



Preparing for and responding to immigration enforcement in the workplace

Employers guide

Preparing your business for heightened immigration enforcement

The Trump administration has announced sweeping immigration enforcement measures, including a national emergency declaration and plans for mass deportation. Recent policy changes and **executive actions** have led to increased enforcement of immigration laws, including expanded workplace audits and raids by U.S. Immigration and Customs Enforcement (ICE).

While higher-risk sectors such as agriculture, construction, hospitality, food service, landscaping, warehousing, and certain manufacturing industries are particularly vulnerable due to higher concentrations of undocumented or foreign national workers, all employers in the United States must remain prepared and proactive.

Immigration enforcement actions can take place at any workplace, making it essential to comply with employment laws, train supervisors and employees, and create a supportive environment for your employees.

This guide will walk you through proactive steps to help minimize risks and create a secure, compliant environment where your employees feel protected and valued.

Audits vs. raids: Understanding the difference

To respond effectively to enforcement actions, it's crucial for employers to make sure they understand the differences between ICE audits and raids.

ICE audits

Audits focus on verifying compliance with employment eligibility verification laws, such as reviewing **Form I-9 documentation**. Employers typically receive a Notice of Inspection (NOI), giving them at least **three business days** to prepare and submit records for review.

Note that while hand delivery is most common for NOIs, they may also be sent via certified mail or other tracked delivery services. Audits are procedural and allow employers time to address discrepancies, but noncompliance can result in penalties.

What can employers expect following an audit?

Homeland Security Investigations (HSI) will notify the employer of its findings in writing by issuing **one of the following six notices**, defined below by ICE.

- 1. Notice of inspection results:** Also known as a "Compliance Letter," this notice is used to notify a business that it complies with applicable employee eligibility verification requirements.
- 2. Notice of suspect documents:** Advises the employer that, based on a review of the Form(s) I-9 and documentation submitted by relevant employee(s), HSI has determined that the documentation presented by employee(s) does not relate to the employee(s) or are otherwise not valid for employment. This notice also advises the employer of the possible criminal and civil penalties for continuing to employ unauthorized workers. HSI provides the employer and employee(s) an opportunity to provide documentation demonstrating valid U.S. work authorization if they believe the finding is in error.
- 3. Notice of discrepancies:** Advises the employer that, based on a review of the Form(s) I-9 and any related documentation submitted by employee(s), HSI has been unable to determine the employees' eligibility to work in the U.S. The employer should provide the employee(s) with a copy of the notice, as well as an opportunity to present HSI with additional documentation establishing valid U.S. work authorization.
- 4. Notice of technical or procedural failures:** Identifies technical or procedural failures found during the inspection of Form(s) I-9 and gives the employer at least 10 business days to correct the forms. After this correction period ends, uncorrected technical or procedural failures will become substantive violations.
- 5. Warning notice:** Issued when substantive verification violations were identified, but there is an expectation of future compliance by the employer. However, a Warning Notice should not be issued in the following circumstances: instances where: (1) the employer was previously the subject of a Warning Notice or a Notice of Intent to Fine; (2) the employer was notified of technical or procedural failures and failed to correct them within the allotted 10-business day period; (3) the employer had a 100% failure to prepare and present Form(s) I-9; (4) the employer hired unauthorized workers as a result of substantive violations; or, (5) there is any evidence of fraud in the completion of Form I-9 (e.g., backdating) on the part of the employer.
- 6. Notice of intent to fine (NIF):** May be issued for substantive violations, uncorrected technical or procedural failures, knowingly hire violations, and/or continuing to employ violations.

ICE raids

Raids are unannounced enforcement actions targeting unauthorized workers or suspected illegal hiring practices. Raids often involve physical entry into workplaces and may include detentions and seizure of documents. Unlike audits, raids provide no advance notice, making preparedness essential.

ICE raid response checklist for supervisors and employees

Did you calmly ask to see ICE's warrant to confirm their legal authority to conduct the raid?

Did you verify that the warrant is signed by a judge or magistrate and not just an administrative official?

Did you carefully read the warrant to ensure it grants access to your business address and the specific areas ICE is authorized to search?

Did you copy or scan the warrant and immediately send it to legal counsel for review?

Did you inform the ICE officers that it is company policy to contact legal counsel or another designated representative before proceeding further?

Did you refer to the company's emergency contact list and notify the appropriate representatives (or assign this task to another staff member)?

If designated company representatives were not immediately available, did you or another staff member accompany the ICE officers to monitor their actions while on the premises?

Did you document ICE's actions by recording or taking notes, as permitted by local laws?

Did you take detailed notes about everything the ICE officers did, said, requested, and recorded during the raid?

Did you stay with the ICE officers at all times until a designated company representative or legal counsel arrived?

Did you ensure employees were informed of their rights, including their right to remain silent and to avoid signing documents without legal counsel?

