

# *Immigration Crackdown:* Increased I-9 Enforcement Calls for Immediate Steps by Employers

Presented by



**Jaime Lizotte**  
HR Solutions Manager



**Shanna Wall, Esq.**  
Compliance Attorney



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Welcome! Before we get started ...

- Use the chat box on the left to ask questions
- If you are having audio trouble, please message us in the chat box, and we will do our best to assist you



# What We Will Cover

- Likely outcomes of the Trump administration's immigration plan
- Proactive measures to ensure your I-9 records are compliant
- Legal actions you can take to limit the scope of an I-9 audit
- Best practices to protect your rights and your business



# Likely Outcomes of the Administration's Immigration Plan



# What Do We Expect to Happen?

- 10,000 additional ICE officers to be hired
- Local agencies empowered to enforce immigration policies
- Huge surge in ICE immigration investigations and I-9 audits

# What's at Stake?

- Recordkeeping offenses can result in a fine of up to \$2,156 per violation
- Knowingly hiring unauthorized workers can result in fines of up to \$4,313 per worker for first offense
- Fines can exceed \$20,000 for repeated offenses, and can escalate to prison time



# Cases in Point

California companies **Paragon Building Maintenance** and **Pegasus Building Services Company** requested lawful permanent residents to show their “green card” during the I-9 process . The companies also required these employees to reestablish work authorization when their Permanent Resident Cards expired.

**Penalty:** The companies had to pay a civil penalty of \$115,000 and set up a back-pay fund of \$30,000 to compensate workers who lost pay.



# Cases in Point

**Keegan Variety** – a convenience store in Maine – was charged with not completing I-9 forms for their two employees after an unannounced government inspection.

**Penalty:** ICE penalized the owners \$888.25 per employee, for a total of \$1,776.50.



# Cases in Point

**Hedges Landscape Specialists** of Crestwood, KY, was investigated after undocumented workers were reported. ICE raided and found 12 illegal immigrants.

**Penalty:** The business owner was sentenced to five months probation and forced to forfeit \$147,813 seized from his corporate bank accounts. In addition, the owner was personally penalized \$24,000, and the business fined \$48,000.



# Before We Get Started ... A Quick Poll

Do you know when the most recent  
Form I-9 change occurred?



# Conduct a Self-Audit of Your I-9 Forms



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# Objectives of the Self-Audit

- Identify and correct mistakes and omissions
- Eliminate records you are no longer required to keep
- Ensure you are not inadvertently employing an undocumented worker



# How to Audit Your I-9 Records

1. Make sure you have a Form I-9 for every employee currently employed.
2. Review each I-9 to make sure all information is complete (including basic information such as your business name and address).
3. Check each form to make sure you have accepted and recorded the proper combination of List A, B and C documents (one item from List A, OR a combination of one item from List B and one item from List C).



# How to Audit Your I-9 Records

4. Make sure you have not recorded (or filed copies of) more, or different, documents than required.
5. If you keep photocopies of documents presented by employees, make sure you keep copies for all employees.
6. Check expiration dates of documents listed in Section 2 (and work authorization status in Section 1) and make sure re-verifications are tracked and completed on time.
7. Discard I-9 forms you are no longer required to keep under the three-year/one-year retention rule.



## Poll #2

Do you currently participate in E-Verify voluntarily for all new employee hires?

# What to Do if You Uncover a Problem

- If you are missing a Form I-9 for an employee ... ask the employee to complete Section 1 of the Form I-9 immediately and present documentation.
- If an employee has been working without documentation authorization ... ask the employee to provide documentation immediately.

*In either case, if an employee cannot present proper documentation, you should terminate the employee.*

# Form I-9 Retention Guidelines

## Example:

Dan was hired on 07/10/14 and terminated on 03/23/17.

