

**THIS SUMMER, THE OBAMA ADMINISTRATION HAS ANNOUNCED SEVERAL NEW POLICIES WITH RESPECT TO THE EMPLOYMENT OF UNDOCUMENTED IMMIGRANTS.**

The Obama administration has started a wave of audits directed at employers, large and small, who employ large numbers of immigrants. Already several local employers have been the target of such audits.

This new enforcement program is part of a coordinated set of policy changes announced by the Obama Administration this summer. Many of these policy changes directed at enhanced enforcement of the laws restricting employment of undocumented immigrants, could have a major impact on many California businesses.

In June, the Department of Homeland Security announced that it was expanding the eVerify program, an automated system for verifying a potential employees' right to work. The program is now mandatory for all companies with federal government contracts. Future expansion of the program is likely.

The same month, the Social Security Administration decided to drop its no-match letter regulations, announced last year by the Bush Administration. The SSA's no match letters were sent to employers when the payroll information reported by them did not match the department's information regarding a certain social security number. The Bush Administration had proposed requiring employers to terminate employees in such situations where the employee could not prove his or her right to work.

The Obama Administration's decision not to implement the no-match letter regulations, however, does not mean that such letters can be ignored. An employer's failure to investigate indications of discrepancies in the information provided by an employee can still be a basis for penalties and fines against an employer.

Instead, the Department of Homeland Security's office of Immigration and Customs Enforcement (ICE) is launching an aggressive new audit initiative, intended to address the employment of undocumented immigrants another way.

In July, the agency issued Notices of Inspection (NOIs) to hundreds of businesses exceeding in one month the number ICE issued throughout all of last fiscal year. The notices alert business owners that ICE will be inspecting their hiring records to determine whether or not they are complying with employment eligibility verification laws and regulations.

The inspections reflect the Obama Administration's increased focus on holding employers accountable for hiring practices that violate immigration laws.

"ICE is committed to establishing a meaningful I-9 inspection program to promote compliance with the law. This nationwide effort is a first step in ICE's long-term strategy to address and deter illegal employment," said Department of Homeland Security Assistant Secretary for ICE John Morton.

Employers are required to complete a Form I-9 for each individual they hire for employment in the United States. Employers are supposed to review the individual's identity documents at the time they fill out the Form I-9. The audits ordered will include review of companies' I-9 practices and their general compliance with immigrant employment laws. On July 1, ICE served 652 such audit notices; in all of last year, they served only 503. ICE officials state this is just the beginning.

These audits often result in substantial fines against employers who do not comply with the rules. In early August, ICE imposed a \$1.5 million fine on a doughnut company in Texas for hiring undocumented workers.

Local clients report that several have been contacted by ICE with respect to such audits. It is probably just a matter of time until these enforcement actions against California employers increase in scope.

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Christopher A. Kerosky of the law firm of Kerosky & Associates has been recognized as one of the top immigration lawyers in Northern California for the last four years in San Francisco Magazine's "Super Lawyers" edition. He has had an office in San Francisco for 20 years but recently opened a Santa Rosa office after moving with his family to the North Bay.