

Dawn Of A New ICE Age: Are You Ready For Immigration & Customs Enforcement?

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Last week, in a speech at the conservative think tank, The Heritage Foundation, the Acting Director of Immigration and Customs Enforcement announced that his agency is aggressively stepping up worksite enforcement on two major fronts. His announcement raises the question: ***is your company ready?*** ICE Acting Director Tom Homan told attendees that the Homeland Security Investigations agency will increase – by four to five times – the worksite enforcement actions in the coming year. Quintupling the number of worksite enforcement actions certainly sounds scary – ***and it should.*** Last year, there were 1,279 enforcement actions across the country. A five-fold increase means there could be nearly 6,400 worksite enforcement actions in 2018. As you can see, that number is significantly higher than the amount of enforcement actions conducted by the agency over the last decade; indeed, it quite literally would be ***off the chart.*** Increased scrutiny by ICE also means the agency is likely to conduct more employer arrests. From 2008 to 2016, the number of annual arrests ranged from 100 to 175. Quintupling worksite enforcements gets us a range of 500 to 875 employer arrests next year. To put this in real-world terms, these are arrests not only of business owners, but managers, supervisors and even human resource personnel. *Anyone who knowingly employs an unauthorized alien risks being caught in the dragnet.* Apart from arrests, the severity of financial penalties is daunting. Employers found to have hired or continue to employ an unauthorized alien face civil fines between \$375 (for a first offense) to \$3,200 for each worker. Worse yet, employers that are found guilty of engaging in a pattern or practice of hiring, or recruiting unauthorized aliens may be subject to additional criminal penalties of up to \$3,000 for each unauthorized alien, plus six months behind bars. And, employers found guilty of harboring illegal aliens or falsifying documents could be looking at 10 years in prison. The risks are high. Given the sharp increase in government scrutiny, employers should double-check the status of their compliance as soon as possible:

- Is the company enrolled in E-Verify? If not, does this make sense for the business?
- Has the company designated immigration compliance officers to address questions concerning these issues and the I-9 process?
 - Are these individuals properly trained?
 - Are there enough of them so that the company is covered if the

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trained person is absent?

- Is the company properly handling the I-9 process?
 - Does it use the correct, updated form?
 - Does it complete the process within the designated time-periods?
 - Does it consistently ask for the proper documentation?
- Is the company properly retaining I-9 records and doing so for the designated time periods?

If you have answered “no” or “I don’t know” to any of the above, the time may be right to review and revamp your compliance program and to consider seeking counsel. A new ICE age is coming – and it looks like it’s going to get cold fast.