

Employer's Guide For Immigration Worksite Enforcement Visits

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SECTION A

Know Your Rights – Immigration Worksite Enforcement Visits

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A1

Employer – Rights and Responsibilities

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ICE Worksite Raid: Employer Rights and Responsibilities

When it comes to an immigration worksite raid, preparation is critical. Even if you are meticulous in confirming the work authorization of all of your employees, Immigration and Customs Enforcement (ICE) could investigate your workplace in connection with a lead or complaint, or based on other factors. If you do not have a worksite enforcement action plan in place, consult with your immigration attorney or [seek the advice of a qualified immigration attorney](#) so that in the event ICE makes an unannounced visit, you and your employees are ready. But in the meantime, if ICE comes to your work place, be aware of the following:

- **Call Your Lawyer.** When ICE arrives at your worksite, call your lawyer immediately. The receptionist or company representative should tell the officers, “Our company policy is to call our lawyer and I’m doing that now.” Your lawyer may be able to come to the worksite quickly to assist or speak to the ICE officers over the phone.
- **Scope of Operation.** Immigration officers are free to enter any public areas of your work place, but must have a valid search warrant or your consent to enter non-public areas.
 - A valid warrant must be signed and dated by a judge. It will include a time frame within which the search must be conducted, a description of the premises to be searched, and a list of items to be searched for and seized (e.g., payroll records, employee identification documents, I-9 forms, SSA correspondence, etc.).
 - An agent will serve the search warrant on a receptionist or company representative and alert other agents to enter.
 - Your company can accept the warrant but not consent to the search. If you do not consent to the search, the search will proceed but you can later challenge it if there are grounds to do so.
 - Depending on the type of business, ICE may demand that equipment be shut down and that no one leave the premises without permission.
 - ICE may move employees into a contained area for questioning.
 - While some agents question employees, others will likely execute the search and seizure of items listed in the warrant.
- **Employer Rights and Responsibilities.** Employers have a number of rights and responsibilities during an ICE worksite raid:
 - If a search warrant is presented, examine it to ensure that it is signed by the court, that it is being served within the permitted time frame, and that the search is within the scope of the warrant – the area to be searched and the items to be seized. Be sure to send a copy of the warrant to your attorney.
 - Write down the name of the supervising ICE agent and the name of the U.S. attorney assigned to the case.
 - Have at least one company representative follow each agent around the facility. The employee may take notes or videotape the officer. Note any items seized and ask if copies can be made before they are taken. If ICE does not agree, you can obtain copies later.
 - If agents presented a valid search warrant and want access to locked facilities, unlock them.
 - Request reasonable accommodations as necessary. If agents insist on seizing something that is vital to your operation, explain why it is vital and ask for permission to photocopy it before the original is seized. Reasonable requests are usually granted.
 - Do not block or interfere with ICE activities or the agents. However, you do not have to give the agents access to non-public areas if they did not present a valid search warrant.
 - Object to a search outside the scope of the warrant. Do not engage in a debate or argument with the agent about the scope of the warrant. Simply present your objection to the agent and make note of it.

- o Protect privileged materials.
 - If agents wish to examine documents designated as attorney-client privileged material (such as letters or memoranda to or from counsel), tell them they are privileged and request that attorney-client documents not be inspected by the agents until you are able to speak to your attorney.
 - If agents insist on seizing such documents, you cannot prevent them from doing so. If such documents are seized, try to record in your notes exactly which documents were taken by the agents.
- o Ask for a copy of the list of items seized during the search. The agents are required to provide this inventory to you.
- o Company representatives should not give any statements to ICE agents or allow themselves to be interrogated before consulting with an attorney.
- o You may inform employees that they may choose whether or not to talk with ICE, but do not direct them to refuse to speak to agents when questioned.
- o Do not hide employees or assist them in leaving the premises. Do not provide false or misleading information, falsely deny the presence of named employees, or shred documents.
- o Don't forget the health and welfare of your employees. Enforcement actions can sometimes last for hours. If an employee requires medication or medical attention or if employees have children who need to be picked up from school, communicate these concerns to the ICE officers.
- **Employees Have the Right to Remain Silent and the Right to an Attorney.** Ask if your employees are free to leave. If they are not free to leave, they have a right to an attorney. Though you should not instruct your employees to refuse to speak to ICE, they also have the right to remain silent and do not need to answer any questions.
 - o Your employees do not need to answer questions about their immigration status, where they were born, or how they entered the United States. They may exercise their right to remain silent and may ask to speak to an attorney.
 - o If ICE tries to determine your employees' immigration status by asking them to stand in groups according to status, they do not have to move, or they can move to an area that is not designated for a particular group.
 - o They may also refuse to show identity documents that disclose their country of nationality or citizenship.
 - o If your employees are detained or taken into custody, be sure that their families are contacted and any money owed to the employees is paid.
- **Post-Raid Issues.** The investigation does not end after ICE leaves the premises. ICE and the U.S. Attorney will thoroughly review the items seized during the raid and the investigation, including undercover surveillance, can continue for many months.

ICE is not the only law enforcement agency that can visit or conduct an enforcement action against your worksite. The Department of Labor may also conduct an investigation, and in some jurisdictions, state and local police can act on behalf of ICE in an operation. For more information about your rights and responsibilities as an employer in the event of an ICE raid or other enforcement action or investigation at your work place, speak to a qualified immigration lawyer.

Employers should contact their legal counsel or the immigration attorneys at Fredrikson & Byron, P.A. at 612.492.7648 for more information and a full legal analysis.

The contents of this document do not constitute legal advice.



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The content on this "ICE Worksite Raid: Employer Rights and Responsibilities" document was prepared by AILA, the American Immigration Lawyers Association.

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Employee – Rights and Responsibilities:
a. Work Place b. Public Space c. Home

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Know Your Rights: If ICE Comes to Your Work Place (Employee)

All people living in the United States, including undocumented immigrants, have certain U.S. Constitutional rights. If immigration officers (ICE) come to your work place, they must have a valid search warrant or the consent of your employer to enter non-public areas. If you are undocumented and immigration officers come to your work place, be aware of the following:

- **Do not panic and do not run away.** If you are frightened and feel like you need to leave, you can calmly walk toward the exit.
 - If you are stopped, you may ask if you are free to leave. If the officer says no, do not try to exit the building.
 - If you are questioned, you may tell them you want to remain silent.
- **You have the right to remain silent.** You do not need to speak to the immigration authorities or answer any questions.
 - If you are asked where you were born, or how you entered the United States, you may refuse to answer or remain silent.
 - If you choose to remain silent, say so out loud.
 - If they ask you to stand in a group according to immigration status, you do not have to move, or you can move to an area that is not designated for a particular group.
 - You may show a [know-your-rights card](#) to an officer that explains that you will remain silent and wish to speak to a lawyer.

