

Immigration Best Practices in 2025: How to Prepare Your Business and Your Team

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Current Events in Immigration

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Kristi Noem selected to serve as Trump's Secretary of Homeland Security

- DHS has a budget of \$62 billion and over 260,000 employees
- "Kristi has been very strong on Border Security. She will work closely with 'Border Czar' Tom Homan to secure the Border, and will guarantee that our American Homeland is secure from our adversaries," Trump said in a statement officially announcing the pick 11/12/24.
- Noem confirmed on 1/25/25.



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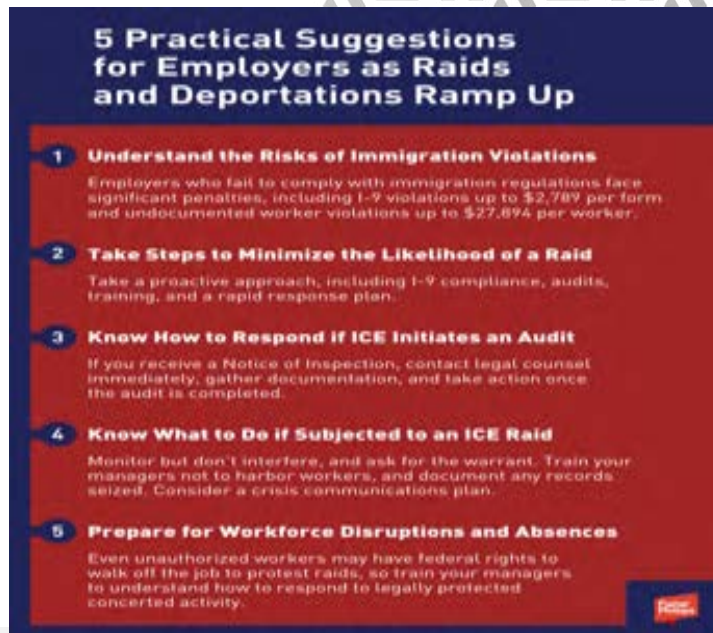
Background on "Border Czar" Tom Homan

- Will oversee day-to-day operations and strategy on border security enforcement and interior enforcement
- 30+ year law enforcement career includes roles as a Border Patrol agent and Acting ICE Director under Trump
- Spearheaded a 40% surge in deportation arrests during Trump's first term
- Consistently advocated for workplace enforcement to target undocumented workers and the businesses that hire them
- "I will run the biggest deportation operation this country's ever seen"



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Current Executive Orders and Recent Actions

- **Mass Deportation Initiatives:**
 - Commencing with plans for large-scale deportations, aiming to remove millions of undocumented individuals from the country. Are building expansive detention facilities and deputizing local law enforcement to assist in federal immigration enforcement efforts. ICE has begun conducting raids and arrests on a wide scale.
- **Revocation of Parole:**
 - On January 22, the Trump administration terminated the CHNV (Cuba, Haiti, Nicaragua, and Venezuela) parole programs and revoked the parole status of anyone who entered under this program. Any beneficiaries who do not have another status are no longer eligible to work or remain in the U.S.
- **Revocation of Temporary Protected Status (TPS):**
 - DHS revoked TPS for approximately 600,000 Venezuelans residing in the United States, render them no longer allowed to live and work legally in the U.S.
- **Adjudication of H4 and L2 EADS:**
 - Effective January 18, USCIS will no longer be required to simultaneously adjudicate Form I-539 (status) and Form I-765 (work) applications submitted in conjunction with a spouse's H-1B or L-1 petition.
- **Previous Safe Zones:**
 - Churches and schools are no longer designated as safe zones from ICE activity, thereby making them locations that ICE can target during enforcement activity.

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Worksite Investigations



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Why Would ICE Be At The Worksite? Raids vs. Audits

- ICE may come to the worksite to:
 - Start an **I-9 audit** (Document will be called “Notice of Inspection”);
 - **Workplace raid** – **must have a judicial warrant**;
 - Detain a specific person – **must have a judicial warrant**.

