

## **More ICE Audits of I-9s**

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The U.S. Immigration and Customs Enforcement (ICE) announced an additional 1,000 employers were issued Notices of Inspection during the week of November 16, 2009, in order for ICE to review their I-9 records. ICE stated it chose these 1,000 employers because of investigative leads and/or due to employers' connection to public safety and national security.

As you may recall, ICE issued 654 Notices of Inspection to employers in July. Since then, ICE has continued to conduct more ICE audits, resulting in the latest 1,000. According to ICE, since April 2009, it has initiated 1,069 inspections with the following results: fines of almost \$16 million have been issued and 45 businesses and 47 individuals have been debarred from doing business with the federal government.

An ICE audit involves ICE agents delivering a Notice of Inspection to an employer and demanding to inspect that employer's ICE records, though an employer has three days to comply unless the employer uses E-Verify. (Under E-Verify, you have waived the three-day waiting period.) In the three-day period, the employer has the opportunity to review its I-9 files to make any necessary paperwork corrections or determine if all of the employees' I-9s are in order. When ICE returns, it takes the I-9s for its audit, where each I-9 and supporting documentation is reviewed to determine the employees' work authorization. ICE also checks for substantive and technical errors in the I-9s.

After the audit is complete, ICE returns the I-9s and provides a Notice of Suspect Documents, which lists the names of all employees whose I-9s could not be authenticated. If an employer is fully compliant (no errors shown in the audit), it will receive a Notice of Inspection Results. Thereafter, the employer must give notice, to each affected employee and provide them with an opportunity to correct any mistakes or present proper work authorization documents. If an affected employee does so, the employer must provide such documents to ICE for review.

If you are concerned about being in compliance with the immigration laws and I-9s, please contact me.