- You may refuse to show identity documents that say what country you are from.
- Do not show any false documents and do not lie.
- **You have the right to speak to a lawyer.** If you are detained or taken into custody, you have the right to immediately contact a lawyer.
 - Even if you do not have a lawyer, you may tell the immigration officers that you want to speak to one.
 - If you have a lawyer, you have the right to talk to them. If you have a signed [Form G-28](#), which shows you have a lawyer, give it to an officer.
 - If you do not have a lawyer, ask an immigration officer for a list of pro bono lawyers.
 - You also have the right to contact your consulate. The consulate may be able to assist you in locating a lawyer.
 - You can refuse to sign any/all paperwork until you have had the opportunity to speak to a lawyer.
 - If you choose to sign something without speaking to a lawyer, be sure you understand exactly what the document says and means before you sign it.

If you want more information about your rights or to learn if you might be eligible for immigration benefits or relief, speak to a reputable immigration lawyer. Go to www.ailalawyer.org to connect with a lawyer in your area.



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Know Your Rights: If ICE Stops You in Public

All people living in the United States, including undocumented immigrants, have certain U.S. Constitutional rights. If you are undocumented and immigration (ICE) officers stop you on the street or in a public place, know you have the following rights:

- **You have the right to remain silent.** You do not need to speak to the immigration officers or answer any questions.
 - You may ask if you are free to leave. If the officer says no, you may exercise your right to remain silent.
 - If you are asked where you were born or how you entered the United States, you may refuse to answer or remain silent.
 - If you choose to remain silent, say so out loud.
 - You may show a [know-your-rights card](#) to the officer that explains that you will remain silent and wish to speak to an attorney.
 - You may refuse to show identity documents that say what country you are from.
 - Do not show any false documents and do not lie.
- **You may refuse a search.** If you are stopped for questioning but are not arrested, you do not have to consent to a search of yourself or your belongings, but an officer may “pat down” your clothes if he or she suspects you have a weapon.
- **You have the right to speak to a lawyer.** If you are detained or taken into custody, you have the right to immediately contact a lawyer.
 - Even if you do not have a lawyer, you may tell the immigration officers that you want to speak to a lawyer.
 - If you have a lawyer, you have the right to talk to them. If you have a signed DHS [Form G-28](#), which shows you have a lawyer, give it to an officer.
 - If you do not have a lawyer, ask an immigration officer for a list of pro bono lawyers.
 - You also have the right to contact your consulate. The consulate may be able to assist you in locating a lawyer.
 - You can refuse to sign any/all paperwork until you have had the opportunity to speak to a lawyer.
 - If you choose to sign something without speaking to a lawyer, be sure you understand exactly what the document says and means before you sign it.

If you want more information about your rights or to learn if you might be eligible for immigration benefits or relief, speak to a reputable immigration lawyer. Go to www.ailalawyer.org to connect with a lawyer in your area.



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Know Your Rights: If ICE Visits Your Home

All people living in the United States, including undocumented immigrants, have certain U.S. Constitutional rights. If you are undocumented and immigration (ICE) agents knock on your door, know that you have the following rights:

- **You do not have to open the door.** You do not have to open the door or let the officers into your home unless they have a valid search warrant signed by a judge.
 - An ICE deportation warrant is not the same as a search warrant. If this is the only document they have, they cannot legally come inside unless you verbally agree to let them in.
 - If the officers say they have a search warrant signed by a judge, ask them to slide it under the door or hold it up to a window so you can see it.
 - If the warrant does not have your correct name and address on it **and** is not signed by a judge you do not have to open the door or let them inside.
 - If at any point you decide to speak with the officers, you do not need to open the door to do so. You can speak to them through the door or step outside and close the door.
- **You have the right to remain silent.** You do not need to speak to the immigration officers or answer any questions.
 - If you are asked where you were born or how you entered the United States, you may refuse to answer or remain silent.
 - If you choose to remain silent, say so out loud.
- You may show a [know-your-rights card](#) to the officer that explains that you will remain silent and wish to speak to a lawyer.
- You may refuse to show identity documents that say what country you are from.
- Do not show any false documents and do not lie.
- **You have the right to speak to a lawyer.** If you are detained or taken into custody, you have the right to immediately contact a lawyer.
 - Even if you do not have a lawyer, you may tell the immigration officers that you want to speak to one.
 - If you have a lawyer, you have the right to talk to them. If you have a signed [Form G-28](#), which shows you have a lawyer, give it to an officer.
 - If you do not have a lawyer, ask an immigration officer for a list of pro bono lawyers.
 - You also have the right to contact your consulate. The consulate may be able to assist you in locating a lawyer.
 - You can refuse to sign any/all paperwork until you have had the opportunity to speak to a lawyer.
 - If you choose to sign something without speaking to a lawyer, be sure you understand exactly what the document says and means before you sign it.

If you want more information about your rights or to learn if you might be eligible for immigration benefits or relief, speak to a reputable immigration lawyer. Go to www.ailalawyer.org to connect with a lawyer in your area.

Section B

Employer Compliance Guidance

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Immigration Corporate Compliance Plan

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Guidance on Establishing a Corporate Immigration Compliance Plan

The Department of Homeland Security's (DHS) focus on employers and employer sanctions as part of its immigration enforcement strategy requires all employers to establish an effective I-9 and immigration compliance and audit policy and an immigration worksite enforcement response plan.

Companies have different cultures, resources and needs, and it is important to take these into consideration when establishing a comprehensive corporate immigration compliance plan. While there is no "one size fits all" strategy, employers must address the following in order to develop an effective Corporate Immigration Compliance Program:

- Is there currently an effective I-9 policy?
- Is there a Social Security Administration "No-Match" Policy?
- Is the Social Security Number Verification System used and how is it used?
- Has the company registered with E-Verify, and if not, should it?
- Has the company registered with IMAGE, and if not, should it?
- Are foreign workers sponsored? If yes, are compliance files maintained?
- If you use subcontractors, are they in compliance with their I-9 obligations?

A. Is There an Effective I-9 Policy? An effective I-9 policy should include at minimum the following:

- 1. An Overall I-9 Compliance Administrator.** An I-9 compliance administrator should be designated. This person should be charged with centralized oversight, management and training regarding the compliance program. It is crucial that a culture of compliance is created within the company.
- 2. Integration with the Overall Personnel Policy, Materials and Applications.** The I-9 policy should be in writing, published and communicated to the entire workforce.
- 3. Overall Guidance on I-9 Procedures.** The policy must state that the company:
 - a. Requires the proper and timely completion and retention of Forms I-9 for all employees hired after November 6, 1986;
 - b. Will not hire individuals who do not provide the requisite and timely identity and employment eligibility documents;
 - c. Conducts timely I-9 reverification; and
 - d. Holds regular I-9 trainings for all company representatives who are part of the recruitment, orientation and hiring processes for the company.
- 4. Clarification to All Company Employees Who Have Hiring Authority or Are Part of the Hiring Process Concerning:**
 - a. Who must complete Form I-9;
 - b. When verification must be completed;
 - c. What questions may be lawfully asked prior to the actual offer of employment;
 - d. What limits may be placed on the hiring of certain individuals; and
 - e. To whom employees should be referred for guidance and assistance on I-9 verification procedures.
- 5. Guidance on I-9 Verification for Employees Charged with the Implementation of I-9 Procedures.**
 - a. How an I-9 must be properly completed, including the appropriate use of List A, B and C documents;
 - b. When further inquiry is appropriate;
 - c. What, how and for how long I-9 records should be maintained;
 - d. Whether it is company policy for the I-9 support documents to be copied;
 - e. Whether to maintain paper files or electronic signature and storage;

- f. Where the I-9 files should be maintained;
- g. When I-9s need to be reverified and docketing procedures for reverification;
- h. When the I-9 compliance administrator or legal counsel should be consulted; and
- i. When and how to process the I-9 through E-Verify, if registered with E-Verify.