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DHS Raids – ICE vs. CBP

- ICE and CBP are both agencies of the Department of Homeland Security
- CBP enforces customs and immigration law at and near the border
- ICE enforces customs and immigration laws at the border as well as in the interior of the United States. ICE is typically the agency involved in worksite investigations (I-9 and related)
- ICE investigations target unauthorized employment as well as individuals who have committed criminal activity
- CBP activity usually centers around individuals who committed criminal activity

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What protections are available?

- **Employers and employees have rights under law, regardless of status**
 - 4th Amendment – protects people against unreasonable search and seizure of their home, person and belonging
 - 5th Amendment – right to remain silent
- **Worksite Raids** must be accompanied by a Judicial Warrant signed by a judge and give a specific scope of search and seizure.
- **Home Searches** must also be accompanied by a Judicial Warrant



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Example of a Judicial Warrant



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Individual Rights

4th Amendment Magic Words: Am I free to go?
If yes, walk away calmly. If no, detained.

LEA can only detain if they have reasonable suspicion
(don't give any info that could lead to discriminatory
suspicion (i.e. birth country))

5th Amendment Magic Words: I want to remain silent



- An administrative warrant authorizes an ICE agent to make an arrest or seizure, **but not to search**
- An ICE warrant does not authorize an ICE agent to enter a private space or home without consent
- An ICE warrant does not provide probable cause of a crime or meet Fourth Amendment requirements for arrest

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Overview of Raid

- ICE may demand that equipment be shut down and that no one leave the premises without permission.
- ICE may move employees into a contained area for questioning.
- While some agents question employees, others will likely execute the search and seizure of items listed in the warrant.
- ICE Agents are permitted to enter any public areas of your workplace but must have a valid search warrant or your consent to enter non-public areas.

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Employer Rights and Responsibilities

- Examine the search warrant. You should review the paperwork provided and understand it.
- Contact your attorney and send them a copy of the search warrant. ICE will not wait for your attorney to arrive on-site before executing a search warrant. Your attorney can be available to you over the phone and the ICE Agent may speak with them on the phone.
- Obtain the name of the supervising agent and the name of a U.S. attorney assigned to the case. In larger operations, the U.S. attorney may be present on site.
- Sometimes ICE is accompanied by members of the press. There is no obligation to admit press representatives on the premises. Statements to the press should only be made by your attorney.

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Employer Rights and Responsibilities

- Assign one or two company representatives to each agent to follow the agent around the facility.
- Note all items seized and ask if copies can be made before they are taken. ICE doesn't have to agree, and if they don't, you will be entitled to secure a copy from the government property lockers. Do not block or interfere with ICE activities. Remain calm and composed and do not engage in any hostilities toward the agents.
- If an ICE Agent seizes, or attempts to seize, anything (e.g., computer, cell phone, files) make sure the item is within the scope of the warrant. If they try to seize something that is not listed in the warrant, politely remind them of that fact.
- If ICE Agents presented a valid search warrant and want access to locked facilities, unlock them – otherwise, officers will forcibly gain entry into locked doors, closets or cabinets.
- Know that ICE Agents may enter the public areas of the business premises without a warrant, however; in order to search all areas of the business premises, ICE Officers will need a judicial warrant (or consent from the employer).

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Employer Rights and Responsibilities

- Do not block or interfere with ICE activities or the agents.
- Object to a search outside the scope of the warrant. Do not engage in a debate or argument with the agent about the scope of the warrant. Simply present your objection to the agent and make note of it.
- Company representatives should not give any statements to ICE Agents or allow themselves to be interrogated before consulting with their Fisher Phillips Immigration Attorney.
- Company may inform employees that they have a right to talk with agents if they like, or not talk with them, but don't direct them not to speak to agents when questioned.
- **DO NOT** engage in any activities that could support a harboring charge such as hiding employees, aiding in their escape from the premises, providing false or misleading information, denying the presence of specific named employees, or shredding documents. Do not advise or assist employees in leaving the premises.
- A raid may last for several hours. If an employee requires medication or medical attention, or if employees have children who need to be picked up from school, you may communicate these concerns to the ICE Agents.
- If an employee is arrested and detained, to the extent possible, try to find out which ICE detention center the employee will be sent to.

