



An Employer's Playbook For ICE Audits And Workplace Raids

Insights

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Immigration enforcement across the country has raised tensions at workplaces across all industries, with federal officials ratcheting up the pressure – what if your business is next? This Insight will provide you with a detailed playbook: proactive steps to take to minimize the chances that you'll face an immigration audit or raid, and practical steps to consider should immigration officials arrive at your workplace. We've also created two checklists for you to use as a recap for the key pieces of guidance.

⚠ Before We Begin: Know The Risks

Employers that commit immigration violations face significant penalties:

- **Civil Fines:** Up to \$2,861 per I-9 violation, up to \$5,724 for knowingly hiring undocumented workers, and up to \$28,619 per worker for repeat offenders.
- **Criminal Penalties:** Business leaders can face up to 10 years in prison and \$250,000 in fines for knowingly employing undocumented workers.
- **Asset Seizure:** Conviction may trigger forfeiture of assets and profits linked to the violation.
- **Loss of Government Contracts:** You could be debarred from federal contracting under an Executive Order.
- **Business Disruptions:** ICE raids can bring immediate work stoppages, trigger media attention, and disrupt morale.

📋 Take Steps To Minimize The Likelihood Of A Raid

You'll want to take proactive steps to minimize the chances that you'll face ICE enforcement activity.

[Click here for a Proactive ICE Audit and Raid Preparation Checklist.](#)

- **Establish I-9 Compliance:** Ensure every employee hired after November 6, 1986, has a complete and properly filled out Form I-9 on file. Use payroll records to verify that all required forms are on hand.
- **Conduct Regular I-9 Audits:** Regularly auditing I-9 forms is key to identifying and remedying any discrepancies. Working with your FP counsel to conduct periodic, thorough audits will help ensure that your records are accurate and up to date.

- **Employee Training:** Train your managers and HR staff on how to complete I-9 forms, recognize document issues, and take appropriate action if they suspect an employee may lack proper work authorization.
- **Establish a Rapid Response Plan:** Designate a trained “raid team” to handle ICE visits, including contacting immigration and employment counsel, monitoring compliance with warrants, and tracking actions taken by ICE agents.
- **Run Mock Scenarios:** Just like fire drills, conduct simulated audits or raids to train your team to respond calmly and correctly under pressure.
- **Consider Using E-Verify:** Although not mandatory for all employers, using the E-Verify system can bolster compliance and demonstrate due diligence in verifying employee work eligibility – and perhaps even provide you a safe harbor or a ticket to reduced penalties if a violation is found. Work with counsel to determine if this is the right approach for you.

□ Know How To Respond If ICE Initiates An Audit

The most common way in which your business might end up interacting with enforcement officials is through an audit. An ICE audit, often initiated through a Notice of Inspection, requires employers to produce I-9 forms and additional records within three days. **[Click here for an Immediate Action Steps If ICE Shows Up Checklist.](#)**

- **Contact Legal Counsel Immediately:** Your legal team can help you audit I-9s, make allowable corrections to minimize penalties and, if necessary, negotiate a short extension for gathering records. They can also work with ICE officials to streamline the audit process to keep ICE agents away from the worksite.
- **Gather and Verify Documentation:** Ensure all requested documents are organized and accurate. Along with I-9 forms, ICE may request payroll records, E-Verify confirmations, ownership information, agreements with staffing companies, and 1099s.
- **Review Findings and Correct Minor Errors:** Once the audit concludes, which could take anywhere between two weeks and several years, ICE will inform you of any issues. The best news you can hope for would be a letter indicating that you are in full compliance. If the agency only finds minor technical or procedural violations, you will be allowed to correct them within 10 business days.
- **Take Corrective Action Immediately:** If ICE identifies serious violations, such as unauthorized workers, you’ll receive a Notice of Suspect Documents. You’ll need to verify or terminate employment of affected individuals promptly. Your counsel can help clarify next steps and negotiate penalties, if applicable.

