent
 - An ICE warrant does not provide probable cause of a crime or meet Fourth Amendment requirements for arrest

Sample Warrants

Judicial Warrant

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Plaintiff,

v.

The PREMISES KNOWN AS,

Swift & Company, located at 1760
Highway 40 SE, Worthington,
Minnesota, and all its
appurtenances, parking areas,
and outdoor working areas

Defendant.

CIVIL NO. 266m 457 JSM

ORDER
FOR WARRANT FOR
ENTRY ON PREMISES TO
SEARCH FOR ALIENS
WHO ARE IN THE UNITED
STATES WITHOUT LEGAL
AUTHORITY

The United States of America, having filed an application to
authorize officers of United States Immigration and Customs

NAMES A
PERSON IN YOUR
RESIDENCE
and/or AREAS TO
BE SEARCHED AT
YOUR ADDRESS

IT IS THEREFORE ORDERED that the officers of U.S. Immigration
and Customs Enforcement are authorized to enter the building and

areas on the premises described herein and to make such search as
is necessary to locate aliens present in the United States
illegally and counterfeit, altered, or imposter documents possessed
and/or used by the aliens who are not lawfully entitled to reside
within the United States and who are employed at present within
Swift, Inc. (See Attachment B). In making this search, the agents
of ICE are authorized to enter any locked room on the premises in
order to locate persons who may be such aliens in the United States
without legal authority and, if any such persons are found on the
premises, to exercise their authority pursuant to section 267 of
the Immigration and Nationality Act, 8 U.S.C. § 1357, to question
them to determine whether they are such aliens and, if there is
probable cause to believe they are such aliens, to arrest them.

IT IS FURTHER ORDERED that U.S. Immigration and Customs
Enforcement shall conduct the entry and search during daylight
hours with ten (10) days of the issuance of this warrant, and seek
its return to this Court with ten (10) days of the date the entry
and search have been completed.

Dated: December 8, 2016

Janice M. Peterson
JANICE S. PETERSON
United States Magistrate Judge

SIGNED BY A
Federal Judge

Administrative Warrant

U.S. DEPARTMENT OF HOMELAND SECURITY	Warrant for Arrest of Alien
	File No. _____ Date: _____
To: Any Immigration officer authorized pursuant to sections 236 and 287 of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations.	
I have determined that there is probable cause to believe that _____ is removable from the United States. This determination is based upon:	
☐ the execution of a charging document to initiate removal proceedings against the subject; ☐ the pendency of ongoing removal proceedings against the subject; ☐ the failure to establish admissibility subsequent to deferred inspection; ☐ biometric confirmation of the subject's identity and a records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law; and/or ☐ statements made voluntarily by the subject to an Immigration officer and/or other reliable evidence that affirmatively indicate the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law.	
YOU ARE COMMANDED to arrest and take into custody for removal proceedings under the Immigration and Nationality Act, the above-named alien.	
 _____ (Printed Name and Title of Authorized Immigration Officer)	
Certificate of Service	
I hereby certify that the Warrant for Arrest of Alien was served by me at _____, Colorado (Location)	
on _____, on _____, and the contents of this (Name of Alien) (Date of Service)	
notice were read to him or her in the _____ language. (Language)	
B DO	_____ Name and Signature of Officer Name or Number of Interpreter (if applicable)

ISSUED BY ICE

SIGNED BY AN ICE OFFICE

BEST PRACTICES

Preparation

Immigration Point Person

- Assign a staff member as the primary contact for all DHS/ICE/CBP correspondence.
- Ensure all employees are aware of who this person is and how to contact them.

Employer Policy and Action Plan

- Establishes expectations; confirms that the company does not obstruct or evade ICE; states that the company will comply with lawful requests while also protecting employee rights within the bounds of the law.
- Provides a defined chain of command, step-by-step instructions for employees during a raid, and immediate contact information outside counsel.

Employee Awareness and Communication

- Train employees to immediately notify the Immigration Point Person in case of any contact from DHS/ICE/CBP.
- Provide clear instructions on workplace rights and responsibilities in case of a raid.

Workplace Signage and Access Control

- Ensure proper signage is displayed on all private and non-public workspaces.
- Restrict unauthorized access to non-public areas unless legally required.

ICE or CBP Arrival

Handling ICE or CBP Agent Arrival

- Ask agents if they have a warrant.
- If no warrant is presented, deny access to employees, documents, and non-public areas.
- If a warrant is presented, carefully review its details.

Validating the Warrant

- Confirm it is a judicial warrant, issued by a federal court and signed by a judge.
- If it is an administrative warrant (issued by DHS/ICE/CBP), it does not grant access to non-public areas.