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Employee Rights

- While you should not instruct your employees to refuse to speak to federal agents, they also have the right to remain silent and do not need to answer any questions.
- Your employees do not need to answer questions about their immigration status, where they were born, or how they entered the United States. They may exercise their right to remain silent and may ask to speak to an attorney.
- If ICE Agents try to determine your employees' immigration status by asking them to stand in groups according to status, they do not have to move, or they can move to an area that is not designated for a particular group.
- Employees may also refuse to show identity documents that disclose their country of nationality or citizenship.
- Sometimes employees do not have their immigration documents with them. Human Resources personnel can retrieve copies of the documents from the I-9 files, or family can be contacted to bring the original documents to the company.
- If your employees are detained or taken into custody, ensure that you assign someone to contact their family, and pay them any money owed for services.

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After the Raid

- Arrested employees will be taken to detention centers.
- ICE will provide a list of employees arrested. ICE will determine who lacks the right to work.
- Company should work with immigration counsel to determine whether any employees arrested and later released can continue their employment.
- Coordinate with crisis communication team to manage internal and external communication.
- Consult with immigration attorney.

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Best Practices



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Preparation

Immigration Point Person

- Assign a staff member as the primary contact for all DHS/ICE/CBP correspondence.
- Ensure all employees are aware of who this person is and how to contact them.

Employee Awareness and Communication

- Train employees to immediately notify the Immigration Point Person in case of any contact from DHS/ICE/CBP.
- Provide clear instructions on workplace rights and responsibilities in case of a raid.

Workplace Signage and Access Control

- Ensure proper signage is displayed on all private and non-public workspaces.
- Restrict unauthorized access to non-public areas unless legally required.

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ICE or CBP Arrival

Handling ICE or CBP Agent Arrival

- Ask agents if they have a warrant.
- If no warrant is presented, deny access to employees, documents, and non-public areas.
- If a warrant is presented, carefully review its details.

Validating the Warrant

- Confirm it is a judicial warrant, issued by a federal court and signed by a judge.
- If it is an administrative warrant (issued by DHS/ICE/CBP), it does not grant access to non-public areas.

Managing the Search and Seizure Process

- Cooperate within the limits of the warrant – stay calm.
- Do not interfere with officers' search and seizure within the scope of the warrant.
- Record details of the search, including items taken and persons spoken to or detained.

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Documenting the Activity

Documentation and Evidence Collection

- Keep detailed records of all interactions, searches, and seizures.
- Request a copy of the warrant and any inventory of seized items.

Protecting Business-Critical and Confidential Documents

- If agents attempt to seize confidential or critical business documents, request an accommodation to retain or copy them.
- Consult legal counsel immediately for guidance.

Post-Raid Review and Next Steps

- Conduct a debriefing with key personnel to document the event.
- Consult an immigration attorney to assess the situation and respond appropriately.
- Provide necessary support to affected employees.
- Revise and update this action plan based on new developments or legal requirements.

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ICE I-9 Audits

- An I-9 audit (Notice of Inspection) may arrive by mail or hand delivered by an ICE officer
- The company will have 3 days to produce the requested I-9s and other documents
- Do not waive the 3 days – take the time to prepare the submission with legal counsel
- Extensions may be requested though are not often given for more than a few days
- Arrange with requesting officer where to produce the documents – either onsite at the workplace, via hand delivery to the officer or electronic submission
- If onsite inspection is required, provide the officer a place to review the documents that is separate from major areas of operations or other documents/items that could lead to further investigations

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Employers' Rapid Response Team: Who We Are and How We Can Help



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How Can the Rapid Response Team Help?

- **Immediate Legal Counsel**, consisting of attorneys with expertise in a number of related areas
- **Corporate Representation** during a raid or audit
- **Documentation and Compliance Review**, including I-9 audits and trainings
- **Post-Raid Support and Strategy**, including document requests and employee issues
- **Crisis Communications**, including PR and media outreach

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Employers' Rapid Response Team Hotline

24/7 Emergency Hotline:

In the event of an active ICE enforcement action, call us at **877-483-7781** for immediate assistance.