□ Know What To Do If Subjected To An ICE Raid

Raids are highly disruptive, often involving immediate inspections and potential detentions. Follow these steps to stay compliant while minimizing operational risks. **[Click here for an Immediate Action Steps If ICE Shows Up Checklist.](#)**

- **Contact the FP Rapid Response Team:** Our Employers' Rapid Response Team (877-483-7781 or DHSRaid@fisherphillips.com) is on call to provide immediate legal counsel when a raid occurs.
- **Appoint a Trained Liaison:** Identify a designated manager from your internal Rapid Response team to calmly interact with ICE officials on-site, equipped with instructions and legal contacts.
- **Request and Examine the Warrant:** Verify the search warrant's validity, ensuring it is signed by a judge. Immediately provide a copy to your legal counsel. If ICE officials have a search warrant when they arrive, they will take the position that they are entitled to immediate access to your premises and records. There is no three-day period to gather documents. ICE agents will not wait for your attorney to arrive before commencing their search.
- **Monitor but Don't Interfere:** Assign a representative to observe and document ICE's actions while maintaining a cooperative stance. Do not obstruct or engage in hostile actions, which could worsen legal outcomes.
- **Avoid Actions that Could be Construed as Harboring:** Instruct managers not to hide employees, shred documents, or provide false information. Employees should be free to speak to ICE agents if questioned but are not required to do so without legal counsel.
- **Document and Report Seized Property or Records:** Track all items and information taken by ICE and share this information with legal counsel immediately.
- **Manage Public Relations:** After a raid, determine whether a public statement is necessary and how best to communicate the event to maintain your business's reputation.

□ Don't Overlook Labor Law Protections

Even in non-union workplaces, immigration enforcement may trigger protected activity – and mishandling employee walkouts or protests could create additional legal risk.

- **Labor Law May Protect Workers:** If employees don't come to work because they fear a raid might occur, know that certain forms of collective action, including work stoppages, may be protected by the National Labor Relations Act (NLRA) – regardless of whether your workers are unionized. The NLRA generally comes into play when employees initiate action among coworkers over *work-related issues* or bring complaints *about the workplace* to management. These same protections have generally been extended to undocumented workers.
- **Know The Difference:** Employees who choose not to report for duty may be deemed to be collectively refusing to work in protest of the raids, falling under the NLRA's protection despite your legitimate interest in maintaining normal productivity levels. Conversely, those who confine

their protests to broad-based government action unrelated to workplace concerns are generally not afforded such protection.

- **Educate Your Supervisors:** Train managers to engage with employees in a neutral, supportive manner and avoid threatening discipline for legally protected concerted activity. Consider offering options for employees to discuss their concerns and encourage transparent communication to minimize potential work disruptions. Although you can instruct such employees that they will not be paid for time they spend off the job, make sure your managers know not to threaten or discipline anyone for engaging in lawful protests if they decide to walk out.
- **Rely On Your CBA:** Check any relevant collective bargaining agreements (CBAs) for provisions related to mandatory notice requirements when immigration issues arise, and to determine the full scope of information you must provide to your employees.

✓ Checklists

- [Proactive ICE Audit and Raid Preparation](#)
- [Immediate Action Steps If ICE Shows Up](#)

Conclusion

If you have any questions about these developments or how they may affect your business, please contact your Fisher Phillips attorney, the author of this Insight, or any member of our [Immigration Practice Group](#). Our [Employers' Rapid Response Team](#) (877-483-7781 or DHSRaid@fisherphillips.com) is on call to provide immediate legal counsel when a raid occurs, assist with documentation and compliance review, and provide post-raid support and strategy assistance.

Visit our [New Administration Resource Center for Employers](#) to review all our thought leadership and practical resources, and make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information.

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Checklists

- [Proactive ICE Audit and Raid Preparation](#)
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