Managing the Search and Seizure Process

- Cooperate within the limits of the warrant.
- Do not interfere with officers' search and seizure within the scope of the warrant.
- Record details of the search, including items taken and persons spoken to or detained.



Documenting the Activity

Documentation and Evidence Collection

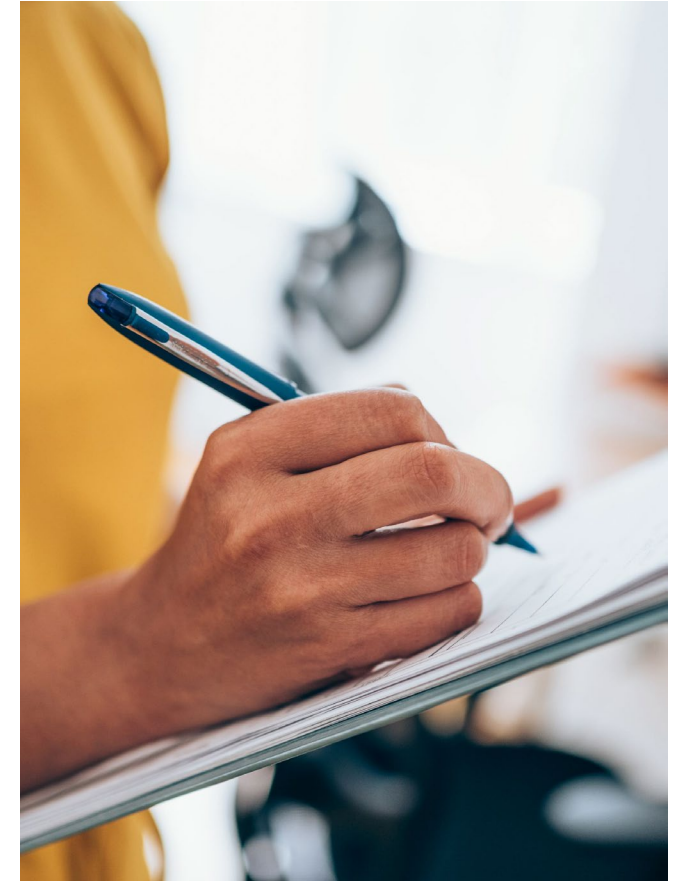
- Keep detailed records of all interactions, searches, and seizures.
- Request a copy of the warrant and any inventory of seized items.

Protecting Business-Critical and Confidential Documents

- If agents attempt to seize confidential or critical business documents, request an accommodation to retain or copy them.
- Consult legal counsel immediately for guidance.

Post-Raid Review and Next Steps

- Conduct a debriefing with key personnel to document the event.
- Consult an immigration attorney to assess the situation and respond appropriately.
- Provide necessary support to affected employees.
- Revise and update this action plan based on new developments or legal requirements.





Employment Eligibility Verification

Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-9
OMB No.1615-0047
Expires 08/31/2026

START HERE: Employers must ensure the form instructions are available to employees when completing this form. Employers are liable for failing to comply with the requirements for completing this form. See below and the [Instructions](#).

ANTI-DISCRIMINATION NOTICE: All employees can choose which acceptable documentation to present for Form I-9. Employers cannot ask employees for documentation to verify information in Section 1, or specify which acceptable documentation employees must present for Section 2 or Supplement B, Reverification and Rehire. Treating employees differently based on their citizenship, immigration status, or national origin may be illegal.

Section 1. Employee Information and Attestation: Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.

Last Name (Family Name)		First Name (Given Name)		Middle Initial (if any)	Other Last Names Used (if any)
Address (Street Number and Name)		Apt. Number (if any)	City or Town	State	ZIP Code
Date of Birth (mm/dd/yyyy)	U.S. Social Security Number	Employee's Email Address		Employee's Telephone Number	
I am aware that federal law provides for imprisonment and/or fines for false statements, or the use of false documents, in connection with the completion of this form. I attest, under penalty of perjury, that this information, including my selection of the box attesting to my citizenship or immigration status, is true and correct.					
Check one of the following boxes to attest to your citizenship or immigration status (See page 2 and 3 of the Instructions.): ☐ 1. A citizen of the United States ☐ 2. A noncitizen national of the United States (See Instructions.) ☐ 3. A lawful permanent resident (Enter USCIS or A-Number.) ☐ 4. A noncitizen (other than Item Numbers 2. and 3. above) authorized to work until (exp. date, if any): If you check Item Number 4., enter one of these: USCIS A-Number OR Form I-94 Admission Number OR Foreign Passport Number and Country of Issuance					
Signature of Employee			Today's Date (mm/dd/yyyy)		

If a preparer and/or translator assisted you in completing Section 1, that person MUST complete the [Preparer and/or Translator Certification](#) on Page 3.

