

The New Trend Continues – ICE Audits the I-9 Forms of 1,000 Businesses

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U.S. Immigration and Customs Enforcement (ICE) continues to make good on its promise to audit employer's I-9 forms to ensure compliance with federal immigration laws. ICE served another round of I-9 Notices of Inspection (NOIs) to 1,000 businesses nationwide. Employers receiving a NOI will be given three days to prepare for a meeting with federal officials in which the company's I-9 forms will be reviewed. In addition to properly completed I-9 forms for all current and recently terminated employees, employers may be asked to turn over payroll documentation and other employee documentation.

According to ICE, this round of NOIs *“will touch on employers of all sizes and in every state in the nation, with an emphasis on businesses related to critical infrastructure and key resources.”* These businesses include those associated with agriculture and food, financial services, commercial nuclear reactors, drinking water and water treatment, postal and shipping, healthcare, and transportation. Additionally, employers may be targeted for an audit based on specific leads and information regarding allegations of hiring unauthorized workers, exploiting workers, and paying unfair wages.

This round of NOIs continues ICE's trend to investigate employer's compliance with federal immigration law through I-9 audits. The last round of NOIs was issued in February to 1,000 businesses. ICE has reported issuing over 2,300 NOIs to businesses this year. This is an increase from the reported 2,196 audits issued in fiscal year 2010 and the 1,444 audits in fiscal year 2009.

It is clear from recent events that ICE will continue auditing employer's I-9 forms. Auditing your company's I-9 forms before another round of NOIs are issued is the best way to minimize your company's risk for administrative fines ranging from \$110 to \$1100 per violation. Employers face higher fines for the knowing employment of unauthorized workers. In order to prepare for an audit, employers should conduct in-house I-9 audits, retain outside counsel to review their I-9 forms and assess their company's exposure for administrative fines, and correct any errors on I-9 forms.