



# **ICEE**

## **Identifying Concerns of Employers and Employees**

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# Federal Immigration Law

“It is unlawful for a person or other entity-

(A) to hire . . . for employment in the United States an alien knowing the alien is an unauthorized alien (as defined in subsection (h)(3)) with respect to such employment, or . . .

## (2) Continuing employment

It is unlawful for a person or other entity, after hiring an alien for employment in accordance with paragraph (1), to continue to employ the alien in the United States knowing the alien is (or has become) an unauthorized alien with respect to such employment.

8 USC 134(a)



# Federal Immigration Law

**“Employment is often the magnet that attracts people to reside in the United States unlawfully.**

**The purpose of the employer sanctions law is to remove this magnet by requiring employers to hire only individuals who may legally work here.”**



# Employer Sanctions

## – Civil Violations

- Knowingly hired an unauthorized alien or to have knowingly continued to employ an unauthorized alien in the United States
- Failing to comply with Form I-9 employment verification requirements

## – Criminal Violations

- Engaging in a pattern or practice of hiring, recruiting or referring for a fee unauthorized aliens



# Good Faith Defense

**“A person or entity that establishes that it has complied in good faith with the requirements of subsection (b) with respect to the hiring, recruiting, or referral for employment of an alien in the United States has established an affirmative defense that the person or entity has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.”**

**8 USC 134(a)**



# Homeland Security Act of 2002

- **U.S. Citizenship and Immigration Services (USCIS)**
- **U.S. Customs and Border Protection (CBP)**
- **U.S. Immigration and Customs Enforcement (ICE)**



# CONTACT WITH ICE

- **Risk Assessment**
  - Industry
  - Skill Force
  - Geographical Region



# RISK ASSESSMENT

- Industries with the largest share of workers who are undocumented, 2022
  - Construction 13.7%
  - Agriculture 12.7%
  - Hospitality 7.1%

# RISK ASSESSMENT

**20 U.S. metropolitan areas with the largest number of immigrants in 2022**



Note: Each metropolitan area has at least about 450,000 immigrants. Circles are scaled to size of population.

Source: Pew Research Center analysis of 2022 American Community Survey (1% IPUMS).

**PEW RESEARCH CENTER**



# CONTACT WITH ICE

- **Document Audit**
  - Notice of Inspection
- **Service of Subpoena**
- **Warrant**
  - Search warrant
  - Arrestwarrant

# Notice of Inspection

- Form I-9 Audit

Office of Inspection  
U.S. Department of Homeland Security  
A-1000  
A-1000

 **U.S. Immigration  
and Customs  
Enforcement**

**NOTICE OF INSPECTION**

[Date]

[Name of Company Official]  
[Company Name]  
[Company Address]

Dear Sir/Madam:

Section 174A of the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986, requires employers to hire only United States citizens and aliens who are authorized to work in the United States. Employers must verify employment eligibility of persons hired after November 6, 1986 using the Employment Eligibility Verification Form I-9.

U.S. Immigration and Customs Enforcement (ICE) regulations require the provision of three days notice prior to conducting a review of an employer's Form I-9. This notice serves as documentation that ICE has scheduled a review of your forms for inspection and review. You may, however, waive the three-day period, should you wish to do so, by inspecting and signing the bottom of this notice and advising this office of your decision.

During the review, ICE agents and staff of ICE point of contact will discuss the requirements of the law with you and request your Form I-9. The purpose of this review is to assure your compliance with the provisions of the law. ICE will make every effort to conduct the review of records in a timely manner so as not to impede your normal business routine.

Sincerely,

[ICE Agent Name]  
[ICE Agent Title]

I wish to waive the three day notice to which I am entitled by regulation.

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

U.S. DEPARTMENT OF HOMELAND SECURITY • ICE • OFFICE OF INSPECTION • (FORM I-9000)



# Form I-9s

- **Proactive Policy**
  - Person Responsible
  - Training on Completion/Inspection of Documents
  - Storage
  - Copies of Documents (E-Verify)
  - Work Visas
  - Prohibits Discrimination on the basis of national origin, citizenship or immigration status.



# CONTACT WITH ICE

- **Service of a Subpoena**
  - **Judicial**
    - Signed by Federal or State judge
  - **Administrative**
    - Signed by immigration judge/immigration officer



# Subpoena

- **Proactive Policy**
  - **Person Responsible**
  - **Recognizing Judicial vs. Administrative Subpoenas**
  - **Contact your Immigration Attorney**



# CONTACT WITH ICE

- **Enforcement Action**
  - **Arrest Warrant**
    - **Judicial vs. Administrative**
  - **Search Warrant**
    - **Judicial vs. Administrative**
  - **Probable Cause**



# Enforcement Action

- **Proactive Policy**
  - **Person Responsible**
  - **Training**
    - **Judicial vs. Administrative**
    - **Arrest vs. Search**
    - **Administrative: Does not authorize entry/search on nonpublic areas**
- **Unlawful Obstruction of Government Agent**



# **Additional Issues**

- Independent Contractors**
- Social Security Mismatch Letters**
- Sharing of Information among Government Agencies**



# Employee Concerns

- **Must Notify them of I-9 Audit**
- **Provide Leave**
- **Pay Final Wages**
- **Update Emergency Contact Information**
- **Provide “Know-Your-Rights” Training**



# QUESTIONS?

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