Section 2. Employer Review and Verification: Employers or their authorized representative must complete and sign Section 2 within three business days after the employee's first day of employment, and must physically examine, or examine consistent with an alternative procedure authorized by the Secretary of DHS, documentation from List A OR a combination of documentation from List B and List C. Enter any additional documentation in the Additional Information box; see Instructions.

Document Title	List A	OR	List B	AND	List C
Issuing Authority					
Document Number (if any)					
Expiration Date (if any)					
Document Title 2 (if any)			Additional Information		
Issuing Authority					
Document Number (if any)					
Expiration Date (if any)					
Document Title 3 (if any)					
Issuing Authority					
Document Number (if any)					
Expiration Date (if any)					
☐ Check here if you used an alternative procedure authorized by DHS to examine documents.					

Certification: I attest, under penalty of perjury, that (1) I have examined the documentation presented by the above-named employee, (2) the above-listed documentation appears to be genuine and to relate to the employee named, and (3) to the best of my knowledge, the employee is authorized to work in the United States.

Last Name, First Name and Title of Employer or Authorized Representative		Signature of Employer or Authorized Representative	Today's Date (mm/dd/yyyy)
Employer's Business or Organization Name		Employer's Business or Organization Address, City or Town, State, ZIP Code	

For reverification or rehire, complete [Supplement B, Reverification and Rehire](#) on Page 4.

ICE AUDITS AND INTERNAL I-9 AUDITS

Who can Work in the United States

Citizens of the United States

Noncitizen Nationals of the United States

Lawful Permanent Residents

Non-citizen Authorized to work

Form I-9 Basic Requirements

- For all Active Employees hired after November 6, 1986
- Section 1 - completed by employee no later than start date of employment.
- Section 2 - completed by employer by end of third business day after employee starts work.
- May complete form prior to start date if offer of employment is made and accepted.
- Use Form I-9 with revision date 8/1/2023 for new hires and reverifications
 - The previous version, dated "10/21/2019," was only valid until October 31, 2023.

Discrimination and Unfair Documentary Practices

- Employers **MUST refrain from discriminating** against individuals on the basis of actual or perceived national origin, citizenship or immigration status
- Do not require specific documents or combination of documents.
- Do not require more or different documents than minimally required.
- Do not refuse to accept documents that reasonably appear to be genuine.
- Employee's choice which of the acceptable Form I-9 documents to present.

ICE I-9 Audits

- An I-9 audit (Notice of Inspection) may arrive by mail or hand delivered by an ICE officer
- The company will have 3 days to produce the requested I-9s and other documents
- Do not waive the 3 days – take the time to prepare the submission with legal counsel
- Extensions may be requested though are not often given for more than a few days
- Arrange with requesting officer where to produce the documents – either onsite at the workplace, via hand delivery to the officer or electronic submission
- If onsite inspection is required, provide the officer a place to review the documents that is separate from major areas of operations or other documents/items that could lead to further investigations

Penalties



- Paperwork violation fines now range between \$288 to \$2,861 per violation
- Knowingly hiring or employing unauthorized workers have fines ranging from \$716 – \$5,724 per employee for the first violation.
- Second- and third-violation of knowingly hiring/employing range between \$5,724 up to \$28,619 per employee.
- Arrests and criminal convictions for knowingly hiring or employing unauthorized workers are on the rise as well.
- Can result in loss of federal contracts & asset forfeiture

Form I-9 Resources

It is unlawful for employers to *knowingly* hire or continue employing individuals who are not authorized to work in the United States.

I-9 M-274 Manual:

<https://www.uscis.gov/i-9-central/form-i-9-resources/handbook-for-employers-m-274>

USCIS I-9 Central:

<https://www.uscis.gov/i-9-central>



Self-Audit – Getting Started

- Generate a list of all current employees and terminated employees for the last 3 years.
 - Include name, date of hire, date of rehire, date of termination and distinguishing fact (SSN or DOB).
- Pull I-9 forms for all current employees first.
- Make sure that you have an I-9 form for each employee on the list.
- Make a note on the list if an I-9 form is missing for a particular employee.
- For current employees with missing I-9s, complete new I-9 on current version of the Form I-9 and current dates.
- Run E-Verify Report to find any current employees with “Final Non-confirmations” who are still working.