6. Clear Instructions for Internal I-9 Audits. To ensure compliance and mitigate damages, the company should conduct, or arrange for legal counsel to conduct, regularly scheduled, random or tip-based internal I-9 audits. Periodic I-9 audits may also serve as training opportunities for company personnel.

B. Does the Company Have an SSA No-Match Policy?

DHS commonly requests “no-match” letters and evaluates an employer’s response as part of an I-9 audit. Accordingly, the Compliance Program should include a statement regarding its policy on SSA “no-match” letters. Specific follow-up action should be taken whenever “no-match” letters are received.

In developing its “no-match” policy, an employer should take the following into consideration:

- 1. Do Not Jump To Conclusions.** An employee should not be terminated solely on the basis of a “no-match” letter. An employer may terminate an employee for employment eligibility violations only if the employer has actual or constructive knowledge that an employee is unauthorized to work in the United States. A “no-match” letter alone does not constitute actual or constructive knowledge.
- 2. Consult with Legal Counsel.** A “no-match” letter should never be ignored. We recommend that an employer confer with counsel in determining their procedures upon receipt of a SSA “No-Match” letter.

C. Is the Social Security Number Verification System Used? The Social Security Number Verification System (SSNVS) is an online tool which allows employers to verify the names and social security numbers of its employees. The SSNVS policy should clearly state that any use of the SSNVS is for the exclusive purpose of ensuring that the employer meets its W-2 reporting responsibilities. Please note that if you use SSNVS and a no-match is received, further inquiry is required, and it must not be ignored.

D. Should the Company Register with E-Verify? E-Verify is a web-based program that allows employers to electronically verify information provided on the Form I-9, including social security numbers, with databases of the SSA and DHS. Certain federal contractors are required to register with E-Verify. In addition, employers with multi-state operations must check as to whether any of the states in which it has operations mandate the use of E-Verify. Unless or until employers are absolutely required to participate, they should exercise caution when considering E-Verify registration. E-Verify requires employers to enter into a Memorandum of Understanding (MOU) with the SSA and the DHS and imposes significant obligations and liabilities.

E. Are Foreign National Workers Sponsored for Non-Immigrant or Immigrant Visas? If yes, are compliance files maintained? Employers should include in their compliance program at least an annual audit of all immigration-related applications and petitions, which at minimum, should consist of a review of all PERM Audit Files and H-1B filings along with the LCA Public Access Folders. Just as a worksite investigation can turn into a DOL audit, a DOL audit or USCIS investigation can easily turn into a criminal worksite investigation.

The Immigration & Customs Enforcement (ICE) Worksite Investigation Response Plan

Employers should be armed with a worksite investigation response plan. The response plan should include action items in case of an I-9 audit, the execution of an outstanding warrant of removal for a particular employee and a full-blown worksite investigation.

F. A Worksite Investigation Response Plan should include the following:

- a. Instructions to employees not to provide any documentation, information or consent to enter the restricted areas of the worksite to ICE unless there is a judicial warrant issued, and, if possible, to do so only under the supervision of legal counsel or designated contact;
- b. The designation of one central point of contact for ICE or any other government agency. The name of the company’s appointed representative for the investigation and any related matters should be given as soon as contact is made with the company;
- c. The name and contact information of legal counsel. If the company’s legal counsel is not in-house, there should be written instructions for personnel to contact outside counsel immediately;
- d. The name of company officials to notify immediately of the ICE investigation or audit;

- e. Key management employees should be informed of any government investigation unless their knowledge is in conflict with the interests of the company; and
- f. Name and contact information of public relations consultant to assist the company in response to press requests and coverage of the investigation.

One of the most dangerous aspects of any worksite investigation is the lack of control an employer has over its employees and the chaos that can ensue once ICE enters the worksite. Employers must be prepared for any government investigation, whether it is by ICE or another agency. In addition to establishing the Audit/Investigation Response Plan, employers can hold worksite investigation training sessions to educate employees about their rights during an investigation.

Please contact the Fredrikson & Byron Immigration Team at 612.492.7648 for additional information.

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SSA “No-Match” Guidance Memo

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Social Security Administration “No-Match” Letters: A GUIDE TO RESPONDING



As of March 2019, the Social Security Administration (SSA) resumed sending “no-match” letters to employers. The “no-match” letters are sent when an employer has submitted incomplete information or when an employee’s name and social security number, as reported on wage reporting and tax statements, do not match SSA records. Employers who receive “no-match” letters should carefully read and follow the guidance provided by the SSA.

Responding to SSA “no-match” letters can be complex due to its intersection with IRS reporting requirements and I-9 employment eligibility verification investigations. Any considerations or actions taken beyond what is provided by SSA in its guidance should be carefully considered with guidance provided by legal counsel.

DO NOT JUMP TO CONCLUSIONS

There could be many reasons why an employee’s social security information may not match up with SSA data. An employer should not presume that the employee is unauthorized to work in the US or provided false information. The “no-match” may be due to:

- A typographical or clerical error made on Form W-2 or Form W-4;
- The worker’s name changing due to marriage, divorce or something else;
- Information provided on either Form W-2 or Form W-4 being incomplete or incorrect; or,
- Inaccurate or incomplete employer records.

An employer may terminate an employee for employment eligibility violations only if the employer has actual or constructive knowledge that an employee is unauthorized to work in the United States. A “no-match” letter alone does not constitute actual or constructive knowledge.

SOCIAL SECURITY ADMINISTRATION'S GUIDANCE

In the recent, updated “no-match” letter, the SSA provides specific guidance and resources to employers as to how they should follow up. This includes providing a link to an SSA portal with extensive resources for employers including an outline of the steps employers should take upon receipt of the “no-match” letter. The steps are:

- Register with Business Services Online (BSO) within 60 days of receiving the letter to the Employer Report Status to obtain the name(s) of employees for whom it does not have matching records or social security number (SSN) errors.
- Work with employees to resolve the error.* The SSA has provided employers with a sample letter to use to communicate to employees about the mismatched data. If an employee verifies that the employer has the correct name and SSN, the employer should ask the employee to provide any other reason for the “no-match” letter. If no explanation is given, the employer should document in its file that the company has re-verified that the information submitted to the SSA is correct and that neither the employer nor the employee can explain the discrepancy. **Employer should contact legal counsel for guidance before reaching out to employees, as our guidance is fact specific.*
- If an employer finds an error in the data reported to the SSA, then it should log back on to BSO and make corrections.
- If employees in the “no-match” letter are no longer employed, employers should just note that in their records and no further response to the SSA is required.