Did you ensure that no employee or supervisor interfered with or obstructed ICE's lawful actions during the raid?

Did you debrief the team and review the event with legal counsel immediately after the raid to assess compliance and plan next steps?

Did you check that all employees present during the raid were accounted for and safe?

Did you review company policies and procedures to identify potential areas for improvement to prevent or respond to future raids?

Best practices for employers

Know your rights and responsibilities

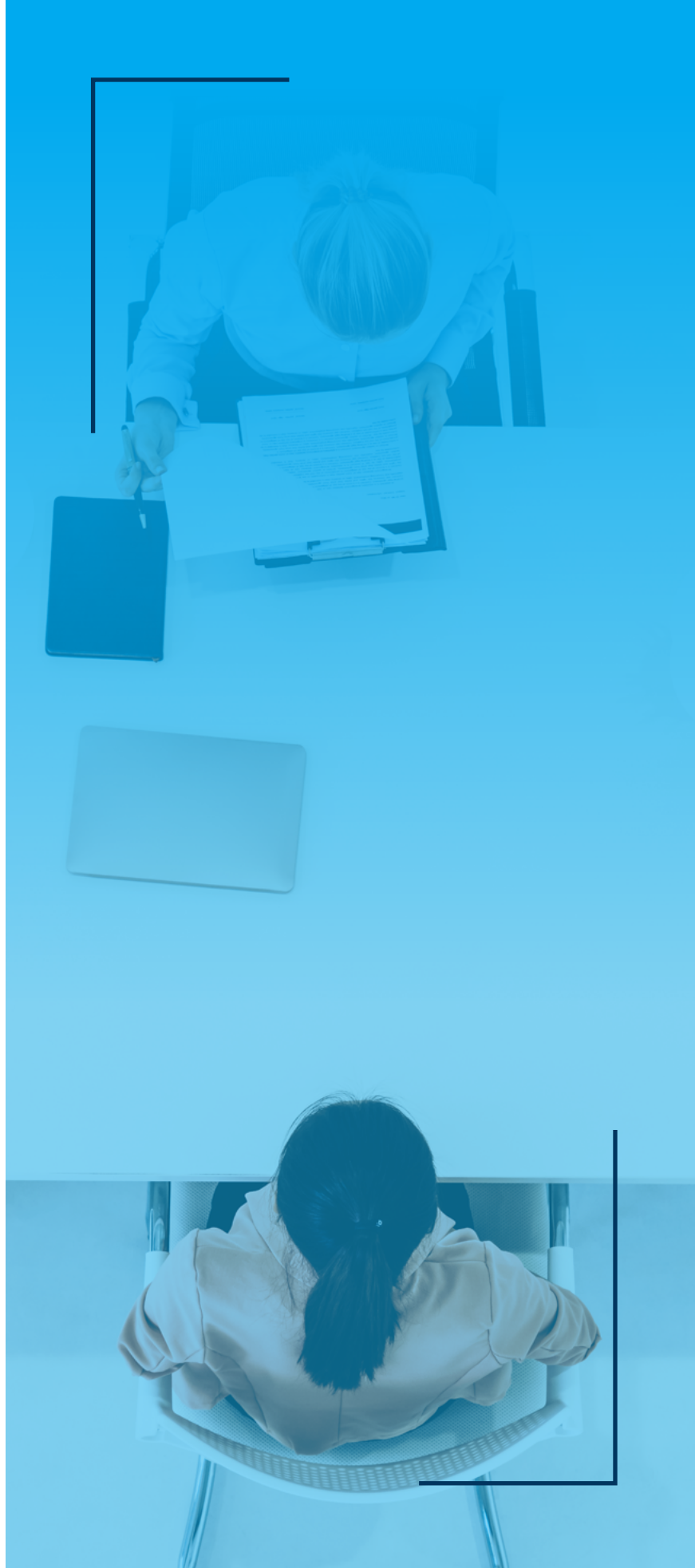
ICE has the legal authority to enter only public areas of your workplace without a warrant. Access to private areas, such as offices or employee-only spaces, requires a judicial warrant signed by a judge, not just an administrative warrant issued by ICE.

Verify warrants

If ICE agents present a warrant, review it carefully. Judicial warrants will explicitly state the name of the judge, include specific details about the premises to be searched, and outline the items or individuals being sought. Before granting access, you should review to ensure it is specific to your workplace address and areas being accessed. This ensures clarity on the limitations of the search authorized by the warrant. Administrative warrants do not permit entry into non-public areas without consent.

Document requests and visits

Maintain detailed records of ICE requests, including copies of warrants, the names and badge numbers of ICE agents, the date and time of the visit, specific areas accessed, questions asked, and any documents or information provided. This documentation can help protect your organization in case of legal disputes.



Create and communicate a workplace response plan

Designate a response team

Assign specific individuals, such as HR managers, compliance officers, and legal counsel, to handle ICE interactions. These individuals should be trained in their roles and responsibilities.