Self-Audits - Continued

- Correct errors, as allowed, on each form.
- Section 1 – **Employee** makes corrections.
- Section 2 – **Employer** makes corrections.
- Strike a line through errors – do not use White Out or Liquid Paper. Must be **transparent**. Do NOT backdate.
- All corrections should be initialed/name written, dated, and include the words “Per Self Audit” by the internal company I-9 auditor
- Electronic system should have audit trail for corrections



Most Common I-9 Mistakes

- Section 1 – Work status box not checked.
- Section 1 – DOB and today's date interchanged.
- Section 2 – Start date missing.
- Section 2 – Issuing authority missing for document.
- Section 2 – More documents requested/listed than required.
- Supplement B – not completed in timely manner before work authorization expires



Correcting Form I-9

Missing Forms

- If you discover you are missing the Form I-9 for an employee:
 - Complete a new one immediately
 - Give the employee the current version of the Form I-9
 - Use current date on signature lines and original start date in section 2



Correcting Form I-9

Correcting Mistakes

- If you discover a mistake on Form I-9, correct the existing form
 - Section 1 – **Employee** makes corrections.
 - Section 2 – **Employer** makes corrections.
- Strike a line through errors – do not use White Out or Liquid Paper. Must be **transparent**. Do NOT backdate.
- All corrections should be initialed/name written, dated, and include the words “Per Self Audit” by the internal company I-9 auditor



Example of Audited I-9 with Corrections

Section 2. Employer Review and Verification: Employers or their authorized representative must complete and sign Section 2 within three business days after the employee's first day of employment, and must physically examine, or examine consistent with an alternative procedure authorized by the Secretary of DHS, documentation from List A OR a combination of documentation from List B and List C. Enter any additional documentation in the Additional Information box; see Instructions.					
List A		OR	List B	AND	List C
Document Title 1	EAD Card		~~Driver's License~~		~~Social Security Card~~
Issuing Authority	USCIS		~~State of Maryland~~		~~SSA~~
Document Number (if any)	YSC1690050023		~~DL25066852~~		~~265-74-5255~~
Expiration Date (if any)	12/01/2023		~~12/01/2026~~		~~N/A~~
Document Title 2 (if any)		Additional Information			
Issuing Authority					
Document Number (if any)					
Expiration Date (if any)					
Document Title 3 (if any)					
Issuing Authority					
Document Number (if any)					
Expiration Date (if any)					
☒ Check here if you used an alternative procedure authorized by DHS to examine documents.					
Certification: I attest, under penalty of perjury, that (1) I have examined the documentation presented by the above-named employee, (2) the above-listed documentation appears to be genuine and to relate to the employee named, and (3) to the best of my knowledge, the employee is authorized to work in the United States.				First Day of Employment (mm/dd/yyyy): 08/17/2023	
Last Name, First Name and Title of Employer or Authorized Representative Johnson, Michael - VP Human Resources		Signature of Employer or Authorized Representative 		Today's Date (mm/dd/yyyy) 08/16/2023	
Employer's Business or Organization Name TM Engineering		Employer's Business or Organization Address, City or Town, State, ZIP Code 1000 Larimer Street, Denver, CO 80202			

Per Self
Audit MJ
08/17/2023

For reverification or rehire, complete [Supplement B, Reverification and Rehire](#) on Page 4.

Storage

You must have a Form I-9 on file for all current employees:

- Keep I-9s separate from personnel files
- Store Forms I-9 securely in a way that meets your business needs – on site, off-site, storage facility
- If saving electronically, be sure that electronic system complies with USCIS electronic storage requirements
- Store copies of documents with the Form I-9
- Ensure that only authorized personnel have access to stored Forms I-9
- Make sure I-9s are able to be produced within three days of an audit

Retention

- Once employee terminated, you must retain I-9 form for:
 - At least three years from date of hire; or
 - At least one year from date of termination;
 - Whichever date is later.
- Once retention requirements met, purge form.

Calculate how long to retain an employee's Form I-9 once they end employment:

- If they worked for less than two years, retain their form for three years after the date you entered in the First Day of Employment field.

OR

- If they worked for more than two years, retain their form for one more year after the date they stop working for you.

EXAMPLES:

- John Smith (Hired Nov. 1, 2019, terminated May 5, 2020): John worked for less than 2 years, keep his form for 3 years, until 11/01/2022
- Betsy Ross (Hired Nov. 1, 2002, terminated May 5, 2020): Betsy worked for more than 2 years, keep her form for one more year, until 05/05/2021

COMPLIANCE TIPS FOR EMPLOYERS

8 Best Practices for Employers to Maximize Compliance

The Form I-9 remains deceptively simple. Any time a one-page form requires eight pages of instructions, two supplements, a 146-page handbook on how to complete the form, and the potential for significant monetary and criminal penalties, it will continue to present a significant compliance challenge for employers.

