

## This Webcast Will Begin Shortly

If you have any technical problems with the Webcast or the streaming audio, please contact us via email at:  
**[splemoderator@smartpros.com](mailto:splemoderator@smartpros.com)**

**Thank You!**



# ICE WORKSITE ENFORCEMENT – AN INSIDER PERSPECTIVE

## Why the Fuss with the Form I-9?

- Increased I-9 audits
- Criminal indictments & grand juries
- Significant civil fines
- Publicizing raids and indictments
- Criminal search warrants
- Asset forfeiture
- Federal contract debarment

## The FY 08 Numbers

- Over 1,100 criminal arrests tied to worksite investigations;
- Over 5,100 administrative (deportation) arrests.;
- Indicted 135 business owners, managers, supervisors or human resources employees for criminal offenses including harboring, smuggling, and money laundering;
- Largest single site worksite operation at a Howard Industries' plant in Laurel, Mississippi, resulting in arrest of over 600 employees;
- Over \$30 million in criminal fines, restitutions, and civil judgments in worksite enforcement cases;
- Record \$20.7 million settlement; and
- Since 2008, debarred over 100 individuals and companies from federal contracting.

## The Genesis of an ICE Investigation

- Tips to ICE hotlines – Competitors
- Arrested undocumented employees
- Social Security No-Match letter history
- Local pressures -Key industries
- Dept. of Labor/IRS/Social Security

## The ICE I-9 Audit Freeze

- June 2009, ICE issues over 650 I-9 audit notices. November 2009, ICE issues over 1,000 I-9 audit notices.
- Exceeds total number of notices issued in all of FY 2008.
- Most employers given only 3-days to provide I-9s.
- Employers selected as a result of “leads and information obtained through other investigative means” & industries.
- An audit is ICE’s initial review to determine what sanctions to pursue and whether criminal investigation will follow.

## What ... me a federal felon? Just for an I-9?

### **8 U.S.C. 1324 Bringing in and Harboring Aliens**

*“Encourages or induces an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law...”*

- Felony offense, 5 years maximum per alien harbored.
- Up to 10 years if offense done for commercial advantage or private financial gain.
- Permits asset forfeiture.

## Best Hiring Practices

- Use the E-Verify employment eligibility verification program for all hiring.
- Establish an internal training program, with annual updates, on how to manage completion of Form I-9, how to detect fraudulent use of documents in the I-9 process, and how to use E-Verify.
- Permit the I-9 and E-Verify process to be conducted only by individuals who have received this training – and include a secondary review as part of each employee’s verification to minimize the potential for a single individual to subvert the process.
- Arrange for annual I-9 audits by an external auditing firm or a trained employee not otherwise involved in the I-9 and electronic verification process.

## Best Hiring Practices

- Establish a self-reporting procedure for reporting to ICE any violations or discovered deficiencies.
- Establish a protocol for responding to no-match letters received from the Social Security Administration.
- Establish a tip line for employees to report activity relating to the employment of unauthorized aliens, and a protocol for responding to employee tips.
- Establish and maintain safeguards against use of the verification process for unlawful discrimination.
- Establish a protocol for assessing the adherence to the “best practices” guidelines by the company’s contractors/subcontractors.
- Submit an annual report to ICE to track results and assess the effect of participation in the IMAGE program.

## **OTHER TIPS FOR SURVIVING THE NEW ERA OF WORKSITE ENFORCEMENT**

- Read the I-9 and Handbook.
- Where are your I-9 records?
- Find out about No-Match history.
- Create I-9 procedures for UNIFORMITY.
- Respond to identified risks/complaints.
- Prepare for the audit freeze.
- Internal audits by trained personnel.
- Random spot checks.
- Coordinate on any requests from ICE.

## TIME TO MAKE CORRECTIONS !

- Remember, the I-9 is DHS' evidence.
- Never destroy an I-9 form to make corrections.
- Never back date a signature.
- Do not use white-out or erase data.
- Use a different colored pen.
- Annotate, initial, date additions or corrections.
- Be uniform with employees.
- No preferences to titles, salaries, etc.
- Be clear with employees on what is needed and by when.
- When in doubt, make it clear so ICE would not have questions or doubts.

# Thank You!

# Questions?

**Victor X. Cerda**

**Partner**

Jackson Lewis LLP

Washington DC Region

703-483-8320

[cerdav@jacksonlewis.com](mailto:cerdav@jacksonlewis.com)

Thank you for attending another presentation from  
**ACC's Desktop Learning Webcasts**

Please be sure to complete the evaluation form for this program as your comments and ideas are helpful in planning future programs. If you have questions about this or future webcasts, please contact ACC at [accwebcasts@acc.com](mailto:accwebcasts@acc.com)

This and other ACC webcasts have been recorded and are available, for one year after the presentation date, as archived webcasts at <http://webcasts.acc.com>.

You can also find transcripts of these programs in ACC's Virtual Library at <http://www.acc.com/search/cfm>