

The ICE Age

Lessons Learned from One Construction Company's Recent Experience

presented by

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- I. Why do your own internal I-9 audit?
 - a. DHS and ICE are performing employer audits on an increasing basis
 - b. Construction companies are vulnerable – especially government contractors
- II. When should you audit?
 - a. NOW!!!
- III. What could happen?
 - a. ICE agent serves you with a Notice of Inspection (NOI)
 - b. You only have 72 hours to respond
 - c. ICE will want to see all of your I-9's, payroll records, tax statements, and more
- IV. Who am I required to have I-9's for?
 - a. All current employees hired on or after 11.7.86
 - b. All former employees who were hired within the last three years (DOH + 3 yrs)
 - c. All former employees who were terminated within the last year (DOT + 1 yr)
- V. How do I perform a self-audit?
 - a. Create a list of everyone from IV, above
 - b. Locate I-9 for everyone on the list

- c. TRAIN, TRAIN, TRAIN the auditor(s)
- d. Review every I-9 with a very careful eye
- e. Make corrections in colored ink and date them – attach memo of explanation
- f. If I-9 is missing
 - i. Current employees – create a new one and attach memo of explanation
 - ii. Former employees – put memo in file that I-9 was unable to be located during audit
- g. Keep track of audit – detailed report
- h. Review the auditor’s report and spot check the I-9 forms

VI. Lessons Learned

- a. Internal self-audit saved the day
- b. DHS and ICE recognized good faith efforts
- c. Even with self-audit, violations existed that couldn’t be corrected
- d. Even with self-audit, violations exist that could have been but weren’t corrected
- e. Diligence is the key
- f. If inspected, negotiate terms – limit to geographic area, get more time, ask for what you need

VII. Resources

- a. ***Handbook for Employers – LOTS of useful information***

<http://www.uscis.gov/USCIS/Controlled%20Vocabulary/Native%20Documents/m-274.pdf>

- b. ***Form I-9 Employment Eligibility Verification***

<http://www.uscis.gov/files/form/i-9.pdf>

- c. Google: electronic I-9 verification service, paperless I-9 software, etc.

There are many companies out there who will gladly take your money in exchange for helping you increase your compliance and minimize violations.