

Alert! July 2009...U.S. Immigration and Customs Enforcement officials (ICE), launch a nationwide crackdown of employers suspected of knowingly employing illegal workers. The ICE roundup included 652 Notices of Inspections (NOI) being hand delivered to suspect businesses around the country including twenty-seven in the Northwest. Of particular interest to ICE are agriculture, construction and landscaping businesses.

An ICE inspection (audit) at a minimum involves a review of the I-9 Form and backup documentation. The I-9 is a form that every employer is required by law to have on file for each individual they employ. It is used to verify the identity of a new employee and document that the new employee is legally authorized to work in the United States. In case you hadn't heard of this form...you're not alone...after a series of calls to the folks at Labor & Industries, Employment Security, Department of Revenue and even the Secretary of State's Office none of which seemed to know what I was inquiring about leads me to believe they don't know what it is either. And **NO** the I-9 form isn't included in the mountains of paperwork they send you!

An ICE audit can involve more than an I-9 review. A local Puyallup business received their hand delivered NOI with an attached two page subpoena. The subpoena required the employer to deliver copies of their I-9 documentation, monthly payroll reports, independent contractor rosters, 1099s, and Social Security Administration Employer Correction Requests – dating from 2006 to present to the ICE office in Seattle. And they (the employer) were given a whole 4 days to comply! In case you don't know who ICE is, they are the powerful investigative arm of the Department of Homeland Security and they have the authority

Unlike audits of the past, the targeted businesses were identified from tips and reports by current or former employees, governmental or law enforcement agencies, undercover agents, confidential informants and surveillance. This initiative is all part of the Department of Homeland Security's new strategy to pursue evidence and build cases against the employers before going after the workers.

Among the most significant of the new guidelines is one in which agents are instructed to “obtain indictments, criminal arrest or search warrants or a commitment from the U.S. attorney's office to prosecute the targeted employer, before arresting employees for civil immigration violations at a work site.” Civil penalties can range from \$110 to \$1,100 (per each employee) for failing to properly complete the required I-9 Forms. Penalties can grow to \$11,000 or more quickly and include jail time for knowingly hiring an unauthorized alien. And ICE isn't making idle threats! News Releases are added daily to the ICE website announcing their latest arrests and triple-digit fines.

So how do you comply? Here's the short version of what you need to do:

- Complete a one page I-9 form each time you hire any person to perform labor or services in return for wages. It's that simple! You can find the I-9 Form at www.biaaw.com.

One page sounds simple enough! But leave it to the government to create a 58 page booklet that not only tells you what you “must” do they go a step further and tell you all the things you absolutely “cannot” do. And no, that's not a joke...only the federal government could take 58-pages to explain how to fill out a 1-page form. You can view and download a copy of this 58 page booklet also on the BIAW website.

The I-9 crackdown is one piece of debris swirling in the tornado of immigration (enforcement vs reform) which includes a turf-war between the Social Security Administration and the Department of Homeland Security over the no-match rule; and requiring federal contractors and subcontractors to use an electronic government program aimed at keeping them from hiring illegal workers.

Bottom line, the simplest way to avoid getting caught in the storm – fill out an I-9 for every employee. In next month's issue we'll cover, Know Your Rights! What you should do if an ICE official serves you or your employees with a search warrant.