

Worksite Enforcement:

Understand How to Manage Verification
Strategies & Negotiate Settlements in the
Minefield of Interagency Audits by ICE/ HSI,
USCIS E-Verify & OSC

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The Cornerstone of Risk Management

What is an I-9?

- ▶ All U.S. employers are required to complete Form I-9 for each individual they hire for employment in the U.S. regardless of citizenship.
- ▶ Employees must present documents to establish and verify identity and employment eligibility.

General Principles

- ▶ Employer must verify the employment eligibility of all employees hired after November 6, 1986.
- ▶ Employer must retain I-9s for 3 years after employee begins work or 1 year after date of termination – whichever is longer.
- ▶ Treat all employees the same.
- ▶ Do not commit fraud.

Common Pitfalls

- ▶ Failure to complete the I-9
 - ▶ REMEMBER: the 3-day rule is a courtesy given to employers, NOT an employee right!!!
- ▶ Document information not recorded in Section 2
- ▶ Overdocumentation in Section 2
- ▶ Date of hire not provided
- ▶ Keeping I-9s too long
- ▶ Treating “foreign” employees differently when completing I-9
- ▶ Failure to re-verify
- ▶ Preparer does not sign I-9 as required
- ▶ Inconsistencies
 - ▶ If the company has multiple locations, use the most appropriate address that identifies the location of the employer with respect to the employee and his/her Form I-9 completion

Who Enforces What?

- ▶ U.S. Immigration and Customs Enforcement (ICE)/Homeland Security Investigations (HSI)
 - ▶ ICE will look for evidence of the mistreatment of workers, along with evidence of trafficking, smuggling, harboring, visa fraud, identification document fraud, money laundering and other such criminal conduct.
 - ▶ In addition to ICE criminal investigations, HSI oversees the agency's international affairs operations and intelligence functions
- ▶ USCIS E-Verify/Monitoring & Compliance Branch (M&C)
 - ▶ E-Verify is an Internet-based system that allows businesses to determine the eligibility of their employees to work in the United States.
 - ▶ E-Verify M&C Branch does not fine employers but may refer cases of suspected misuse, abuse, and/or fraud to appropriate agencies.
- ▶ Office of Special Counsel (OSC)
 - ▶ Responsible for enforcing the anti-discrimination provisions of the Immigration and Nationality Act (INA), 8 U.S.C. § 1324b, which protect U.S. citizens and certain work authorized individuals from employment discrimination based upon citizenship or immigration status.

Employer Beware!

- ▶ In the past 4 years more than 10,000 employers have been audited.

HSI Fiscal Year 2012 Accomplishments*

- ▶ HSI made 520 criminal arrests tied to worksite enforcement investigations.
- ▶ Of the individuals criminally arrested, 240 were owners, managers, supervisors or human resources employees. They face charges such as harboring or knowingly hiring illegal aliens. The remaining workers who were criminally arrested face charges such as aggravated identity theft and Social Security fraud.
- ▶ HSI served 3,004 Notices of Inspection and 495 Final Orders, totaling \$12,475,575.00 in administrative fines.
- ▶ ICE debared 376 business and individuals for administrative and criminal violations.
- ▶ HSI conducted 2,421 IMAGE outreach presentations to 15,906 employers.

* <http://www.ice.gov/news/library/factsheets/worksites.htm>

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Also available as part of the eCourse

[Business-Based Immigration: Visas, PERM, and Worksite Enforcement](#)

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