Whether an employer determines that its records are accurate or it takes some sort of action, the SSA does not provide further guidance as to what it should do to inform the SSA when they do not need to make corrections. It is not required to report back to the SSA after receiving a “no-match” letter. Nonetheless, an employer should document its actions internally in the event of questioning by other federal agencies (such as Immigration & Customs Enforcement (ICE)) in an I-9 audit. The documentation may include any of the following: (1) the employee is no longer employed by the company as a result of job abandonment, voluntarily resignation or involuntary termination unrelated to the “no-match” letter; (2) it appears there was an error in the company’s reporting if the correct name and SSN or; (3) the company has verified with the employee that it reported the correct name and SSN to the SSA and is unable to explain the discrepancy.

Employers can, at minimum, show good faith efforts to resolve the mismatch by following the guidance provided by SSA. Below are some other scenarios which may also arise when following up on the mismatch letters:

- **Employee Admits to False SSN:** If, upon inquiry, an employee admits to being unauthorized to work in the United States, the employer must immediately terminate the employee.
- **Employee Verifies That the Information Given is Correct but Employer Learns Additional Information:** If during investigation, an employer learns additional information which amounts to actual or constructive knowledge of unauthorized employment, it must terminate the employee. Additional information may come in the form of tips from co-workers, job abandonment or other suspect activity. If, after further investigation, and under the totality of the circumstances, an employer has actual or constructive knowledge of unauthorized employment, the employer must terminate. Please note that absent other evidence, a co-worker's tip in and of itself is insufficient grounds for termination, or even re-verification of an I-9. The determination of actual or constructive knowledge is highly fact specific, so employers should contact legal counsel before taking any adverse action against an employee.
- **Liability to IRS:** An employer has no obligation under the Social Security Act to take action or respond to the SSA and the SSA has no enforcement authority to act against an employer who fails to respond. The IRS, however, can penalize an employer for failing to report accurate information.
- **Liability to ICE:** The SSA is required by law to provide the IRS with information regarding mismatches but it does not routinely share "mismatch" information with other agencies, such as ICE. It is not clear whether this will change in the future. It does provide information to ICE, however, regarding earnings reported on social security numbers assigned for non-work purposes and other specific information relevant to ICE investigations.
- **Liability to Immigrant and Employee Rights Section of DOJ:** Employers should also be aware the DOJ previously issued the following "do's and don'ts" for employers on SSN "no-match" letters:

DO

- Recognize that name/SSN "no-match" instances can be due to simple administrative errors.
- Check the reported "no-match" information against your personnel records.
- Inform the employee of the "no-match" notice.
- Ask employees to confirm their name/SSN reflected in your personnel records.
- Advise employees to contact the SSA to correct and/or update their SSA records.
- Give employees a reasonable period of time to address a reported "no-match" with the local SSA office.
- Follow the same procedures for all employees regardless of citizenship status or national origin.
- Periodically meet with or otherwise contact employees to learn and document the status of their efforts to address and resolve the "no-match."
- Submit any employer or employee corrections to the SSA.

DON'T

- Assume the "no-match" conveys information regarding the employee's immigration status or actual work authority.
- Use the receipt of a "no-match" notice alone as a basis to terminate, suspend or take other adverse action against the employee.
- Attempt to immediately re-verify the employee's employment eligibility by requesting the completion of a new Form I-9 based solely on the "no-match" notice.
- Follow different procedures for different classes of employees based on national origin or citizenship status.
- Require the employee to produce specific documents to address the "no-match."
- Ask the employee to provide a written report of SSA verification.

In conclusion, an employer is caught in the cross-currents when receiving an SSA "no-match" letter, trapped between conflicting policies of two agencies. While ICE may require an employer to take action upon receiving a "no-match" letter, leading to the employee's termination, the DOJ's Office for Special Counsel may find that the employer has engaged in discriminatory practices. It is thus incumbent upon an employer in such a situation to consult with experienced immigration counsel to safely navigate these churning waters by designing employer policies that would be consistently applied each time the employer receives a "no-match" letter.

RESOURCES

Business Services Online (BSO)

www.ssa.gov/employer

Employer Correction Request Notices

www.ssa.gov/employer/notices.html

Employer Report Status

www.ssa.gov/employer/documents/EmpRepStat.pdf

Sample Letter Employers Can Give to Employees

www.ssa.gov/employer/notices/SSNVSampleLetter.pdf

Reasonable Cause Regulations & Requirements for Missing and Incorrect Name/TINs

www.irs.gov/pub/irs-pdf/p1586.pdf

SSA “No-Match” Guidance

www.justice.gov/crt/ssa-no-match-guidance-page

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I-9 Fast Facts and Anatomy of the I-9 Investigation Process

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I-9 Fast Facts

FORM I-9 EMPLOYMENT ELIGIBILITY VERIFICATION

The Immigration Reform and Control Act of 1986 (IRCA) requires all employers to confirm the identity and employment eligibility of any employee hired in the United States after November 6, 1986. To comply with the law, employers must complete and retain a Form I-9, Employment Eligibility Verification, for each new hire. The Department of Homeland Security (DHS) can request copies of I-9 forms from employers via a subpoena or the issuance of a Notice of Inspection. In carrying out their I-9 obligations, employers must refrain from engaging in any activities which violate any anti-discrimination laws.

I-9 COMPLETION TIPS

Effective January 22, 2017, employers must use the Form I-9 with the following notation: Form I-9 11/14/2016N. A fillable electronic I-9 as well as an I-9 print version are available online at www.uscis.gov. The difference between the two is the fillable electronic I-9 contains guidance for each fillable field, as well as drop down menus for the List of Acceptable Documents.

An employer should not begin the I-9 process until an employment offer has been made and the offer has been accepted.

I-9 DO'S

- Establish a company-wide written I-9 policy addressing I-9 procedures, SSA no-match letter follow-up procedures, I-9 audits, and re-verification procedures
- Appoint an I-9 administrator (or I-9 administrators) for the company
- Have a third-party with I-9 audit expertise conduct a semi-annual audit of the company's I-9s
- Maintain I-9 files separately from hiring and personnel files
- Maintain a consistent policy as to whether the company will or will not make photocopies of original I-9 supporting documents
- Conduct annual I-9 trainings for employees involved with the I-9 process
- Consider the pros and cons of registering with E-Verify if the company is not already required to register under state law or as a federal contractor/subcontractor
- Establish an I-9 audit response plan to ensure responsible personnel know what to do and who to call if there is a government investigation

I-9 DON'TS

- Don't assume your I-9s are perfect
- Don't complete Section 1 on behalf of employee by pre-populating the employee's data in Section 1
- Don't make specific requests for certain documents from employees to complete the I-9
- Don't use the Social Security Number Verification Service to verify I-9 information
- Don't require or accept more documents than are required for the I-9 process. Employers can be fined for document abuse or I-9 over-documentation
- Don't use white-out to correct I-9 errors. Corrections should be visible. Each correction must be dated and signed or initialed
- Don't be inconsistent in the use of E-Verify for employees if you are an E-Verify employer

I-9 RESOURCES

www.uscis.gov/i-9-central

www.uscis.gov/e-verify


Handbook for Employers, Guidance for Completing Form I-9

SECTION 1.

