

Trump 2.0 – Preparing for Worksite Raids & Audits

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Trump, the candidate, made immigration a central focus of his campaign.

Launch the largest deportation operation in U.S. History aimed at undocumented individuals using federal immigration agents, military, national guard, and some state officers.

Return of travel bans.

Increased scrutiny of foreign nationals and their visas.

Worksite audits and raids.



President Trump lost no time acting on most of these – mostly through a flurry of Executive Orders.



Updates



U.S. Department of Homeland Security

DHS Launches CBP Home App with Self-Deport Reporting Feature

Release Date: March 10, 2025

WASHINGTON – Today, Secretary of Homeland Security Kristi Noem announced that the Department of Homeland Security (DHS) is launching the CBP Home app with a self-deportation reporting feature for aliens illegally in the country.

A Statement from Secretary Kristi Noem:

"The Biden Administration exploited the CBP One app to allow more than 1 million aliens to illegally enter the United States. With the launching of the CBP Home app, we are restoring integrity to our immigration system."

"The CBP Home app gives aliens the option to leave now and self-deport, so they may still have the opportunity to return legally in the future and live the American dream. If they don't, we will find them, we will deport them, and they will never return."

Updates

- Do you have foreign national employees on payroll?
- Travel bans expected within 60 days of Executive Order (mid March)
 - Interrupt travel plans
 - Border disruption
 - Those out of country can't get back in
- Extreme vetting of those already in US:
 - New applicants
 - Employees changing status – student F-1 to H-1B etc.
 - Employees filing for extensions of existing status
- Added scrutiny for those outside US:
 - Applying for visas at consulates – risky, even for those with approved petitions
 - Potential delays through placement in administrative processing



Electronic Device Searches at U.S. Ports of Entry: What You Need to Know

U.S. Customs and Border Protection (CBP) has the authority to search electronic devices—including phones, laptops, tablets and other electronic devices—of anyone entering the U.S., including U.S. citizens and non-citizens. These searches can happen at U.S. land crossings, airports, seaports, and even at CBP preclearance locations abroad, such as Dublin or Toronto. These searches can occur without a warrant or suspicion.

Ten Smart Steps to Protect Your Data at the U.S. Border

1. **Travel Light:** Carry only necessary devices. Consider using a dedicated travel device with minimal personal data.
2. **Back Up Before You Go:** Save important files securely in the cloud or an external drive before traveling. Keep backups separate from your laptop.
3. **Prioritize Password Security:** Secure devices with unique, complex passwords. Although fingerprints and other biometric locks offer convenience, they are generally considered less secure than strong passwords. Enabling two-factor authentication (2FA) whenever possible can provide an additional layer of security.

Ten Smart Steps to Protect Your Data at the U.S. Border

4. **Know Your Rights:**
 - You are not required to share your password, but refusal may lead to device seizure. Visa holders may be denied entry to the U.S. if they refuse to provide access. At preclearance locations, this may result in boarding being denied.
 - U.S. citizens can refuse to answer questions beyond identity and travel details, though this may cause delays. Lawful permanent residents cannot be denied entry but may face additional scrutiny. Visa holders may be denied entry if they refuse to answer questions about their trip and visa status.
5. **Document the Search:** Write down details of the search, including the names and badge numbers of CBP agents. Document the questions they ask. If your interview was recorded, ask for a copy of the transcript.
6. **Minimize Stored Data:** Carry less data across the border. Consider traveling with a laptop free of sensitive data or apps that collect and store sensitive data. Securely delete files instead of just moving them to the trash. Think about leaving your usual phone at home and buying a temporary phone, then transferring your SIM card or getting a new number at your destination.

Ten Smart Steps to Protect Your Data at the U.S. Border

7. **Encrypt Your Devices:** Enable full-disk encryption on all your devices for added security. Use strong passphrases instead of simple passwords.
8. **Turn Off Devices Before Border Crossing:** Power down your devices completely before reaching the border to help protect against potential remote access attacks and data interception.
9. **Inspect Devices Upon Return:** If your laptop is confiscated and later returned, boot it using an external drive and perform a thorough scan for any unauthorized software or changes.
10. **Limit Cloud Access:** The border search will only examine information on the device at the time of the search and cannot access information stored remotely. Sign out of sensitive apps, disable automatic logins, and consider removing apps that store personal data. Additionally, you may consider using a VPN for electronic devices.

