

How to Deal with . . . ICE (Immigration and Customs Enforcement)

A Legal Resource Provided by Davis Wright Tremaine LLP

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THE BASICS:

- **Immigration Visits:** Immigration visits can occur without notice. The most common visits involve:
 - Immigration paperwork audits
 - Site visits about specific employees
- **Enforcement Agencies:**
 - Homeland Security Investigations (HSI): Collects and inspects employers' I-9 forms and other paperwork for compliance.
 - Immigration & Customs Enforcement (ICE): Enforces immigration law and can initiate removal proceedings. Agents may have gear with "Police."
 - U.S. Citizenship & Immigration Services (USCIS): Audits employment-related immigration sponsorship.

BEFORE, DURING, AND AFTER IMMIGRATION VISITS:

- **Before:** Ensure I-9 documentation and other immigration paperwork is complete and accurate. Consider internal I-9 paperwork audits. Designate a person or department (e.g., Human Resources or Legal) as an internal point of contact.
- **During:** Remain calm! Note the agents' names and pay attention to what is happening. Allow entry into public areas. Ask the agents for identification, follow-up phone number and warrant from a judge or other paperwork explaining the reason for the visit. Contact your internal point of contact.
- **After:** Record important details, such as how many agents were present, names, how the agents dressed, were they armed, threats or mistreatment, whether they made you or your employees believe you could not move or leave. If someone is arrested, ask the agent where they are being taken. If there is an I-9 inspection or immigration paperwork audit, prepare the documents, and ask for more than 3 days to compile and produce records.

COMMUNICATING WITH EMPLOYEES DURING THE VISIT:

The following are some **actions you can take** when agents arrive:

- Remind employees to stay calm and NOT to run or flee! Agents are allowed to arrest people they have reason to believe are violating immigration laws.
- You can video/record/photograph agents as long as you are not interfering.
- Do not give voluntary consent for agents to stop, question, or arrest anyone, or to go everywhere they desire.
- The best way for employees to protect their rights is to stay silent and ask for an attorney. All employees have this right. Employees do not have to hand over any IDs or papers to ICE. Any information that employees give to ICE can be used against them later.
- Anyone who is arrested should ask for an attorney and a "show cause hearing." A show cause hearing is an opportunity to present evidence and arguments to explain why they should not be removed from the United States.

