

Batten Down The Hatches, An ‘ICE’ Storm Is About To Blow In...

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Authored by: [Michael Palmer](#), [Jeff Papa](#), [Mariana Richmond](#) and [Mercedes Badia-Tavas](#) It's official! Immigration and Customs Enforcement (ICE) will extend its immigration actions in the workplace. Since the 2016 election, we have talked with employers about the effect the Trump administration's policy on immigration could have in the workplace. In fact, the Barnes & Thornburg [Immigration and Global Mobility Practice Group](#) has trained hundreds of employers this year on the importance of addressing this risk. On Oct. 17, the acting director of ICE, Thomas Homan, announced that the agency intends to quadruple the number of worksite enforcement actions throughout the country. This means employers should expect a dramatic increase in the number of [Form I-9 inspections](#) initiated by ICE. These inspections involve ICE agents auditing an employer's Form I-9s and other employment records to evaluate whether the employer properly verified its employees' work authorization statuses and to determine whether the employer is employing unauthorized aliens. Employers face significant fines for substantive mistakes when completing the Form I-9 or for knowingly employing undocumented workers. More importantly, employers should expect more ICE I-9 inspections to morph into criminal prosecutions of businesses, managers, owners and employees who allegedly hire and employ undocumented immigrants. For example, ICE recently announced a record-setting fine of \$95 million against a tree-trimming company with operations throughout the United States. In addition to increased workplace investigation by ICE, United States Citizenship and Immigration Services (USCIS) has also greatly increased its site visits to verify compliance with rules and terms of employment for employees holding nonimmigrant visas in the categories of H1B, L1, O-1 and R1 status. Employers should consider preparing for these anticipated enforcement actions, particularly in the food service, hospitality, manufacturing, construction and agriculture industries, which ICE tends to target. To do so, employers should consider implementing a robust [immigration compliance program](#), including:

- an immigration compliance policy;
- step-by-step procedures for completing the I-9 and responding to “no match” notices;
- regular internal I-9 audits;
- an ICE audit or raid response plan;
- protocols for managing USCIS - ICE Fraud Detection & National Security (FDNS) visits for nonimmigrant visa employees; and
- regular, effective training of your immigration compliance team.

In addition, to help employers understand this ever-changing area of immigration law, Barnes & Thornburg is offering [a seminar on Nov. 7](#) on how

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