

Preparing for an ICE Workplace Visit: An Employer Compliance Perspective

As your PEO/EOR partner, we help ensure your business stays compliant with U.S. employment and immigration laws, including the proper completion and maintenance of Form I-9s. U.S. Immigration and Customs Enforcement (ICE) can arrive at a workplace unexpectedly to audit I-9 records, investigate specific employees, or conduct a worksite enforcement action (“raid”). A well-planned response not only protects your organization’s legal rights but also minimizes operational disruption and safeguards your employees.

The following guide outlines proactive steps– from I-9 documentation audits to legal preparedness plans, communication protocols, and staff training– so your team knows exactly what to do before, during, and after an ICE visit. With the right plan in place, you can navigate these situations confidently, compliantly, and with minimal risk.

U.S. Immigration and Customs Enforcement (ICE) can visit a workplace for many reasons, including:

- Issuing a Notice of Inspection to audit Forms I-9.
- Looking for or investigating a particular employee or group of employees.
- Conducting a worksite enforcement action, commonly known as a raid.

What to Do to Prepare for an ICE Visit

1. Ensure Your Documentation Is in Order (Supported by In2America for fully managed PEO and EOR Services)

- ☐ Designate a team or individual to be responsible for managing Form I-9 compliance.
- ☐ Conduct an internal I-9 inventory audit to determine if you are missing I-9s or missing work authorization updates (only where necessary).
- ☐ If using electronic I-9s, understand the rules and regulations associated with their completion, electronic storage, digital signatures, and security.
- ☐ Partner with immigration compliance experts to audit and remediate your I-9s as needed:
 - Outside, experienced legal counsel can ensure your audit is privileged and will also assist with the necessary remediation.

2. Develop a Preparedness Plan with Legal Counsel

- ☐ Partner with immigration legal experts to draft a plan to address each type of ICE visit.
- ☐ Share the plan or an advisory with relevant supervisors or managers to ensure they are familiar with their responsibilities, including:

- How to determine the nature of the ICE visit (whether it is an I-9 Notice of Inspection audit vs. looking for someone)
 - What to do in the case of an ICE visit.
- ❑ Outline clear steps to reduce confusion and ensure everyone's rights are upheld. The plan should include:
 - Direction on the level of cooperation the company will offer to ICE, where appropriate
 - What information managers or supervisors may be providing to nonsupervisory staff during a visit or enforcement action.

3. Establish Communication Procedures

- ❑ Assign responsibilities for key personnel such as an HR representative, security, and reception in the event of an ICE visit.
- ❑ Create a "cheat sheet" with concise, step-by-step instructions for how to respond, including who to call first and second, where to keep the ICE agents, for those who may encounter the agents first.
- ❑ Ensure the staff assigned to address ICE understands their rights and responsibilities during an ICE visit.
- ❑ Ensure internal legal (where applicable), and external counsel are notified.
- ❑ Designate executives or managers to meet ICE agents at the entrance, or where necessary, and accompany them in your workplace.

4. Provide Training Materials for Staff

- ❑ Organize training materials for security, reception, HR personnel, and other staff members to prepare them to handle ICE (and other law enforcement) visits professionally and within legal bounds.
 - Ensure security or reception staff are trained to identify what agency is on site and what the purpose is of their visit.
- ❑ Include company directives regarding rights and responsibilities in the event of an ICE visit.
- ❑ Your Preparedness Plan should include these directives. *Note: Some companies may wish to cooperate more than others in situations where there is no judicial warrant involved.*
- ❑ Train staff to ensure no documents are provided to ICE during a visit.
- ❑ Ensure training materials include state-specific mandates where necessary (e.g., in California, Illinois, and Oregon).
- ❑ Equip teams with knowledge about necessary documentation (e.g., what constitutes a valid warrant versus an administrative subpoena) and how to respond appropriately under guidance from company counsel.

CHECKLIST: What To Do During an ICE Workplace Visit

It is critical to have a structured response plan to ensure the company remains compliant while protecting its legal rights. This guide outlines key steps you should take to handle an ICE visit efficiently, minimize disruption, and coordinate with legal counsel. Proper preparation will help the company navigate the situation professionally and in accordance with the law.