Employee information and attestation

A. To be completed only by the employee unless assisted by a preparer or translator.

B. Must be completed and dated no later than the first day of employment, and no earlier than the acceptance of job offer.

C. The online Smart I-9 provides helper text, , for each question on the I-9.

D. Optional unless the employer is an E-verify participant.

E. Enter 'N/A' for non-applicable questions or if you choose not to provide information.

F. Entry required if Lawful Permanent Resident ("Green Card" holder).

G. Employment eligibility must be re-verified on or before expiration date. Must also complete 4.1, 4.2 or 4.3.

H. Must be completed when a preparer or translator assists an employee in completing Section 1.

U.S. DEPARTMENT OF HOMELAND SECURITY		Employment Eligibility Verification Department of Homeland Security U.S. Citizenship and Immigration Services		USCIS Form I-9 OMB No. 1615-0047 Expires 08/31/2019	
▶ START HERE: Read instructions carefully before completing this form. The instructions must be available, either in paper or electronically, during completion of this form. Employers are liable for errors in the completion of this form.					
ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work-authorized individuals. Employers CANNOT specify which document(s) an employee may present to establish employment authorization and identity. The refusal to hire or continue to employ an individual because the documentation presented has a future expiration date may also constitute illegal discrimination.					
Section 1. Employee Information and Attestation (Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.)					
Last Name (Family Name) C		First Name (Given Name)		Middle Initial	Other Last Names Used (if any) E
Address (Street Number and Name)		Apt. No. E	City or Town		State ZIP Code
Date of Birth (mm/dd/yyyy)	U.S. Social Security Number D	Employee's E-mail Address E		Employee's Telephone Number E	
I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.					
I attest, under penalty of perjury, that I am (check one of the following boxes):					
<input type="checkbox"/> 1. A citizen of the United States					
<input type="checkbox"/> 2. A noncitizen national of the United States (See instructions)					
<input type="checkbox"/> 3. A lawful permanent resident (Alien Registration Number/USCIS Number): G F					
<input type="checkbox"/> 4. An alien authorized to work until (expiration date, if applicable, mm/dd/yyyy): G Some aliens may write "N/A" in the expiration date field. (See instructions)					
Aliens authorized to work must provide only one of the following document numbers to complete Form I-9: An Alien Registration Number/USCIS Number OR Form I-94 Admission Number OR Foreign Passport Number.					
1. Alien Registration Number/USCIS Number: G OR					
2. Form I-94 Admission Number: G OR					
3. Foreign Passport Number: G Country of Issuance: _____					
QR Code - Section 1 Do Not Write In This Space					
Signature of Employee				Today's Date (mm/dd/yyyy) B	
Preparer and/or Translator Certification (check one):					
<input type="checkbox"/> I did not use a preparer or translator. <input type="checkbox"/> A preparer(s) and/or translator(s) assisted the employee in completing Section 1. (Fields below must be completed and signed when preparers and/or translators assist an employee in completing Section 1.)					
I attest, under penalty of perjury, that I have assisted in the completion of Section 1 of this form and that to the best of my knowledge the information is true and correct.					
Signature of Preparer or Translator				Today's Date (mm/dd/yyyy)	
Last Name (Family Name)		First Name (Given Name)			
Address (Street Number and Name)		City or Town		State	ZIP Code
STOP! Employer Completes Next Page STOP!					
Form I-9 07/17/2017 N					
Page 1 of 3					

! The employer must ensure that Section 1 is completed correctly and on time.

! Employers must continue to print out and sign Form I-9 even if completed electronically. The exception is if the employer is using an electronic I-9 software program that meets regulatory requirements for electronic I-9 software programs which includes electronic signature capability.



Employment Eligibility Verification
Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-9
OMB No. 1615-0047
Expires 08/31/2019

Section 2. Employer or Authorized Representative Review and Verification

(Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine one document from List A OR a combination of one document from List B and one document from List C as listed on the "Lists of Acceptable Documents.")

Employee Info from Section 1	Last Name (Family Name)	First Name (Given Name)	M.I.	Citizenship/Immigration Status
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List A Identity and Employment Authorization	OR	List B Identity	AND	List C Employment Authorization
Document Title		Document Title		Document Title
Issuing Authority		Issuing Authority		Issuing Authority
Document Number		Document Number		Document Number
Expiration Date (if any)(mm/dd/yyyy)		Expiration Date (if any)(mm/dd/yyyy)		Expiration Date (if any)(mm/dd/yyyy)
Document Title		Additional Information		QR Code - Sections 2 & 3 Do Not Write In This Space
Issuing Authority				
Document Number				
Expiration Date (if any)(mm/dd/yyyy)				
Document Title				
Issuing Authority				
Document Number				
Expiration Date (if any)(mm/dd/yyyy)				

Certification: I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the above-listed document(s) appear to be genuine and to relate to the employee named, and (3) to the best of my knowledge the employee is authorized to work in the United States.

The employee's first day of employment (mm/dd/yyyy): _____ (See instructions for exemptions)

Signature of Employer or Authorized Representative	Today's Date(mm/dd/yyyy)	Title of Employer or Authorized Representative	
Last Name of Employer or Authorized Representative	First Name of Employer or Authorized Representative	Employer's Business or Organization Name	
Employer's Business or Organization Address (Street Number and Name)		City or Town	State ZIP Code

Section 3. Reverification and Rehires (To be completed and signed by employer or authorized representative.)

A. New Name (if applicable)			B. Date of Rehire (if applicable)	
Last Name (Family Name)	First Name (Given Name)	Middle Initial	Date (mm/dd/yyyy)	

C. If the employee's previous grant of employment authorization has expired, provide the information for the document or receipt that establishes continuing employment authorization in the space provided below.

Document Title	Document Number	Expiration Date (if any) (mm/dd/yyyy)
----------------	-----------------	---------------------------------------

I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

Signature of Employer or Authorized Representative	Today's Date (mm/dd/yyyy)	Name of Employer or Authorized Representative
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SECTION 2.

Employer or authorized representative must meet in person with employee to verify identity and employment authorization

I. Employer must complete. If using the online Form I-9, this section will automatically populate once the employee completes Section 1 and clicks "finish."

J. Employer should provide the employee with a copy of the List of Acceptable Documents but should not specify the documents to present. The fillable electronic I-9 will provide drop down menus with guidance regarding the List of Acceptable Documents.

K. To be completed by employer or its designated representative.

L. First day of employment must be entered.

M. Must be signed no later than 3 business days after the first day of employment.

N. Employer may use this space as needed for additional information relating to employment authorization, termination and/or retention date.

SECTION 3. Reverification and rehires

O. Employer must complete upon rehire if within the I-9 retention period, employment authorization re-verification, and/or name change.