Provide employee training

Provide training and clear guidelines for frontline personnel (or anyone likely to be the first point of contact with ICE) so they understand who to notify, what information to provide, and what should not be shared. Designate an HR or legal department representative to be the primary point of contact in the event of an ICE raid.

Train all employees on their rights and how to respond to ICE activity. Instruct employees to remain calm and be polite. Under federal law, employees have the right to remain silent and decline to answer questions without an attorney present. They're also not obligated to sign any documents presented by ICE agents without first consulting legal counsel. Emphasize the importance of remaining calm, avoiding confrontation, and directing ICE agents to the designated response team.

Establish protocols

Create clear, step-by-step procedures for responding to ICE audits and raids including:

- ✓ Who to notify immediately (e.g., legal counsel, executive leadership)
- ✓ Who should engage with ICE agents
- ✓ How to verify and document ICE requests



Audit and comply with employment eligibility verification

Conduct regular I-9 audits

Ensure all **Form I-9s are completed accurately** and up to date for current and former employees. As a best practice, have an attorney review as well, if possible. Address any discrepancies or missing information promptly. The idea is to flag any gaps in compliance *before* the government gets in there.

Use E-Verify responsibly

If you participate in **E-Verify**, ensure it is used consistently and in compliance with applicable laws, and that the mandatory posters, **“E-Verify Participation”** and **“Right To Work,”** are posted in a prominent location at all worksites.



Prepare for potential ICE visits

Identify public vs. private areas

Clearly define and label areas of your workplace as public or private. Ensure private areas are accessible only to authorized personnel.

Secure sensitive documents

Store immigration records, such as I-9 forms, in a secure location that is separate from personnel files or other records. Storing immigration records separately is recommended because the forms contain sensitive, personal information, and because the government may request access to these files during an audit, even after employees have been terminated.

If your I-9s are stored with employee personnel and payroll files, then you're essentially handing a government auditor an open book to your employment practices. If the files are maintained separately, the audit is limited to the requested files.

Judicial warrant

Only provide these documents (e.g., I-9 forms) to ICE if a valid judicial warrant is presented or other legal requirements explicitly mandate it. Always consult with legal counsel before releasing any sensitive employee records to ensure compliance with federal and state laws.

Notify employees

Inform employees about the possibility of ICE visits and their rights, including the right to remain silent and decline to sign documents without legal advice.

Note: *In some states, a mandatory notice of government inspections of I-9 records must be posted and/or distributed in the workplace to inform employees of the upcoming inspection (e.g., CA, IL).*

Know what to do during and after an ICE visit

During the visit

- ✓ Direct ICE agents to the designated response team.
- ✓ Request a copy of any warrant and verify its validity.
- ✓ Limit ICE's access to areas specified in the warrant.
- ✓ Write down agents' names and document what happened.
- ✓ Avoid providing more information than legally required.

After the visit

- ✓ Debrief employees about what occurred and address concerns.
- ✓ Review and fill in any blanks in your notes and documentation from the interaction.
- ✓ Consult with legal counsel to assess potential liabilities and guidance on next steps.

Stay informed and proactive

- ✓ **Monitor policy changes:** Stay up to date on local and federal policy changes, as well as any legal challenges that may impact enforcement actions in your area.
- ✓ **Engage with legal and HR professionals:** Regularly consult with immigration attorneys and **HR experts to ensure compliance** and preparedness.
- ✓ **Advocate for your employees:** Support employees by providing resources or referrals for legal assistance if they are affected by ICE activity. In the next section, we've compiled some to get you started.



Quick links and resources for employees and supervisors

Employers should provide clear guidance on rights during ICE encounters and access to legal resources. Below are some resources and links you can provide. Consider tailoring this section to include local area resources available as well.

- **National Immigration Law Center (NILC):** Resources that supervisors and HR can distribute to employees for a quick reference during workplace incidents.
- **American Civil Liberties Union (ACLU):** Offers “Know Your Rights” cards for immigrants and guidance for employers on how to handle ICE interactions lawfully. The site can be customized to the state where your business is located and by language.
- **The Coalition for Humane Immigrant Rights:** This immigrant assistance line is available from 9 a.m. to 5 p.m. to help with “Know Your Rights” issues and other immigration related questions.
- **Nonprofit organizations that provide low-cost help**
- The immigration courts have **a list of lawyers and organizations that provide free legal services**
- **The American Immigration Lawyers Association’s online directory**

A note on changing immigration policies

It’s important to note that policies surrounding immigration enforcement are subject to change. Supervisors and employees should stay informed and seek advice from qualified immigration professionals to address individual circumstances.

Employers should prepare to **adapt to a more dynamic immigration landscape**, which could involve tighter regulations, increased enforcement, and heightened scrutiny. Taking proactive steps now in planning and training are essential to ensure compliance and minimize disruption in the event of workplace ICE audits or raids.





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