- ☐ **Alert your designated attorney and internal legal department (if applicable) immediately:** Attorneys can provide direction and clarification.
 - Legal counsel will also coordinate communications and ensure conversations are privileged.
- ☐ **Alert management immediately:** If ICE agents arrive, security or reception staff should notify a designated manager immediately.
 - Follow the emergency plan your company has put into place.
- ☐ **Stay calm and professional:** Be respectful and composed.
- ☐ **Verify the agent's identity:** Ask for identification from the lead special agent and confirm the agency they represent.
- ☐ **Get contact information:** Write down their contact details or take photos on your phone.
- ☐ **Verify the agents' reason for the visit:** Ask them to clarify the reason for the visit. This will result in one of two options:

1. If ICE is serving a Notice of Inspection (NOI), you will be asked to sign a Certificate of Service.

- ☐ Do not provide any documents to ICE.
- ☐ Remember that all companies have three days to respond to an NOI.
- ☐ If you are served an NOI, the visit with ICE will be direct and short.
- ☐ The designated HR representative should take the lead in interacting with the agent and/or auditor.
- ☐ The representative must contact legal counsel immediately to respond to the NOI — this should never be handled without representation.

2. If ICE is seeking an individual or conducting an enforcement action, you will take the following steps.

- ☐ **Request and review any warrants or subpoenas:** A judicial warrant or subpoena differs from an administrative warrant or subpoena.
 - Agents cannot enter private areas of the business unless they have a judicial warrant.
 - If agents request access beyond public areas, ask to see the warrant, take a photo, and send it to legal counsel.
 - Do not allow agents to enter private areas or search documents or files without a valid warrant.

- ❑ **Follow your preparedness plan for answering questions and providing information.**
 - Politely inform agents that the designated manager and legal counsel must be consulted before proceeding.
 - In the very unlikely event of an ICE raid, the lead special agent will be looking for the person managing the worksite.
 - ICE may attempt to speak with employees without a warrant, but the company can refuse to make employees available.
 - ICE can wait outside to speak with employees. They also have access to public areas, including some company parking lots.
 - Your preparedness plan should define your level of cooperation and how to respond to ICE's inquiries.
 - **Example:** If ICE wants to meet with an employee but lacks a warrant, will the company facilitate the meeting?
- ❑ **Limit access to areas and documents:** Escort agents to a private area, away from employees and the public.
 - Do not allow ICE agents to enter nonpublic areas without legal authorization; ICE must have search warrant (signed by a judge) or employer consent to enter nonpublic areas.
 - Do not provide documents unless legally required by a judicial subpoena.
 - Prevent agents from accessing areas outside the scope of the warrant.
 - Accompany ICE agents to any areas specified in the warrant.
- ❑ **Inquire about employee rights:** Employees have the right to refuse to answer questions from ICE agents.
 - If ICE agents are questioning employees, confirm whether they have been informed of their rights, including the right to remain silent and the right to legal representation.
 - If a manager or supervisor requests an attorney, the interview should cease. However, ICE may still choose to interview nonsupervisory employees without the company's consent.
 - If you are confused in any way, advise the agents that you need to speak to the company counsel.
- ❑ **Ensure the safety of your employees:** Where appropriate, ICE will accompany a manager to shut down machinery and talk to employees.
- ❑ **Document:** Take thorough notes of what is happening and share this information with leadership as soon as possible.

- Record the names of all agents involved, to the extent possible. In a true worksite action, focus on the lead special agent.
 - If possible, take photos or videos (without interfering with enforcement actions).
 - Request a list of any documents or items seized.
 - If employees are taken into custody, record their names and any other identifying information if possible.
- ❑ **Do not attempt to conceal, lie, or mislead:** Avoid providing any misleading information or attempting to hide information (or people) that ICE is entitled to review (or meet with) because this can lead to criminal charges.
- Altering, destroying, creating false, or tampering with documents requested by ICE can lead to criminal charges.
 - Businesses must not pre-emptively discard, modify, or create records during a visit or in anticipation of a potential request from ICE or any other law enforcement agency, even if no formal request has been made.

After the ICE visit, be mindful of possible impacts on your employees and co-workers. Consider whether there are any resources that are appropriate to provide in connection with the results of the visit. Reinforce company values of inclusion and security for all employees.

Additional Resources:

[Employers Rights and Obligations – Ice Enforcement \(by Morgan Lewis\)](#)

[What Employers Should do if ICE issues a Notice of Inspection \(NOI\) – Wilentz Attorneys](#)

[US Immigration and Customs Enforcement – Form I9 Inspection](#)

[FAQ: How Employers can Prepare for US Immigration and Customs Enforcement Audits and Raids \(Holland & Knight\)](#)

Note: This information has been compiled through several sources from HR and professional groups and is not considered legal advice.