

CHECKLIST: What To Do During an ICE Workplace Visit

U.S. Immigration and Customs Enforcement (ICE) officials may visit a worksite for various reasons, including Form I-9 inspections, employee inquiries, or surprise enforcement actions (commonly known as raids). It is critical for HR and management to have a structured response plan to ensure the company remains compliant while protecting its legal rights. This guide outlines key steps HR 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.
- ☐ HR 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.