DHSRaid@fisherphillips.com



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Employers' Rapid Response Website

Complimentary checklist
available on the
[Employers' Rapid
Response webpage](#)



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Employers' Rapid Response Toolkit for DHS/ICE Raids

Toolkit includes:

- DHS/ICE Raids
 - Guide for Employers – Responding to a DHS/ICE Raid
 - Employer DHS/ICE Raid Preparedness Action Plan Checklist
 - Notice For Employees Who May Encounter DHS Officers First
 - Guide for Employees – What to Know in an ICE Raid – English
 - Guide for Employees – What to Know in an ICE Raid – Spanish
 - How to locate an employee after a raid or arrest
- DHS/ICE Audit
 - Guide for Employers – Responding to a DHS/ICE Audit
 - DHS I-9 Guidance

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Employers' Rapid Response Toolkit for DHS/ICE Raids

- Available for purchase through fpSolutions
- **\$1,150 per toolkit**
 - Discounted price of \$1,000 for packages purchased in February
 - Code: **FEB150**



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Auditing Form I-9

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Form I-9 Basic Requirements

- For all Active Employees hired after November 6, 1986
- Section 1 - completed by employee no later than start date of employment.
- Section 2 - completed by employer by end of third business day after employee starts work.
- May complete form prior to start date if offer of employment is made and accepted.

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Form I-9 Basic Requirements

- Use Form I-9 with revision date 8/1/2023 for new hires and reverifications
 - The previous version, dated "10/21/2019", was only valid until October 31, 2023.
- You may delegate the authority to complete Form I-9 to an authorized representative, however, you will retain liability for any errors

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Discrimination and Unfair Documentary Practices

- **Employers MUST refrain from discriminating** against individuals on the basis of actual or perceived national origin, citizenship or immigration status
- Do not require specific documents or combination of documents.
- Do not require more or different documents than minimally required.
- Do not refuse to accept documents that reasonably appear to be genuine.
- Employee's choice which of the acceptable Form I-9 documents to present.

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Penalties



- Paperwork violation fines now range between
- \$288 to \$2,861 per violation
- Knowingly hiring or employing unauthorized workers have fines ranging from \$716 – \$5,724 per employee for the first violation.
- Second- and third-violation of knowingly hiring/employing range between \$5,724 up to \$28,619 per employee.
- Arrests and criminal convictions for knowingly hiring or employing unauthorized workers are on the rise as well.

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Form I-9 Resources

I-9 M-274 Manual:

<https://www.uscis.gov/i-9-central/form-i-9-resources/handbook-for-employers-m-274>

USCIS I-9 Central:

www.uscis.gov

Fisher Phillips' Rapid Response Team:

<https://www.fisherphillips.com/en/services/practices/immigration/employers-rapid-response-team-for-dhs-raids.html?tab=overview>



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Internal I-9 Audits

Section 2. Employee Review and Verification: Employers or their authorized representative must complete and sign Section 2 within three business days after the employee's first day of employment, and must physically inspect, or inspect via video, the documents presented to the employer by the employee, and must physically inspect, or inspect via video, the documents presented to the employer by the employee, and must physically inspect, or inspect via video, the documents presented to the employer by the employee.

Document Title	List A	List B	List C
Document Title 1	EAD Card	Driver's License	Social Security Card
Issuing Authority	USCIS	State of Maryland	SSA
Document Number (if any)	YSC1490060015	DL0566992	268-74-8155
Expiration Date (if any)	12/31/2025	12/31/2026	N/A
Document Title 2 (if any)		Additional Information	
Issuing Authority			
Document Number (if any)			
Expiration Date (if any)			
Document Title 3 (if any)			
Issuing Authority			
Document Number (if any)			
Expiration Date (if any)			

☒ Check here if you used an alternative procedure authorized by DHS to examine documents.

Confirmation: I attest, under penalty of perjury, that (1) I have examined the documentation provided by the above-named employee, (2) the above-listed documentation appears to be genuine and is valid in the employee's name, and (3) to the best of my knowledge, the employee is authorized to work in the United States.

Print Name, First Name and Last Name of Employer or Authorized Representative: **Johnson, Michael - VP Human Resources**

Signature of Employer or Authorized Representative: *[Signature]*

Date (mm/dd/yyyy): **08/16/2023**

Employer's Business or Organization Name: **TM Engineering**

Employer's Business or Organization Address, City or Town, State, ZIP Code: **1000 Larimer Street, Denver, CO 80202**

For identification or review, complete **Supplement 3, Instructions and Notes**, on Page 4.

