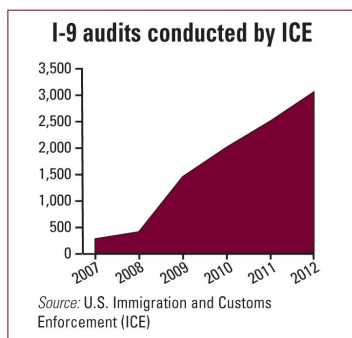


Big spike in I-9 audits: Are your records in order?

Just a few years ago, your chance of being targeted for a federal audit of your I-9 forms was remote. That's all changed.

The "bold new audit initiative" launched in 2009 by the U.S. Immigration and Customs Enforcement (ICE) has yielded a dramatic increase in employer audits, fines and arrests.

With four more years left in the Obama administration, employers would be wise to make sure their I-9 forms are in compliance before the proverbial knock on the door.



Audits and arrests. ICE last year audited more than 3,000 organizations for I-9 compliance, a number that is *12 times higher* than in 2007, according to ICE statistics (see *chart*).

Total fines have grown from just \$1 million in 2009 to nearly \$13 million in 2012. Median fines were \$11,000 for workplaces with noncompliant I-9s. Texas employers saw the most fines, followed by New Jersey.

Plus, ICE has made a big effort to publicly emphasize its criminal investigations of executives, HR and managers. Last year alone, ICE arrested 238 corporate officers, including a manager at an Illinois hiring firm who got 18 months in prison.

Since 1986, employers have been required to complete and retain a copy of the [I-9 \(Employment Eligibility Verification Form\)](#) for each employee.

ICE man cometh? The agency doesn't plan on slowing down. In fact, President Obama declared last month that, even after these audit efforts, "too many employers game the system by hiring undocumented workers." His [immigration proposal](#) calls for increased penalties against employers.

ICE is hoping this audit spike acts as a warning to other employers.

"If companies know we're out there, looking across the board, they're more likely to bring themselves into compliance," said ICE special agent Brad Bench, in a recent Associated Press report. "We can audit any company anywhere of any size."


Bench said ICE does some random audits, but often follows leads from the public, employees and other employers.

How to respond. Do not wait for ICE to darken your doorway before you take I-9 compliance seriously.

Employers should implement an effective and workable compliance plan for their organizations, including conducting regular I-9 audits, making any necessary corrections to forms, responding appropriately and quickly to ICE or Social Security Administration inquiries and training staff who complete I-9s on proper procedures.

Surviving an audit. The audit process typically starts when an ICE agent serves a notice of intent to audit (NOI). For info and tips on the audit process, go to www.theHRSpecialist.com/iceaudit.

I-9 compliance: 9 do's and don'ts

-  1. Do require all new hires to complete and sign Section 1 on their first day of work.
2. Don't ask an applicant to complete an I-9 prior to making a job offer. Unhired applicants can use I-9 information to allege that you discriminated against them.
3. Do review each employee's documents to make sure they're on the new version of the [I-9's list of acceptable documents](#) and that they appear genuine.
4. Don't ask new hires for any particular documents or for more documents than the I-9 requires. The employee chooses the documents, not you.
5. Do establish a consistent procedure for completing I-9s.
6. Do make and retain copies of all I-9 documentation provided. (Only a few states make this mandatory, but it's a good idea.)
7. Don't forget to keep a tickler file to follow up on expiring documents that limit the employee's authorization to work.
8. Do keep I-9s and copies of documents for three years after the employee's hire date or one year after his or her termination, whichever comes later ([See retention rules.](#))
9. Don't put the I-9 in an employee's personnel file. To protect your company against discrimination claims, keep the I-9 and supporting documentation in a separate file.