



Biden Administration Ends ICE Raids, Will Focus on Employers Instead

The Biden Administration recently announced that it was ending ICE raids designed to apprehend unauthorized workers. In doing so, the Administration is reversing the Trump Administration practice of using such raids, which often resulted in the arrests of large numbers of unauthorized workers. The Biden Administration, much like the Obama Administration before it, will focus its efforts on employer practices and documentation. We, therefore, anticipate more I-9 audits and employer penalties for I-9 violations, rather than the incarceration and deportation of unauthorized workers.

Because of this shift in policy, employers must ensure that they are complying with their obligations under the Immigration Reform and Control Act of 1986 ("IRCA"). Under the IRCA, an employer is prohibited from:

- Knowingly hiring, employing, or continuing to employ an individual that is not authorized to work in the United States.
- Hiring any individual without filling out a Form I-9 within three (3) business days of an employee's hiring.

IRCA imposes civil penalties for each separate I-9 violation. IRCA also provides for criminal penalties where an employer engages in a "pattern or practice" of knowingly hiring or recruiting unauthorized workers. Keep in mind that IRCA does not require employers to use e-verify. Additionally, IRCA is not violated if an employer properly inspects employee documentation and properly fills out an I-9, even if the employee documents are later found to be fraudulent by the Department of Homeland Security

Given this new emphasis from the Biden Administration, employers should take necessary measures to ensure their I-9s and I-9 practices are in good order.

For more information or to discuss an internal I-9 audit for your company, please contact [Tony Stergio](#).