

Be Prepared for ICE Immigration Raids

By



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Introduction

- In the past few weeks, the landscape of immigration enforcement in the United States has seen a significant shift.
- This shift has raised important questions for employers about what to do if ICE agents appear at their establishment.
- This program provides practical guidance for employers to understand their rights and obligations and be prepared to handle potential ICE audits and raids.



Current Status

- ICE has been targeting major cities using multi-agency resources (FBI, U.S. Marshals, ATF).
- The initial wave of raids has had a focus on public safety and individuals with criminal backgrounds.
- There has been an increase in workplace audits.
- Industries include hospitality, agriculture, construction, healthcare and manufacturing.



Moving Forward

- ICE will transition efforts to the general undocumented population.
- There will be more scrutiny and audits of employers.



ICE Enforcement

- ICE raids are typically triggered either by
 - Tips from members of the public
 - Other agencies (e.g., the Department of Labor)
 - Information obtained through ICE's other enforcement activities (e.g., I-9 audits)



Understanding the Risks of Immigration Violations

- Employers who fail to comply with immigration regulations face significant penalties, including:
- **Civil Fines** - Penalties for Form I-9 violations can reach up to \$2,789 per form. Knowingly hiring undocumented workers can lead to fines of up to \$5,579 for first offenses – but up to \$27,894 per worker for repeat offenders.
- **Criminal Penalties** - Managers and business owners could face up to 10 years in prison and fines up to \$250,000 for actions considered “harboring” or concealing undocumented workers.



Understanding the Risks of Immigration Violations

- **Forfeiture** - Upon conviction of any federal felony, the Criminal Asset Forfeiture statute allows a jury to authorize seizure of all assets used in the commission of the crime and all proceeds of the crime.
- **Debarment from federal contracts** - The President can instruct the federal government to not procure goods and services from an employer who violates the law.
- **Operational Disruptions** - ICE raids can halt business operations, damage morale, and lead to public relations issues.



Understanding the Role of ICE Agents

- US Immigration and Customs Enforcement (ICE) agents can show up at places of business for several reasons.
- **Workplace Enforcement** - Investigating the employment of individuals based on their immigration status or attempting to identify employers who knowingly hire unauthorized workers.
- **I-9 Audits** - They verify that employees are legally authorized to work in the United States.



Understanding Warrants

- Employers should be aware that ICE agents conducting a raid need either a **judicial warrant** or an **administrative warrant**.
- **Judicial warrants** are signed by a state or federal judge and give ICE authority to enter non-public areas and search specific locations of the business. It will:
 - Specify the specific address to be searched
 - Specify the time period in which the search must take place
 - Particularly describe the place or person, or both, to be searched and things to be seized
 - Be issued by a court and signed by a Judge or magistrate
- **Administrative warrants** are issued by the Department of Homeland Security (DHS) and signed by ICE immigration officers (DHS Form I-200 or I-205). Unlike judicial warrants, administrative warrants do not give ICE the authority to enter non-public areas without the employer's **consent**.



Get Prepared in Advance

- **Designate a Point of Contact** – A representative to communicate with ICE agents. These individuals should be well-versed in the organization's policies and the legal rights of employees.
 - Provide documents or information that is only in the valid warrant.
 - May observe each ICE agent
- **First Contact** - Prepare instructions for your front desk receptionist or first point of contact. This person knows to immediately contact the Point of Contact.
- **Develop a Protocol** – Develop guidance for involved employees to include documenting key information (What, where, when, who, etc.).



When the ICE Agents Arrive

- **Remain calm and professional**
- **Request Identification** - Ask the ICE agents to present their identification. This includes their badge and a valid warrant or subpoena, if applicable.
- **Ask for the Scope of the Visit** - Ask the agents for clarification on the purpose of their visit. ICE agents may be serving notice of a routine audit, executing a specific investigation, or seeking information about specific employees.
- **Obtain a Copy of the Warrant or Subpoena** - If the ICE agents have a warrant, subpoena, or court order, you are entitled to a copy.



When the ICE Agents Arrive

- **Monitor but Don't Interfere:** - Assign a representative to observe and document ICE's actions while maintaining a cooperative stance. Do not obstruct or engage in hostile actions, which could worsen legal outcomes.
- **Avoid Actions that Could be Construed as Harboring** - Instruct managers not to hide employees, shred documents, or provide false information. Employees should be free to speak to ICE agents if questioned but are not required to do so without legal counsel.
- **Document and Report Seized Property or Records** - Track all items and information taken by ICE and share this information with legal counsel.



