

Be Prepared Before ICE Knocks

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Background

The U.S. Immigration and Customs Enforcement (ICE) is a federal law enforcement agency.

ICE conducts Enforcement and Removal Operations (ERO) to identify, arrest, detain, and remove individuals who are illegally present in the U.S. or are subject to removal.

As part of their mission, ICE routinely issues a Notice of Inspection alerting employers that it will be auditing I-9 forms to determine whether the employer complies with immigration laws.

Under federal law, employers are required to produce I-9 employee forms within 3 business days.



Introduction

On January 20, 2025, President Trump signed an Executive Order entitled “Securing our Borders”

- Sec. 5. Detention. The Secretary of Homeland Security shall take all appropriate actions to detain, to the fullest extent permitted by law, aliens apprehended for violations of immigration law until their successful removal from the United States. The Secretary shall, consistent with applicable law, issue new policy guidance or propose regulations regarding the appropriate and consistent use of lawful detention authority under the INA, including the termination of the practice commonly known as “catch-and-release,” whereby illegal aliens are routinely released into the United States shortly after their apprehension for violations of immigration law.



Introduction

- President Trump lifted guidelines that restricted ICE from operating at “sensitive locations” such as schools, churches, or hospitals.
- Since President Trump took office on January 20, 2025, ICE has made thousands of arrests. In California, ICE has made arrests and/or has operated in San Jose, San Francisco, Sacramento, Los Angeles, San Diego, and Santa Barbara, among other places.
- Average daily ICE arrests up drastically

ICE Actions

- **NOTICE OF INSPECTION**

- ICE routinely issues a Notice of Inspection alerting employers that it will be auditing I-9 forms to determine whether the employer is in compliance with immigration law.
- ICE may include an administrative subpoena requesting additional payroll and tax-related information at the same time they issue the Notice of Inspection.

- **ENFORCEMENT RAID**

- During a raid, ICE conducts enforcement action at a business location, seeking not only I-9 forms and other records, but may also intend to arrest unlawful employees at the business site.
- ICE may also serve a judicial warrant to search specific areas and possibly seize certain documents or persons.

How to Prepare

- Designate an **Immigration Point Person** – a person responsible for communicating with any immigration enforcement agents or ICE officers that visit your business
- Identify **Public and Non-Public areas** of your business – California’s Immigrant Worker Protection Act prohibits employers from granting ICE access to non-public areas of the business except if presented with a judicial warrant
- **Train front-line staff** how to deal with ICE officers and immigration enforcement agents.
- There are two main ICE actions you may encounter: a Notice of Inspection and an enforcement raid.

What to do is
ICE issues a
Notice of
Inspection



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What to do if ICE contacts your business

- If a visitor identifies themselves as an immigration official or ICE agent, request a copy of their business card and contact the Immigration Point Person (IPP).
- Do not allow the officer access to any non-public areas.
- The IPP should talk to the ICE officer to determine the specific nature of their request and review the Notice of Inspection.
- Request at least 3 business days before any inspection to ensure you can provide adequate notice to employees under CA law.
- Immediately inform Company officials of the Notice of Inspection and contact your labor and employment counsel with any compliance questions.

Provide Notice

- CA law requires employers to give employees and their representatives notice of audits within 72 hours of receipt of the Notice of Inspection.
- Post notice at the worksite in the language normally used to communicate information to employees. The posting must include the following:
 - Statement informing employees that an immigration agency has issued a Notice of Inspection and will conduct an audit of I-9 forms and other employment records.
 - Identify the agency that issued the notice
 - Identify the date the Notice of Inspection was received
 - Describe the nature of the inspection, if known.
 - A copy of the Notice of Inspection.
- Within 72 hours, provide written notice to Unions representing workers, if applicable.
- If an affected employee requests a copy of the Notice of Inspection, the employer must provide it.

The Audit

- The audit will take place at the worksite. Have an appropriate location selected, preferably a conference or meeting room with no interruptions and limited access to employees.
- Make copies of all documents that will be inspected. Provide all documents the inspector is entitled to.
- The IPP should be present during the audit and keep careful note of all documents the inspector seeks and any alleged violations mentioned. Feel free to ask the inspector for clarification on any alleged violations.
- The company's labor and employment counsel may also be present.

