

ICE Re-emphasizes I-9 Audit In 2018

Beginning in July 16, 2018, Immigration and Customs Enforcement's (ICE) Homeland Security Investigations (HSI) delivered Notice of Inspection (NOI)/audit notices throughout the U.S. HSI is enforcing its commitment to increase the number of I-9 audits to create a culture of compliance among employers according. Its worksite enforcement strategy focuses on the criminal prosecution of employers who knowingly break the law, by using I-9 audits and civil fines to encourage compliance with the law. Failure to follow the Immigration Reform and Control Act can result in criminal and civil penalties.

How to Prepare for ICE I-9 Audit

The best way to prepare for an I-9 inspection is having someone from outside your company conduct an I-9 audit. Through this audit, numerous errors are found, and corrected so that if ICE inspects your I-9 forms, the errors are seen as minor errors, for which you can be penalized. Almost every firms I-9 forms have lots of errors.

Also, not all of your employees are U.S. citizens, which causes substantive and technical I-9 errors. Employers think that by using E-Verify they are okay. While E-Verify is excellent in establishing who is authorized to work, you should know that it cannot locate substantive or technical errors on the I-9 forms.

If an ICE I-9 audit occurs, getting an attorney involved as soon as a NOI is possible can help you. An attorney helps the company negotiate a few days' extension in responding to the subpoena. They can often get the list of requested documents reduced, as well as helping you prepare to respond in a methodical and logical way.

Being prepared for a NOI/subpoena requires a company to have proper procedures in place upon hiring. The best way to have these procedures in place is having a written Immigration Compliance Policy. This policy ensures that all employees responsible for completing I-9 records on behalf of the company is properly trained to do so. For the novice, it's hard to tell the difference between a green card and a work authorization document issued to a recipient of DACA or TPS since one represents permanent work authorization that should never be reverified, and requires the employer to reverify the I-9 form upon the document's expiration.

I-9 Compliant Tips:

- Be prepared to handle an ICE worksite enforcement action and understand its dynamics;
- Conduct regular internal I-9 audits and training and be able to spot issues and fraudulent documents. Contact our office for assistance in addressing I-9 issues, audits, and developing training programs;
- Review company immigration corporate compliance programs using Sarbanes-Oxley considerations at the worksite, corporate due diligence in mergers and acquisitions, subcontractor liability, and E-Verify.

CalWorkSafety offers detailed guidance on how I-9s must be prepared and completed. We also assist with reviewing I-9 records and training employees on how to handle the I-9 process properly. For more information send an email to: dondressler1@hotmail.com or call us at: 949-533-3742.