ABIC American Business Immigration Coalition | Mehlman Jacobs LLP

This resource is meant to support employers in ensuring that they are in compliance with existing regulations while protecting their employees and their operations.

There are 3 primary tools that an Administration can use for enforcement purposes:

1. **SSA No Match Letters**
2. **Form I-9 Audits**
3. **Worksite ICE Raids**

Consequences:

MONETARY PENALTIES (Subject to Change)

- Knowingly Hire and Continuing to Employ violation: $676-$5,404/per violation
- Substantive and Uncorrected violation: $272-$2,701/per violation
- Subsequent offenses range: $5,404-$27,018/per violation

DEBARMENT

- Knowingly Hire and Continuing to Employ: Employer is prevented from participating in future federal contracts and receiving other government benefits
- **CRIMINAL PENALTIES** - Pattern of hiring unauthorized workers

1- SSA No Match Letters

What is it

- SSA will send employers a letter if the Social Security Number and name do not match up on their records. As of now, SSA and ICE do not share data, so there is no reason to believe receipt of no match letters will lead to immigration enforcement

How to prepare

- No need to prepare

What to do if it happens

- **DO** follow directions on the letter (if any) to correct the discrepancy
- Receiving a no match letter is not a statement about your employee's immigration status
- **DO NOT** fire or take adverse action against an employee simply because you received a letter. **This can be a violation of labor protection laws**

2- Form I-9 Audit

What is it

- You are required to fill out and keep Form I-9s for all employees. At any time, ICE can request to see your I-9s to look for discrepancies or for unauthorized labor. In the process they will fine employers for errors and violations.

How to prepare

- Get rid of old I-9s - You must keep I-9s for one year AFTER an individual's employment ENDS or three years AFTER date of hire, WHICHEVER IS LATER
- Do a self-audit of your I-9s and correct any mistakes you find
- When making a correction, single line strikethrough fields with errors and correct those fields on a fresh I-9 that you attach to the old one. If necessary, attach a short explanation of the error, the correction made, and why
- DO NOT use white out or correction fluid on your forms

What to do if it happens

- You have 72 hours before you need to turn over your I-9s - Do not hand them over immediately (unless they have a warrant)
- Contact an immigration employment attorney right away
- Make copies of everything before turning in your forms
- Only turn over the forms requested

3- Workplace ICE Raid

What is it

- ICE Agents can come to your business and question employees and detain those suspected of being undocumented. Those detained will go through a legal deportation process.

How to prepare

- Create a company wide plan for how to respond to a raid - appoint a point person - one per shift and per site
- Make sure your employees know the plan, and managers are well versed in executing the plan
- Facilitate know your rights and raid preparation trainings for your employees
- Have access to an immigration employment attorney
- Join the ABIC employer preparation network so you can refer your employees to local organizations that do legal representation and deportation defense

What to do if it happens

- Determine whether ICE has a judicial warrant and the legal right to enter your business
- If they have a warrant, check the scope of the warrant
- If they do not have authorization, do not let them into private areas
- Contact your immigration employment attorney right away
- Capture as much information from the agents as possible (badge numbers, names, what they asked, where they looked, etc.)
- Have employees refer all questions to the point person for that shift
- Do NOT panic, run away, or lie to officers or interfere with their activities