Updates

- Impact recent tariffs on Canada and Mexico and revisiting USMCA (NAFTA) – potential impact to TNs
- Executive Order mentions going back 4 years to review earlier decisions – could revoke status.
- Big emphasis on compliance across the board
- Students, Post Grads
 - On optional practical training (OPT):
 - Ensure they have a valid Employment Authorization Document (EAD)
 - Have internal tickler system
 - On STEM OPT Extension
 - Must use E-Verify
 - Follow training plan (Form I-983)



H-1B Visa Program Updates & Reminders

- H-1B Lottery Registration: **Opened March 7, 2025-
Closed March 24, 2025**
 - Results?
- True lottery
 - 85,000 spots available
 - 20,000 reserved for those with a U.S. Master's Degree
 - 2024 Lottery: 479,953 registrations filed
 - If a foreign national will run out of status if they are not selected, consider alternatives



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H-1B Visa Program Updates & Reminders

- H-1B Modernization Rule (new)
 - The degree identified as a requirement for entry into the position must specifically relate to the duties of the position
 - “Port” petition allows employer to transfer employee already in H-1B status with another employer without having to go through the lottery and can employ individual upon the filing of the petition
 - If H-1B employee wants to move to new location, must file amendment before move occurs



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H-1B Visa Program Updates & Reminders

- H-1B Modernization Rule (new) (*continued*)
 - On-site inspections:
 - At primary place of business
 - At home for remote workers
 - Failure to cooperate can result in revocation of petition for foreign national, as well as other foreign nationals at site
 - ***Have a protocol in place***
 - Comply with Public Access File requirements
 - LCA documentation
 - Wage rate documentation
 - Job description



It is unlawful for a person or other entity—to
hire, or to recruit or refer for a fee, for
employment in the United States an alien
knowing the alien is an unauthorized alien . . .
with respect to such employment.

8 U.S.C. § 1324a(a)(1)

Who can work in the United States?

			
U.S. Citizens	U.S. Nationals	Permanent Residents	Aliens authorized to work
<ul style="list-style-type: none">• Born in U.S.• Child of U.S. citizen• Naturalized aliens	<ul style="list-style-type: none">• American Samoa• Swain's Island	<ul style="list-style-type: none">• "Green Card"• Granted the right to live and work in the U.S. indefinitely	<ul style="list-style-type: none">• In status with work authorization• Possess an EAD• Authorized by school



The person or entity must attest, under penalty of perjury and on a form designated or established by the Attorney General by regulation, that it has verified that the individual is not an unauthorized alien[.]

8 U.S.C. § 1324a(b)(1)(A)

Form I-9 Process Overview

Offer Accepted - Employee accepts conditional offer for employment. The Form I-9 cannot be used as a screening tool to determine whether to hire someone.

Section 1 - Employee (only the employee or preparer aiding employee) completes Section 1 of the form no later than the first day of work for pay.

Section 2 - Employee gives documents and form to employer. Employer inspects documents and completes Section 2 of the form no later than the 3rd business day after employee starts work for pay.

Supplement - Complete supplements, if applicable. Supplement A needs to be completed when the employee uses a preparer and/or translator to complete Section 1. Supplement B needs to be completed when reverifying an employee's work authorization.

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CREATE A CASE



The employer uses information from the employee's Form I-9 to create a case in E-Verify.

GET RESULTS



E-Verify displays an initial case result within a few seconds, though some cases may require additional action.

CLOSE THE CASE



The employer closes the case once E-Verify displays a final case result.

