

## **ICE Investigation Blitz Targets 652 Businesses**

**July 2, 2009**

U.S. Immigration and Customs Enforcement (ICE) yesterday launched a nationwide blitz of worksite inspections with the issuance of Notices of Inspection (NOI) to 652 businesses. According to ICE, “the 652 businesses being presented with a NOI today for a Form I-9 audit have been selected for inspection as a result of leads and information obtained through other investigative means. Due to the ongoing, law enforcement sensitive nature of these audits, the names and locations of the businesses will not be released at this time.”

### **Background**

Statements from the Obama administration over the past several weeks have indicated a shift in ICE’s enforcement efforts, from dramatic worksite raids focusing on detention of unlawful workers to investigation and prosecution of employers who engage in unlawful hiring practices leading to an illegal workforce. During the late 1980s and 1990s, federal efforts at worksite enforcement were largely anemic, with I-9 audits resulting in administrative fines that many employers viewed as a cost of doing business. In the past several years, federal enforcement shifted to dramatic worksite raids involving the detention and deportation of thousands of undocumented workers; however, many viewed this policy as focusing too little on the employers who benefited from and sometimes exploited or encouraged the use of undocumented workers. This recent ICE initiative appears to be a synthesis and invigoration of past enforcement efforts. Recent congressional appropriations ensure that this effort will be well funded. Moreover, it appears that this is merely the first wave in what will be an energized, sustained, and broad worksite enforcement initiative.

### **What This Means for Employers**

ICE plans to conduct Form I-9 audits at businesses selected based on “leads and information obtained through other investigative means.” This is typically the first step in a larger investigation that, where indicated, could include undercover investigations, wiretaps, and other surveillance and investigative techniques intended to provide the basis for civil charges and criminal prosecution. A NOI typically provides the employer with three days in which to turn over the requested material.

Employers who receive a NOI should treat the notice seriously. Depending upon the situation, there may be lawful steps that the employer can take prior to the inspection to narrow the scope of the investigation and to reduce exposure. Knowledgeable and experienced counsel can often provide meaningful assistance.

### **How We Can Help**

The Immigration Compliance Practice at Morgan Lewis combines the targeted focus of some of the country’s most highly regarded immigration compliance law practitioners with leaders in the fields of employment law and white collar criminal defense. The breadth and depth of our practice enables us to represent employers anywhere in the country. For employers who have received a NOI, we can assist in crafting and implementing a strategic response and follow through. For employers who have not received a NOI and are interested in strengthening their immigration compliance practices, we offer I-9 audit services, I-9 training for relevant personnel, and I-9 eSource®, a web-based electronic I-9 platform that helps to ensure audit-ready and error free I-9 forms.

We will continue to monitor the situation and will update you with any new information. If you have any questions about any of the issues raised in this Morgan Lewis Immigration Alert, please contact:

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