P. Must be completed, if applicable, on the most current version of Form I-9. When using a new I-9 to complete Section 3, the employee name must be entered in Section 2.

! The employer or its representative must view the original documents in the physical presence of the employee.

BEST PRACTICES FOR I-9 EMPLOYMENT ELIGIBILITY VERIFICATION COMPLIANCE

In order to establish an effective I-9 compliance program, companies must take into consideration their culture, resources, and needs. While there is no “one size fits all” strategy, an effective I-9 compliance program should include at minimum the following:

1 Integration of I-9 policy with the overall personnel policy, materials and applications.

2 An overall I-9 compliance administrator.

An I-9 compliance administrator should be designated for the company. This person should be charged with centralized oversight, management, and training regarding the I-9 compliance program. The goal is to create a uniform culture of I-9 compliance throughout the company.

3 Guidance on I-9 procedures and clarification to all company employees who have hiring authority or are part of the hiring process concerning:

a. When verification and reverification must be completed;

b. What questions may be lawfully asked prior to the actual offer of employment; and

c. To whom employees should be referred for guidance and assistance on I-9 verification procedures.

4 Guidance on I-9 verification for employees charged with the implementation of I-9 procedures.

5 Clear instructions for internal I-9 audits.

To ensure compliance and mitigate damages, the company should have legal counsel conduct annual I-9 audits or, at minimum, an initial audit of all existing I-9s. An audit of the company's I-9s will allow the company to determine errors and violations being committed to determine the areas of training needed for company personnel.

Main Contacts



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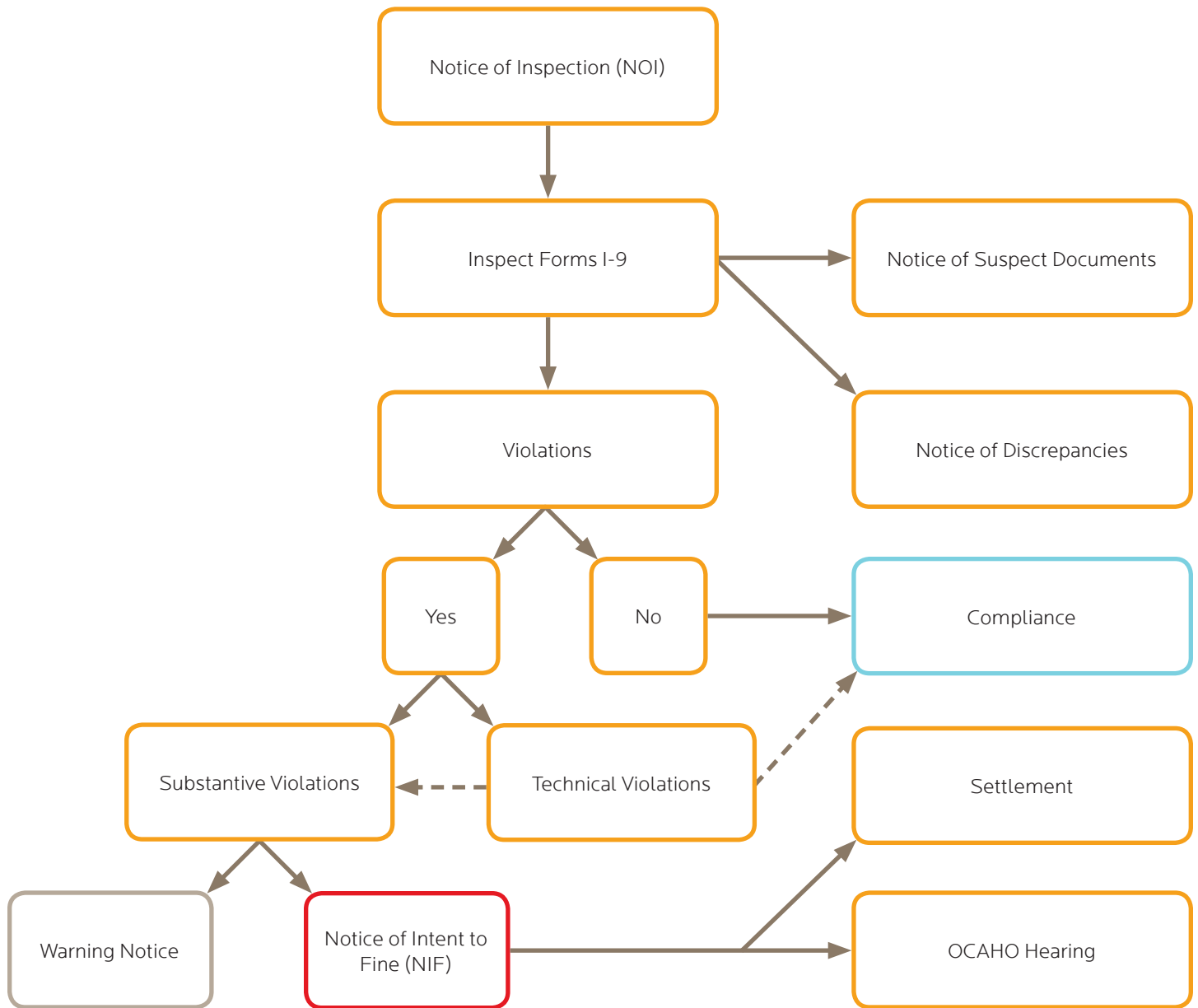
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Minnesota, Iowa, North Dakota

Form I-9 Inspection Process



Section C

Employer Guidelines for Worksite Enforcement Visits and Investigations

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C1

Guidelines When Speaking to Government Officials

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Employer Guidelines for Worksite Visits

If an investigator shows up at your company or worksite, please contact Fredrikson & Byron's Immigration Group. Do not engage in any conversations with ICE or any other government investigators except to inform the government representative the following: "It is our company's policy to contact our legal counsel if we are contacted by any government official. Please allow me to contact legal counsel to speak with you regarding your request or/any questions."

If you choose to answer the investigator's questions before legal counsel is contacted, be sure to follow these guidelines:

- Meet with the investigator in a conference room rather than in an open area or your office.
- Take detailed notes about the questions you are asked by the investigator as well as your responses.
- **Do not** let the investigator wander through the company's premises. The investigator must provide a warrant to enter non-public spaces. The investigator must tell you specifically what he or she wants to see on the premises, and you should insist that you accompany the investigator at all times.
- Take detailed notes about every place the investigator looks and what he or she specifically looks at or asks about.
- Employees have the right to speak or not speak with investigators. Inform them of this right. Do not order employees not to speak with investigators.
- Do not hide or tell your employees to leave.
- Make sure you are present during every conversation the investigator has with **any** employee.
- Take detailed notes about the investigator's conversation with any employee, including the employee's responses.
- Take detailed notes about any records you allow the investigator to review.
- If the investigator asks to inspect any records, ask the investigator to be very specific about what he or she wants to see. We do not recommend that you simply hand over files which may contain private or confidential information or information that is not specifically necessary for the investigator's stated purpose.
- Do not allow the investigator to remove any documents from the company's files. If the investigator asks for photocopies of any documents, tell the investigator you will prepare those copies after he or she leaves and that you will forward them to his or her office address.