### Step 1: Identify the hire date and add three years

$07/10/14 + 3 \text{ years} = 07/10/17$

### Step 2: Identify the termination date and add 1 year

$03/23/17 + 1 \text{ year} = 03/23/18$

### Step 3: Compare the two dates

Compare 07/10/17 and 03/23/18

**Result:** The later date is 03/23/18.



# Protecting Your Legal Rights During an ICE Audit



## Poll #3

Should ICE conduct an audit of your business how confident are you that you are properly prepared?

# 1. Ask Questions ... Politely

- Stay calm, listen and gather information
- Ask the investigator the purpose of the investigation
- Record the investigator's information
- Don't offer any information

## 2. Request Time to Prepare

- You are entitled to a three-day period to prepare, unless there is a search warrant
- Always keep Form I-9s together in one place, filed separately from all other employee records
- Don't let the investigator pressure you into waiving your three-day notice period

## 3. Insist on an On-Site Review

- Don't allow investigators to take copies or original I-9 records from your premises
- If the investigator insists on taking the forms, seek legal advice
- No matter what - **NEVER** release any original documentation without making complete copies for your own files

## 4. Provide Only What's Required

- Give the investigator the Form I-9s only - nothing more
- Insist on a subpoena if the investigator asks to see other records
- A search warrant is needed if the investigator wants to search the premises (other than public areas)
- If there is a subpoena or warrant, read it carefully and make a copy

## 5. Be Friendly, but Stand Firm

- Establish and maintain a positive working relationship with the investigator
- Use a polite, respectful tone
- Always express willingness to cooperate
- Don't be afraid to assert your rights

# What About Employee Interviews?

- Meet with employees prior to them talking to the investigator
- Inform employees that your company plans to comply fully with the investigation
- Encourage them to be truthful ... but also to not volunteer information
- Explain their rights
- Do not interrogate them after the interviews but listen if they want to talk

## Poll #4

Based on recent events, how concerned are you about getting audited?

# ComplyRight I-9 Solutions

- Form I-9 (paper or downloadable)
- Self-Audit Correction Form

**Employment Eligibility Verification**  
U.S. Citizenship and Immigration Services  
Form I-9  
OMB No. 1625-0047  
Revised 08/14/16

**I-9 Self-Audit Correction Form**

Employee Name: \_\_\_\_\_ Department: \_\_\_\_\_

During a self-audit of our I-9 Forms, we discovered and corrected the following error(s):

- Our documentation (List A, B and C) was filed out.
- List A - document title, issuing authority, document number or expiration date is missing or incorrect.
- List B and C have insufficient document information or missing expiration date(s) where applicable.
- Two documents from the same list are used in List B and List C. It must be one document from List B and one document from List C.
- Document has been recorded under the wrong list. Documents from List B are to be written under List B, Same for List C.
- Certification section is not filled in.
- Missing signature, printed name, title, business/organization name and address, or date the employee signed.
- Other: \_\_\_\_\_

In order to repair the error(s), we took the following action:

Things to Know When Making Corrections

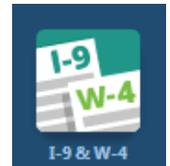
- ✓ When correcting a file, it is important that the form reflect that it has been audited. You should use "audit" on the I-9, preferably on the top of the form, and check the audit correction form reflecting what was corrected.
- ✓ Do not use white-out, correction tapes, or black marker to cover up wrong information on the I-9 form. Instead draw a single line through the incorrect information on the I-9 form, and then add the new information. Always initial and date the correction with the current date.
- ✓ Use different colored ink than the original ink used.
- ✓ Only the employer (or their representative) may make corrections to Section 1 of the form. The employee should follow the above instructions when correcting information in Section 1.
- ✓ Do not cover any changes made on the form. Doing so may lead to increased liability under federal investigation laws.
- ✓ If you cannot correct the existing I-9 form and need to complete a new one, keep the old form. You should also attach the self-audit correction form to the new and old I-9 forms, making the reason for your action.

Signature of Employer's Representative: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Print Name of Employer's Representative: \_\_\_\_\_

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# Questions



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