

Publications

Immigration Alert: ICE Increases Workplace Enforcement

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The Immigration Reform and Control Act of 1986 (IRCA), as amended by the Immigration Act of 1990, makes it unlawful for an employer to knowingly hire or continue to employ any person who is not authorized to work in the United States. IRCA thus requires employers to verify the identity and employment eligibility of its employees. This applies to all employers, regardless of size, and all employees, regardless of citizenship or national origin. The United States Citizenship & Immigration Services (USCIS) requires all employers to use Form I-9 to document this verification.

As a stated goal of President Trump's "Buy American and Hire American" Executive Order, the administration is expanding worksite enforcement. Specifically, Immigration and Customs Enforcement (ICE) plans to multiply the number of raids it conducts this year. ICE states that investigations will not focus on large companies or any particular industry, but all employers will be equally susceptible to raids. Already in January, ICE targeted the 7-Eleven company, raiding 98 stores across the nation. During the raids, ICE agents demanded I-9 related documents from managers and arrested employees suspected of being in the country without authorization.

During a raid or investigation, ICE inspects I-9 records to determine: whether an employer has knowingly hired or continues to employ unauthorized workers; is in compliance with Form I-9 employment verification requirements; has committed or participated in document fraud or document abuse; or has unlawfully discriminated against an employment-authorized individual. Criminal sanctions may be imposed where an employer engages in a pattern or practice of hiring or recruiting unauthorized workers, or refers unauthorized workers for a fee.

To protect your business in the case of an ICE investigation, employers should make sure they are compliant with immigration laws and I-9 procedures. Employers should conduct periodic training to ensure that I-9 forms are being completed accurately, and conduct self or attorney-led audits to confirm compliance. It is also imperative for employers to have a plan of action that would prepare them to respond

appropriately in the case of unannounced ICE visits or audits.

If you have questions regarding these issues, we encourage you to contact your Vorys attorney.

