

ICE Raids and I-9 Audits: What You Need To Know If They Come Knocking

As noted by multiple media outlets, Donald Trump's team released an aggressive slate of immigration executive orders. This anticipated immigration crackdown will have implications for people nationwide, including a package of actions potentially amounting to a dramatic shift in immigration policy that will affect immigrants already residing in the United States and migrants seeking asylum at the U.S.-Mexico border. The planning includes U.S. Immigration and Customs Enforcement (ICE) sweeps in major metropolitan areas, and I-9 enforcement actions.

In preparation of these issues, our immigration team has assembled common topics that may arise in the event your client is subject to an I-9 audit or ICE raid. If you have any questions, please do not hesitate to reach out.

Background: I-9

- Form required by the U.S. Citizenship and Immigration Services (USCIS) to establish that an employee is eligible to work in the United States.
- All U.S. employers must properly complete Form I-9 for every individual they hire for employment in the United States. This includes citizens and noncitizens.
- Both employees and employers (or authorized representatives of the employer) must complete the form.

I-9 audit

- ICE (Immigration and Customs Enforcement) or the Homeland Security Investigations (HSI) division within ICE will come to your place of employment.

ICE raid

- ICE agents will show up to your worksite unannounced in order to possibly question, detain, arrest, or warn about specific employees.

What has recently changed

- With the upcoming Trump 2.0 presidency, Trump has made very clear his intentions to increase I-9 enforcement and compliance, along with mass deportations of undocumented workers. Most in the industry, including Cozen O'Connor's Immigration Policy & Strategy Practice, are predicting increased I-9 audits and potential ICE raids at workplaces. A consistent and accurate I-9 program is now more important than ever.

What to expect in the event of an I-9 audit

- All businesses are subject to I-9 audits by ICE/HSI.
- If selected for an audit by notice, employers have three business days to produce I-9 forms for either all or selected employees.
- ICE may also request supporting documentation for the employee (i.e., passport, work authorization documents, etc.).
- ICE may request documentation from the company to establish it is a bona fide entity (i.e., articles of incorporation, list of all active employees, etc.).
- Make sure to contact your immigration attorney immediately.

How to prepare for an I-9 audit

- The best offense is a good defense. Employers should proactively conduct self I-9 audits by



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Related Practice Areas

- Immigration Policy & Strategy

reviewing all I-9s and ensuring compliance.

- Review your existing I-9 processes to ensure consistent and accurate procedures.
- Understand the related fees for I-9 violations.
- The USCIS has published guidelines intended to help employers conduct a proactive audit.
- If not already enrolled, strongly consider enrolling in e-Verify.

WHAT TO DO IN THE EVENT OF AN ICE RAID

- Know your rights:
 1. • Employees have the right to remain silent.
 2. • Employers must NOT provide either false information or false documents in an attempt to “assist” employees, which also includes impeding the agents’ ability to search.
 3. • Immigration officers are only allowed to enter public spaces within the workplace and require valid search warrants to enter private spaces.
 4. • The warrant should detail a list of items to be searched.
 5. • You can record and write down the names of agents.
 6. • You can assign an employee who will follow the agents around the facility.
 7. • If an officer requests to look at “privileged” documents, you can explain this to them, but ultimately, you cannot prevent them from taking these documents.
 8. • Company representatives should not make any statements to agents.
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