Here are eight steps you can take to create a culture of compliance:

1. Provide updated training for all managers, human resources personnel, and staff involved in the I-9 process;
2. Provide updated training for all involved in the E-Verify process, including training on fraud awareness and anti-discrimination;
3. Update immigration policies in handbooks;
4. If your company does not have an immigration compliance policy, now is the right time to consider implementing one;
5. Update internal business processes associated with I-9s and E-Verify;
6. If your company uses an electronic I-9 provider, contact the provider now to ensure its system incorporates the new changes and complies with DHS requirements, including audit trails;
7. Enlist outside immigration counsel to conduct an attorney-client privileged audit of your I-9s
8. Evaluate E-Verify advantages and disadvantages with your immigration counsel to determine if your company should take advantage of the remote verification option for E-Verify employers.

**EMPLOYERS'
RAPID RESPONSE
TEAM: WHO WE
ARE AND HOW WE
CAN HELP**

Employers' Rapid Response Website

Complimentary checklist available on the **Employers' Rapid Response webpage**:

<https://www.fisherphillips.com/en/capabilities/services/immigration/employers-rapid-response-team-for-dhs-raids>

**EMPLOYER DHS/ICE RAID
PREPAREDNESS ACTION PLAN CHECKLIST**

1. Immigration Point Person

☐ Assign a staff member as the primary contact for all DHS/ICE/CBP correspondence.

☐ Ensure all employees are aware of who this person is and how to contact them.

☐ Immigration Point Person:

- Name:
- Contact Info:

2. Employee Awareness and Communication

☐ Train employees to immediately notify the Immigration Point Person in case of any contact from DHS/ICE/CBP.

☐ Provide clear instructions on workplace rights and responsibilities in case of a raid.

☐ Inform employees that they should not communicate with DHS/ICE/CBP on the Company's behalf.

3. Workplace Signage and Access Control

☐ Ensure proper signage is displayed on all private and non-public workspaces.

☐ Restrict unauthorized access to non-public areas unless legally required.

4. Handling ICE or CBP Agent Arrival

☐ **Step 1:** Ask agents if they have a warrant.

☐ **Step 2:** If no warrant is presented, deny access to employees, documents, and non-public areas.

☐ **Step 3:** If a warrant is presented, carefully review its details.

5. Validating the Warrant

☐ Confirm it is a judicial warrant, issued by a federal court and signed by a judge.

☐ If it is an administrative warrant (issued by DHS/ICE/CBP), it does not grant access to non-public areas.

6. Managing the Search and Seizure Process

☐ Cooperate within the limits of the warrant.

☐ Do not interfere with officers' search and seizure within the scope of the warrant.

☐ Record details of the search, including items taken and persons spoken to or detained.

7. Employee Rights and Conduct

☐ Inform employees that it is **their choice whether to answer** questions from ICE agents.

☐ Inform employees that it is **their choice whether to remain silent** and request legal representation.

8. Documentation and Evidence Collection

☐ Keep detailed records of all interactions, searches, and seizures.

☐ Request a copy of the warrant and any inventory of seized items.

9. Handling Arrested or Detained Employees

☐ Gather details on where detained employees are being taken.

☐ Notify legal counsel or an immigration attorney for assistance..

10. Protecting Business-Critical and Confidential Documents

☐ If agents attempt to seize confidential or critical business documents, request an accommodation to retain or copy them.

☐ Consult legal counsel immediately for guidance.

11. Post-Raid Review and Next Steps

☐ Conduct a debriefing with key personnel to document the event.

☐ Consult an immigration attorney to assess the situation and respond appropriately.

☐ Coordinate with crisis communications team to manage post-raid internal and external communications and to limit risk and minimize exposure.

☐ Provide necessary support to affected employees.

☐ Revise and update this action plan based on new developments or legal requirements.

Disclaimer

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With hundreds of attorneys across the globe, Fisher Phillips advises and advocates for employers internationally on some of the most complex and high-profile workplace matters. We leverage our employment experience, tech and thought leadership credentials to keep our clients ready for what's next. By understanding their business, we help them adapt faster to a faster-changing world, realize possibilities sooner and more effectively, and stay steps ahead when everything is on the line.

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Employers' Rapid Response Team Hotline

24/7 Emergency Hotline:

In the event of an active ICE enforcement action, call us at **877-483-7781** for immediate assistance.

DHSRaid@fisherphillips.com





**JESSICA
COOK**



Questions?



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2026 LAS VEGAS



Thank you.