

Workplace ICE Raids and Form I-9 Inspections

Labor & Employment Law Update

By Sara Zorich on January 24, 2025

There are many questions surrounding potential U.S. Immigration and Customs Enforcement (ICE) raids impacting the workplace, as well as a heightened prospect of being contacted by the Homeland Security Investigations (HSI) division of the Department of Homeland Security (DHS) to inspect work authorization documents.

Employers need to understand that an ICE raid is much different than a typical HSI Form I-9 audit.

ICE Raids and Warrants

Employers should recognize that a criminal warrant issued through ICE will likely be focused on and targeting a specific individual and not the employer. Additionally, ICE has authority to deliver a warrant upon an organization for specific records and documents. Such a warrant should be handled no differently than any other type of warrant from a governmental agency (i.e., the U.S. Department of Labor, the Department of Justice, etc.).

While there is not a “one size fits all” approach here, any warrant should be carefully reviewed to identify exactly what the warrant is seeking and developing a responsible plan to appropriately respond to the warrant and cooperate with government officials.

Management and all personnel for the employer should not panic, lie, mislead or interfere with the process. Employers should have a designated point person who is able to speak to the officer and immediately contact other appropriate members of management, if any, along with competent legal counsel. If there is a valid warrant, the employer must cooperate. Such cooperation requires an intimate understanding of exactly what is being sought and should involve competent legal counsel to appropriately interact with the government officials.

Form I-9 Audits

Obviously, the more common practice of the DHS/HSI is to issue an employer a notice of audit and/or issuing a subpoena for Form I-9 documents. In response to any such notice, employers should not turn over their forms until they have talked to an experienced attorney that is intimately familiar with work

authorization issues.

Of course, employers striving to be more proactive may want to conduct their own internal Form I-9 audit. Obviously, conducting any internal review requires experienced and knowledgeable personnel to ensure compliance issues are properly identified and remedied where possible.

Engaging legal counsel to assist can also help to not only identify potential legal issues, but also help ensure findings and remedial measures remain confidential and protected from disclosure to the extent greatest possible.

Be assured that we continue to monitor these developments and will post additional information when appropriate.

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