What Employers Should do After the Raid

- **Document the Visit** - Keep a detailed record of the visit, including the names of the ICE agents, the date and time of the visit, the purpose of the visit, and any documents or information that were provided to the agents.
- **Arrests** - If ICE arrests any workers, ask the ICE agents where they are being taken, as this information may be helpful to the worker's family and lawyer in locating the worker.
- **Seizures** - If a search warrant is executed and records are seized, request a copy of the property receipt and search warrant inventory log prepared at the conclusion of the search.
- **Consult an Attorney**: If the visit resulted in a seizure of information, property arrests, subpoena, fine, or other legal issues, consider consulting an attorney specializing in employment or immigration law.



What Employers Should Not Do

While employers are required to cooperate with ICE agents to a certain extent, there are also several things they should avoid doing during an ICE visit:

Do Not Destroy Documents: - Destroying or tampering with documents requested by ICE can result in criminal charges.

Do Not Provide False Information - Providing false information to ICE agents is illegal and can result in severe penalties, including criminal charges.

Do Not Discriminate Against Employees - Employers must avoid retaliating against employees who are subject to an ICE investigation.

Do Not Advise Employees - Do not tell them to run or hide from them!

Do Not Impede the ICE agents - Comply with any legally obligated requests and document.



Employee Rights

- While employers must comply with immigration enforcement laws, they also have an obligation to protect the rights of their employees. Employees have certain rights when it comes to ICE visits.
- **Employees Have the Right to Remain Silent** - If an ICE agent questions an employee, the employee has the right to remain silent and to consult with an attorney.
- **Employees Have the Right to Legal Counsel** - Employees have the right to consult with an attorney before answering questions or consenting to searches. Employers may make employees aware of this right; however, noncitizens do not have the right to a public defender or court-appointed counsel in immigration proceedings.
- **Do Not Share Employee Information Without Consent** - Unless legally required, do not disclose personal or sensitive information about employees to ICE without their consent or unless required by law.



Found to Employ Undocumented Workers

- **Warning** - ICE may elect to issue a warning without fining the employer.
- **Fine** - If a fine is assessed, the employer will receive a **Notice of Intent to Fine**.
- **Amount** - The amount of the fine is based on a variety of factors, including business size, good faith efforts, seriousness, history, and aggravating or mitigating factors. The employer has **thirty calendar days** to appeal the fine.
- **Prosecution** – You may be criminally prosecuted for violations or uncorrected failures in the instance of an unauthorized worker(s).



Guidelines for an ICE I-9 Audit

- **Notice of Inspection (NOI)** - Employers subject to an I-9 audit will receive a Notice of Inspection (NOI), which must be issued at least three business days in advance.
- **Get Support** - If employers receive an NOI, they should promptly contact legal counsel or SESCO.
- **Suspect Documents** - If ICE finds technical or procedural failures with the I-9s, it will issue a Notice of Suspect Documents or a Notice of Discrepancies. The employer then has at least ten business days to make corrections.
- **Corrections** – In those ten days, you must notify the affected employees to provide valid work authorizations and the like.



I-9 Tips

- Again, make sure your staff are trained.
- Use the latest form (expires 5/31/27) which is available from USCIS.
- Regularly review I-9 records to identify and correct errors.
- Consider using electronic I-9 systems or E-Verify to streamline the process.
- Stay informed – I-9's are important (SESCO, USCIS website).
- Store forms separately and securely.
- Use a system to remind yourself to reverify employees with work authorization that expires.
- If an employee's Form I-9 has deficiencies, notify them in private and provide copies of their form.



Steps to Minimize Exposure

A proactive approach is essential to reduce the chances of an ICE visit. Below are the core areas for compliance that employers should address immediately:

- **Establish I-9 Compliance** - Ensure every employee hired after November 6, 1986, has a complete and properly filled out Form I-9 on file. Use payroll records to verify that all required forms are on hand.
- **Conduct Regular I-9 Audits** - Regularly auditing I-9 forms is key to identifying and remedying any discrepancies.
- **Employee Training** - Train your managers and HR staff on how to complete I-9 forms, recognize document issues, and take appropriate action if they suspect an employee may lack proper work authorization.
- **Consider Using E-Verify** - Although not mandatory for all employers, using the E-Verify system can bolster compliance and demonstrate due diligence in verifying employee work eligibility.
- **Establish a Rapid Response Plan** - Designate a “raid team” to handle ICE visits.



In Closing

Since immigration enforcement is a top priority under the new administration, evaluate your workforce and hiring practices (I-9 processes).

There is an opportunity to mitigate enforcement actions by ICE on your business and employees by being proactive.

SESCO stands ready to assist in your compliance measures.



Program Conclusion

“Thank you for your attention and participation”

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