Form I-9, Edition: 08/09/19, Page 1 of 4

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Correcting Form I-9

Missing Forms

- If you discover you are missing the Form I-9 for an employee:
 - Complete a new one immediately
 - Give the employee the current version of the Form I-9
 - Use current date on signature lines and original start date in section 2

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Correcting Form I-9

Correcting Mistakes

- If you discover a mistake on Form I-9, correct the existing form
 - Section 1 – **Employee** makes corrections.
 - Section 2 – **Employer** makes corrections.
- Strike a line through errors – do not use White Out or Liquid Paper. Must be **transparent**. **Do NOT backdate.**
- All corrections should be initialed/name written, dated, and include the words “Per Self Audit” by the internal company I-9 auditor

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Example of Audited I-9 with Corrections

Section 2. Employee Review and Verification: Employers or their authorized representative must complete and sign Section 2 within three business days after the employee's first day of employment, and must physically inspect, or request consent with an alternative procedure authorized by the Secretary of DHS, documentation from List A OR a combination of documentation from List B and List C. Enter any additional documentation in the Additional Information box, see instructions.

List A	List B	List C
Document Title 1: EAD Card	Driver's License	Social Security Card
Issuing Authority: USCIS	State of Maryland	SSA
Document Number (if any): Y5C1690080022	DL0566982	266-74-8155
Expiration Date (if any): 12/01/2022	12/01/2026	MA
Additional Information:		
Document Title 2 (if any): Issuing Authority: Document Number (if any): Expiration Date (if any): Document Title 3 (if any): Issuing Authority: Document Number (if any): Expiration Date (if any): ☒ Check here if you used an alternative procedure authorized by DHS to examine documents. Declaration: I affirm, under penalty of perjury, that (1) I have examined the documentation provided by the above-named employee, (2) the above-listed documentation appears to be genuine and to relate to the employee named, and (3) to the best of my knowledge, the employee is authorized to work in the United States. Signature of Employer or Authorized Representative: <i>[Signature]</i> Today's Date (mm/dd/yyyy): 08/17/2022 Employer's Business or Organization Name: Johnson, Michael - VP Human Resources Employer's Business or Organization Address, City or Town, State, ZIP Code: 1000 Larimer Street, Denver, CO 80202 For identification or reference, complete Section 3, Reverification and Status, on Page 4.		

Form I-9, Edition 08/06/10 Page 1 of 4

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Storage

You must have a Form I-9 on file for all current employees:

- Keep I-9s separate from personnel files
- Store Forms I-9 securely in a way that meets your business needs – on site, off-site, storage facility
- If saving electronically, be sure that electronic system complies with USCIS electronic storage requirements
- Store copies of documents with the Form I-9
- Ensure that only authorized personnel have access to stored Forms I-9
- Make sure I-9s are able to be produced within three days of an audit

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Retention

- Once employee is terminated, you must retain I-9 form for:
 - At least three years from date of hire; or
 - At least one year from date of termination;
 - Whichever date is later.
- Once retention requirements met, purge form.

Calculate how long to retain an employee's Form I-9 once they end employment:

- If they worked for less than two years, retain their form for three years after the date you entered in the First Day of Employment field.

OR

- If they worked for more than two years, retain their form for one more year after the date they stop working for you.

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Compliance Tips for Employers



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8 Best Practices for Employers to Maximize Compliance

Here are eight steps you can take to create a culture of compliance:

1. Provide updated training for all managers, human resources personnel, and staff involved in the I-9 process;
2. Provide updated training for all involved in the E-Verify process, including training on fraud awareness and anti-discrimination;
3. Update immigration policies in handbooks;
4. If your company does not have an immigration compliance policy, now is the right time to consider implementing one;
5. Update internal business processes associated with I-9s and E-Verify;
6. If your company uses an electronic I-9 provider, contact the provider now to ensure its system incorporates the new changes and complies with [DHS requirements](#), including audit trails;
7. Enlist outside immigration counsel to conduct an attorney-client privileged audit of your I-9s
8. Evaluate E-Verify advantages and disadvantages with your immigration counsel to determine if your company should take advantage of the remote verification option for E-Verify employers.

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QUESTIONS?

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THANK YOU

For Joining Fisher Phillips



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