Audit Results

- ICE will provide written notice of any inspection results.
- Results set forth the obligations of the employer and any affected employees. It will include copies of specific I-9s and will include notes detailing specific technical or procedural failures.
- You may also receive a list of employees that INS has designated you can no longer employ.

Notice to Affected Employees

- Provide a copy of results to current affected employees and their authorized representatives within 72 hours of receiving them.
- Make sure the notice only relates to the employee at issue. You must redact any information related to other employees.
- Notice must include:
 - Notice of obligations of the employer and the affected employee;
 - Description of any and all deficiencies identified by the inspection that relate to the specific employee;
 - Time period for correcting deficiencies;
 - Set a date and time to meet with the employer to correct identified deficiencies;
 - Inform the employee of their right to have representation during the meeting.
- Notice must be hand-delivered to the employee at the workplace, if possible. If not possible, notice should be delivered by both mail and email.

Post-Audit Actions

- If ICE identifies employees you can no longer employ, you need to discharge those employees if they are unable to correct the identified deficiencies.
- Sometimes, employees who receive notice of deficiencies will disappear and will not respond to your request to meet and correct the I-9 form.
- Give the employee reasonable time to correct the information on the I-9 form if they indicate that they intend to do so. Put the employee on unpaid leave during this time.
- CA law prohibits termination of an employee because they present new I-9 documentation and work authorization eligibility.
- If an employee does not correct the I-9 form, you will need to discharge that employee.

Employer's Response to an ICE Raid



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Immediate Response to an ICE Raid

- **Contact Legal Counsel** – Let ICE know you have contacted legal counsel and request that counsel be present during the Raid. ICE is not required to comply.
- **Obtain a copy of the search warrant** – If ICE does not have a search warrant, it is unlawful for an employer to grant an ICE officer access to any non-public area of the worksite.
- **Contact the IPP** – The IPP should accompany ICE officers around the workplace. If necessary, designate a second IPP to accompany additional officers.

Guidelines for IPP

- You cannot interfere or block ICE officers.
- If officers want access to locked file cabinets, unlock them.
- When ICE seizes documents, ask to make a copy before they are taken.
- If ICE officers ask to speak to a specific employee, have the employee come to your location. Inform the employee that it is their decision whether to speak to ICE officers. They are not required to give statements, and they will not be interrogated without consent. Do not direct employees not to speak to officers when questioned.
- Do not hide employees, help them leave the worksite, provide false or misleading information, or deny access to specific named employees.
- Take detailed notes of all actions taken by ICE officers, including items seized, employees interviewed, and any arrested employees.

Recent Trends in Enforcement



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Recent Trends

- Immigration and Customs Enforcement 2024 Enforcement Statistics and Fact Sheet Now Available
- Immigration and Customs Enforcement Has Not Yet Expanded, Despite Increase Enforcement and Publicity
- Daily arrests up more than double under Trump administration

Recent Trends In 2025

- Trump Signs Executive Orders
 - Declared National Emergency at Southern Border
 - Authorized use of Guantanamo Bay
 - Expanded use of local authorities for enforcement
 - Removed protections for enforcement in sensitive areas
- Kern County, Sanger, Los Banos
 - Conducted by US Customs and Border Protection, Not ICE
 - Targeted unusual areas (retail stores e.g. Home Depot and Chevron, Courthouses)
 - Some reports of activity in the agricultural fields
 - Impacted staffing for agricultural operations (citrus)
 - Occurred in early January

Recent Trends

- Immigration Raids in Colorado (aimed at gang members)
- Recent Targeted Ice Raids in Salinas and Seaside
- Targeted Raids throughout California – Both from ICE and CBP

Recent Trends

- Be Proactive With Employees
 - “Know Your Rights”
 - Red Cards
- Separate Ghost Stories
- Currently A Propaganda Tool for Both Sides of Political Aisle
- Be Prepared – Follow the Steps
- Contact Counsel