

Increased Form I-9 Inspections

February 21, 2011

A representative for Immigration and Customs Enforcement (ICE) has announced that in the next few days, ICE agents will be serving notices on 1000 businesses to inspect the Employment Eligibility form commonly referred to as the I-9 form ("I-9"). The Immigration and Customs Enforcement Agency has been given worksite enforcement guidelines by the Department of Homeland Security (DHS) to focus their resources on criminal prosecution of employers who knowingly hire illegal workers. ICE will conduct on-site audits of I-9 forms for accuracy and completeness. An additional 1500 inspectors were added to the agency's workforce this year in order to carry out the new DHS guidelines. Several of our clients have already been visited by ICE inspectors!

You should be aware that inspectors have the legal right to inspect your forms, but you have certain rights as well. WorkLife HR is available to support you, should you be targeted for an inspection. Provided below are a few tips to guide you through the visit, and to inform you of your rights, should an ICE agent come to your premises unannounced:

1. Ask the inspector if he or she has a search warrant. If the inspector does not, you can and should request that the inspector return at another day to allow you time to gather all the documents that have been requested. Under the guidelines, employers should be given at least a 72-hour (3 business days) advance notice before the inspection. You also may request an extension of time to produce the forms. Please do not waive the right to the minimum three days' notice, as it will provide ample time for both you and WorkLife's HR support team to organize the documents and prepare for the visit. Notify the WorkLife HR department immediately of the visit.
2. Unfortunately, if the inspector has a search warrant, a request for additional time will be denied. The documents must be produced immediately. In the event there is a search warrant presented, notify the WorkLife HR department and your attorney immediately.
3. A written notice of inspection should be made available to the employer outlining what specific documents are being requested for review. If you are not handed one by the inspector upon arrival, be sure to request a copy. The written notice of inspection will contain a waiver of the three-day notice requirement. We again recommend that you do not sign this waiver or waive your rights to the three-day notice.
4. The employer has the right to have a company representative present during the review of documents. If the inspector has agreed to return at a later date, be sure you make this request before he or she leaves the premises.
5. If the inspector has requested documents to be taken off-site, be sure to create a detailed list of what documents have been provided to the agent. Again, unless the inspector has a search warrant, do not provide any documents to the inspector on the day that he or she comes unannounced. You can provide the documents to the inspector within the three-day window.
6. As soon as feasibly possible, but no later than the day the ICE agent visits, you should contact WorkLife HR to let us know of the arrival of an agent. Remember to provide us with a copy of all documents given to you by the agent as soon as possible. This will enable us to provide you with the best direction possible, given your particular circumstances.

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Employer Alerts to keep you, our Valued Client, in the know...

IMPORTANT: This document is designed to provide a general overview of the subject. It does NOT attempt to cover all of the law's provisions and should NOT be used as legal advice for implementation activities. We encourage you to seek professional advice, including legal counsel, regarding how the new requirements will affect your specific circumstances.

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