Please contact the Fredrikson & Byron Immigration Team at 612.492.7648 for additional information.

C2

Template for Recording Meeting with ICE/DOL Visits

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Checklist For Visit From Government Investigator

Date: _____

Agency: _____

Company Location: _____

Agent's Phone Number: _____

Agent's Name: _____

Agent's Email: _____

Badge Number: _____

Office Address: _____

REASON FOR VISIT

Main Purpose:

Records he/she is requesting to see:

Individual(s) he/she wants to interview:

At this point, ask the investigator to wait while you contact the company's corporate counsel and/or one of their outside legal counsel. You have a right to seek legal counsel before speaking or providing further documentation.

Section D

FAQs and Other Resource Materials

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When ICE or DOL Visits Frequently Asked Questions

U.S. employers who employ foreign workers under non-immigrant petitions (i.e. H-1B, L-1, R-1, OPT STEM, H-2, etc.) must be prepared for worksite inspections along with I-9 investigations/audits (all U.S. employers may be subject to an I-9 investigation/audit whether they hire foreign nationals or not). The government entities with delegated powers to conduct worksite investigations related to non-immigrant petitions include the Department of Homeland Security's (DHS), United States Citizenship and Immigration Services (USCIS), Division of Fraud Detection and National Security (FDNS) and the Department of Labor Wage and Hour Division (WHD). DHS's Immigration and Customs Enforcement (ICE) is responsible for conducting I-9 audits/investigations or the unauthorized employment of foreign nationals.

These inspections by FDNS, WHD and ICE may come in the form of an unannounced appearance of an investigator at a place of business, or in the receipt of a Notice of Inspection (NOI) from ICE, informing the employer of the agency's intention to conduct an I-9 audit. FDNS and DOL have also used email communication and written correspondence to initiate and conduct such investigations. Employers who have workers through contractors working at their jobsites will also need to be prepared for inquiries and site visits from USCIS regarding the non-immigrant worker.

FREQUENTLY ASKED QUESTIONS REGARDING IMMIGRATION-RELATED WORKSITE AND I-9 INVESTIGATIONS

What do you recommend as the first step in preparing for an FDNS, ICE or WHD investigator?

We recommend that you designate, in advance, an individual as the primary person to respond to an inquiry, and select an alternate contact to stand in when the primary contact is absent. It is also a good idea to alert your receptionist and corporate counsel of the possibility of an unannounced worksite visit. Everyone who might be involved in a worksite visit should be educated as to what to expect and how to conduct themselves should one occur.

If an investigator contacts our company, what should we do first?

Ask the investigator for identification and record the individual's name, title, agency and contact information. You may also ask for his or her business card. You should request information on the nature of the inquiry.

Most of the time, investigators conducting surprise visits are from the FDNS and will not have a subpoena or search warrant, but instead will wish to simply talk to someone of authority at the company, as well as the H worker. We recommend you first speak with an attorney at our firm or your corporate counsel before answering any of the investigator's questions unless the company has already established an investigation response protocol stating otherwise. In addition, we strongly recommend confirming in advance that the H-2 employees are performing the functions described in their petitions and that the employer is following all provisions of any applicable LCA.

May I request that the investigator return later and attempt to reschedule?

If the investigator is from ICE:

An I-9 audit should be preceded by a written "Notice of Inspection," giving at least three days' notice. If the scheduled time is inconvenient, you should contact ICE promptly to reschedule within a reasonable timeframe. You should then contact legal counsel immediately to assist you in preparing for and responding to the audit.

If the investigator is from FDNS:

The law does not specifically provide any period of notice for investigations conducted by FDNS. In our experience, investigators from FDNS expect to conduct their inquiries on the day they arrive. However, your company should not be unreasonably disrupted by the unannounced visit of an FDNS investigator. If the investigator's visit has come at an inconvenient time for you, or the designated contact is not available, we suggest that you politely request the investigator return on a different day or time, and offer dates and times to the investigator for when he or she may return.

If the investigator is from WHD:

WHD officers will notify an employer verbally or through written communication before they open an investigation, although they are under no obligation to do so. The rationale is that an unannounced site visit may be needed to ensure the gathering of accurate information and “observe normal business operations.” An investigator does not need probable cause or consent to conduct an investigation. An employer can technically refuse to permit an investigation, but such action may prompt WHD to instead use their subpoena powers to gain access to the site. WHD has jurisdiction to investigate several different laws addressing fair labor standards, including provisions under the Immigration and Nationality Laws concerning, but not limited to, H-1Bs, H-2s, and E-3s, the Fair Labor Standards Act, and Migrant and Seasonal Agricultural Worker Protection Act.

What will happen during an FDNS investigation?

During an FDNS visit, the investigator typically asks to meet with a company representative as well as with the non-immigrant worker. Frequently, the investigator will be interested in viewing the actual worksite. The representative at your company should accompany the investigator at all times and take detailed notes on the questions asked of the company and employee. You should not allow the investigator to speak alone with any employee, whether they are the non-immigrant worker or any other employee, nor should you permit the investigator to roam the premises unescorted.

What questions will the FDNS investigator ask?

In general, the investigator will seek information relating to the petitioning employer; the relationship between the petitioner and beneficiary; whether the beneficiary is or will be employed in the capacity described and at the location(s) specified in the petition; and whether the beneficiary has the requisite experience and/or qualifications.

More specifically, questions from FDNS investigators have focused on the following areas:

- Details about the employer, including ownership structure, financial information, number of employees, office locations in the U.S., number of non-immigrant workers and/or recent layoffs;
- Employer policies with respect to immigration matters, including repayment agreements, hiring policies and green card policies;
- Details about the specific petition under investigation, including job title, duties, day-to-day functions, salary, work schedule, work location(s) and dates of employment; and
- Qualifications of the non-immigrant employee, including education, work experience and prior immigration history.

How can I prepare our company in advance for a visit from an investigator?

The best way to prepare for an unannounced visit by FDNS, WHD or ICE is to perform the following:

- Conduct your own internal review of the employment of all of your non-immigrant workers to be sure that their job duties, work sites and salary are consistent with the petition the company filed with USCIS. In addition, you should review the Public Access File for each non-immigrant worker to be sure it contains all of the documents required by the regulations that pertain to the Labor Condition Application (LCA). You should also verify the company is complying with all representations made in the LCA. Our firm is well-versed in the laws and regulations which govern LCAs, as well as the documents which should be maintained in the Public Access File. We can assist you in conducting your own internal audit to ensure your company has complied with these regulations. For employers who file labor condition or labor certification applications with the DOL, you should ensure you are compliant with all written obligations and assurances, including all salary and payroll obligations.
- Conduct your own audit of the company's I-9 records to ensure they have been filled out properly and are up to date. Our firm can offer you detailed guidance as to how I-9s should be prepared, as well as assist you in reviewing your I-9 records.
- Select a person from Human Resources as well as at least one other individual from the company who should be prepared to meet with any investigator should an unannounced visit occur. Provide those individuals with this memo and the checklists we have included so they can be prepared during any investigator's visit.
- Speak with your corporate counsel's office to advise them of the possibility your company may get a visit from USCIS or WHD, or receive a Notice of I-9 Inspection from ICE. Make sure you have the name of a specific attorney from your corporate counsel's office and know how that attorney can be reached at all times. Our firm can provide you with the name and contact information of one or more of our attorneys who you will be able to reach at any time.



