

# ERICKSON COLUMN: ICE sights set on businesses

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As has been widely reported, there are roughly 12 million illegal aliens in the U.S. The reality is that the U.S. government is cracking down on them. Particularly, the government is focusing in on two areas, illegal aliens participating in criminal activities and businesses illegally employing individuals not authorized to work in the U.S. The U.S. Immigration and Customs Enforcement (ICE) has implemented Operation Predator to protect young people from child pornographers, alien smugglers, human traffickers and other predatory criminals. ICE also has similar initiatives that target gang violence, terrorism, human rights violations and intellectual property rights. What you may not know is that the government is also cracking down hard on the businesses that keep illegal aliens employed in the U.S. In case any of the business owners haven't heard, it's really important to make sure that your employees are authorized for employment before you allow them to start working.

Several recent cases illustrate just how serious the issue of employing illegal aliens has become. Last year, an investigation by the ICE office led to the arrest and conviction of a restaurant owner in Kentucky. In January 2009, the owner was sentenced to eight months in prison for knowingly employing illegal aliens.

The former CEO and other company managers at a Postville, Iowa meat packing company were charged with conspiracy to harbor illegal aliens after a widely publicized ICE raid at the plant. In addition to criminal charges, the former CEO of the company is facing tens of millions of dollars in fines.

Closer to home, in March 2008, an ICE raid at a concrete company in Manassas resulted in the arrest of 34 illegal workers. The president of the concrete company pled guilty to a pattern or practice of illegal employment of aliens without lawful authority to work in the United States. He was sentenced to one year of probation, and was ordered to pay \$122,000 in forfeiture.

In September 2008, a co-owner of El Pollo Rico restaurant in Wheaton, Maryland was sentenced to 15 months in prison, followed by three years of supervised release for money laundering and conspiracy to commit alien harboring in connection with the operation of the restaurant. Along with his sister, he was ordered to forfeit \$7.2 million derived from the illegal activities, in addition to numerous items of personal property.

These four cases present very good reasons why employers must be careful about who they hire and also diligent about having their new hires properly fill out the required paperwork. Federal law requires that an employer complete the Form I-9 when hiring a new employee. Part of completing the Form I-9 is that the employer must examine the documents offered by the employee to confirm that an employee is legally authorized to work in the U.S.

In several states, employers must also submit the social security number for all new hires to a federal database (known as E-Verify) for confirmation that the employee is authorized to work. E-Verify is a free Internet-based system operated by the Department of Homeland Security, in partnership with the Social Security Administration (SSA), that allows participating employers to electronically verify the employment eligibility of their newly hired employees. Although E-Verify isn't mandatory in Virginia (as it is in some states), employers are eligible to voluntarily participate in the program.

So what should an employer do to stay out of trouble? Simply put, do not hire individuals who are not authorized to work in the U.S. The government provides tools such as the Form I-9 and E-Verify to assist employers in hiring legal employees. Staying compliant is not difficult or time consuming, and it's well worth the effort to make sure that ICE doesn't come knocking on the door. The government is taking workplace enforcement seriously. The failure of a business to comply could mean fines or jail time.

As the government continues to release compliance programs like E-Verify, the business community needs to be prepared to show it is doing what it can to only hire those persons authorized to work in the U.S. Two practical solutions are to volunteer to participate in E-Verify or to create and implement a system for tracking and maintaining I-9 forms. It's a given that lawful hiring practices must be embraced by the business community. Diligently making sure that the Form I-9 requirements are met is one of the best defenses against ICE paying an unexpected visit.

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