Homeland Security

Fact Sheet: Frequently Asked Questions - Existing Guidance on Enforcement Actions at or Focused on Sensitive Locations

Release Date: July 15, 2016

[\(en Español\)](#)

Archived Content

In an effort to keep DHS.gov current, the archive contains outdated information that may not reflect current policy or programs.

<https://www.dhs.gov/news/2016/07/15/fact-sheet-frequently-asked-questions-existing-guidance-enforcement-actions-or>

U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) have made available Frequently Asked Questions (FAQs) to supplement existing guidance concerning enforcement actions at or focused on sensitive locations and clarify what types of locations are covered by these policies. ICE and CBP conduct their enforcement actions consistent with the Department of Homeland Security's November 2014 memorandum prioritizing the removal of national security, border security, and public safety threats.

The ICE and CBP sensitive locations policies, which remain in effect, provide that enforcement actions at sensitive locations should generally be avoided, and require either prior approval from an appropriate supervisory official or exigent circumstances necessitating immediate action. DHS is committed to ensuring that people seeking to participate in activities or utilize services provided at any sensitive location are free to do so without fear or hesitation.

Q: Do the Department of Homeland Security's policies concerning enforcement actions at or focused on sensitive locations remain in effect?

A: U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) have each issued and implemented policies concerning enforcement actions at or focused on sensitive locations. The [ICE Sensitive Locations Policy](#) and the [CBP Sensitive Locations Policy](#) (<http://foiarr.cbp.gov/streamingWord.asp?i=1251> – please cut and paste) remain in effect, and these FAQs are intended to clarify what types of locations are covered by those policies. ICE and CBP conduct their enforcement actions consistent with the Department of Homeland Security's [November 2014 memorandum](#), which prioritizes the removal of national security, border security, and public safety threats.

Q: What do the Department of Homeland Security policies require for enforcement actions to be carried out at sensitive locations?

A: The policies provide that enforcement actions at or focused on sensitive locations such as schools, places of worship, and hospitals should generally be avoided, and that such actions may only take place when (a) prior approval is obtained from an appropriate supervisory official, or (b) there are exigent circumstances necessitating immediate action without supervisor approval. The policies are meant to ensure that ICE and CBP officers and agents exercise sound judgment when enforcing federal law at or focused on sensitive locations, to enhance the public understanding and trust, and to ensure that people seeking to participate in activities or utilize services provided at any sensitive location are free to do so, without fear or hesitation.

Q: What does the Department of Homeland Security mean by the term "sensitive location"?

A: Locations covered by these policies would include, but not be limited to:

- Schools, such as known and licensed daycares, pre-schools and other early learning programs; primary schools; secondary schools; post-secondary schools up to and including colleges and universities; as well as scholastic or education-related activities or events, and school bus stops that are marked and/or known to the officer, during periods when school children are present at the stop;
- Medical treatment and health care facilities, such as hospitals, doctors' offices, accredited health clinics, and emergent or urgent care facilities;
- Places of worship, such as churches, synagogues, mosques, and temples;
- Religious or civil ceremonies or observances, such as funerals and weddings; and
- During public demonstration, such as a march, rally, or parade.

Q: What is an enforcement action?

A: An enforcement action covered by this policy is any action taken by ICE or CBP to apprehend, arrest, interview, or search an individual, or to surveil an individual for enforcement purposes.

Actions not covered by this policy include activities such as obtaining records, documents, and similar materials from officials or employees, providing notice to officials or employees, serving subpoenas, engaging in Student and Exchange Visitor Program (SEVP) compliance and certification visits, guarding or securing detainees, or participating in official functions or community meetings.

Q: Will enforcement actions ever occur at sensitive locations?

A: Enforcement actions may occur at sensitive locations in limited circumstances, but will generally be avoided. ICE or CBP officers and agents may conduct an enforcement action at a sensitive location with prior approval from an appropriate supervisory official, or if the enforcement action involves exigent circumstances.

Q: When may an enforcement action be carried out at a sensitive location without prior approval?

A: ICE and CBP officers may carry out an enforcement action at a sensitive location without prior approval from a supervisor in exigent circumstances related to national security, terrorism, or public safety, or where there is an imminent risk of destruction of evidence material to an ongoing criminal case.

When proceeding with an enforcement action under exigent circumstances, officers and agents must conduct themselves as discreetly as possible, consistent with officer and public safety, and make every effort to limit the time at or focused on the sensitive location.

Q: Are sensitive locations located along the international border also protected?

A: The sensitive locations policy does not apply to operations that are conducted within the immediate vicinity of the international border, including the functional equivalent of the border. However, when situations arise that call for enforcement actions at or near a sensitive location within the immediate vicinity of the international border, including its functional equivalent, agents and officers are expected to exercise sound judgment and common sense while taking appropriate action, consistent with the goals of this policy.

Examples of operations within the immediate vicinity of the border are, but are not limited to, searches at ports of entry, activities undertaken where there is reasonable certainty that an individual just crossed the border, circumstances where DHS has maintained surveillance of a subject since crossing the border, and circumstances where DHS is operating in a location that is geographically further from the border but separated from the border by rugged and remote terrain.

Q: Are courthouses sensitive locations?

A: Courthouses do not fall under ICE or CBP's policies concerning enforcement actions at or focused on sensitive locations. However, enforcement actions at courthouses will only be executed against individuals falling within the public safety priorities of DHS's immigration enforcement priorities set forth in the November 20, 2014, memorandum from Secretary Johnson entitled Policies for the Apprehension, Detention, and Removal of Undocumented Immigrants. Such enforcement actions will, absent exigent circumstances, not lead to arrest of non-targeted individuals and will, wherever practicable, take place outside of public areas of the courthouse.

Q: Where should I report a DHS enforcement action that I believe may be inconsistent with these policies?

A: There are a number of locations where an individual may lodge a complaint about a particular DHS enforcement action that may have taken place in violation of the sensitive locations policy. You may find information about these locations, and information about how to file a complaint, on the DHS, CBP, or ICE websites.

You may contact ICE Enforcement and Removal Operations (ERO) through the Detention Reporting and Information Line at (888)351-4024 or through the ERO information email address at ERO.INFO@ice.dhs.gov, also available at <https://www.ice.gov/webform/ero-contact-form>. The Civil Liberties Division of the ICE Office of Diversity and Civil Rights may be contacted at (202) 732-0092 or ICE.Civil.Liberties@ice.dhs.gov.

You may contact the CBP Information Center to file a complaint or compliment via phone at 1-877-227-5511, or submit an email through the website at <https://help.cbp.gov>.