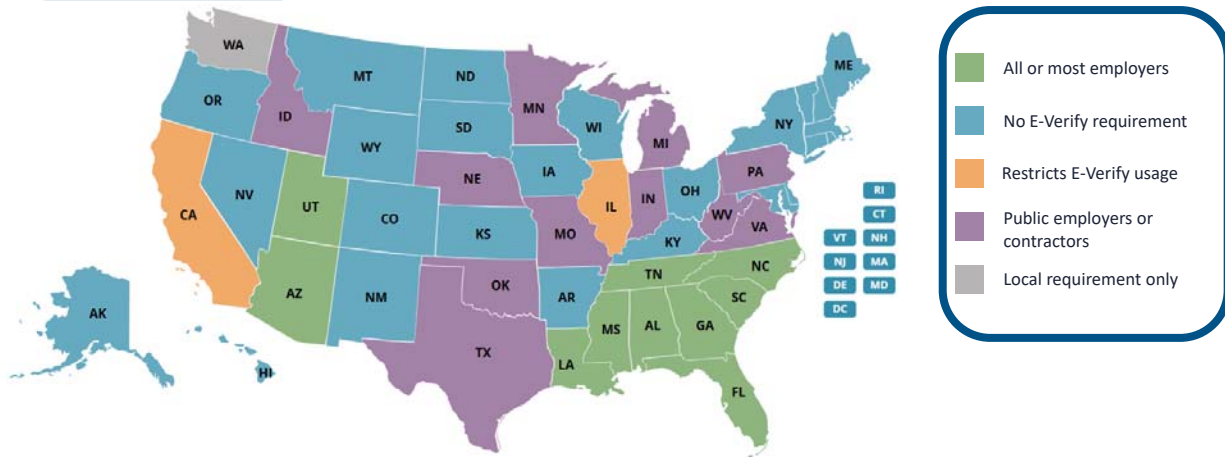
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2024 E-Verify State Requirements*



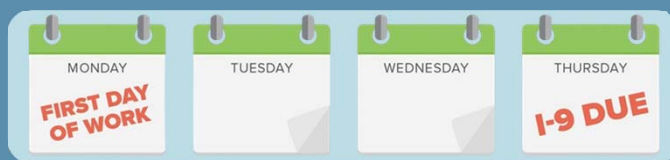
*Disclaimer: E-Verify requirements at the state level can change frequently with new laws being introduced, amended, or repealed through legislative or executive actions. Cities and counties may also impose E-Verify requirements which are not widely disclosed. The information above is intended for informational purposes only and should not be relied upon as a definitive source.

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Compliance Tips



Watch the clock!

Form I-9 deadlines apply to all hires, whether local or remote. Failure to comply can result in a fine regardless of the excuse.



It can be useful to establish a dedicated day in the week when new employees join to ensure the timeliness of the procedure.



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Compliance Tips



Don't over document

Allow employees to choose the documents they wish to provide. Do not tell an employee which specific documents to present.



Acceptable I-9 documents are listed on page 2 of Form I-9. Refer new hires to that page.



Compliance Tips



Understand the documents

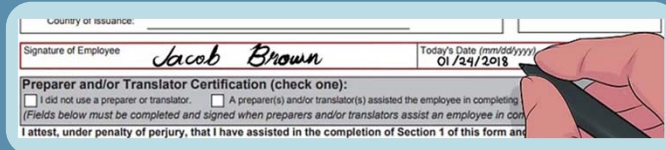
Make sure that the document is original, unexpired, appears to be reasonably genuine and that it relates to the employee.



You do not have to be a document expert. Consult USCIS website for guidance on documents you're not familiar with. Consider retaining copies.



Compliance Tips



Country of issuance: _____

Signature of Employee *Jacob Brown* Today's Date (mm/dd/yyyy) *01/24/2018*

Preparer and/or Translator Certification (check one):
☐ I did not use a preparer or translator. ☐ A preparer(s) and/or translator(s) assisted the employee in completing.
(Fields below must be completed and signed when preparers and/or translators assist an employee in completing.)

I attest, under penalty of perjury, that I have assisted in the completion of Section 1 of this form and



Sign on the dotted line

Unsigned or undated Forms are almost the equivalent of not completing one. Make sure all required fields are complete.



Consider providing staff with a checklist to complete as they review the Form for completion. Never backdate a Form.

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Compliance Tips



Audit, audit, audit!

Offense is the best defense. Conducting semi-annual audits allows you to catch and fix errors before ICE comes knocking.



Don't audit your own work. Have those that did not complete the Form for the company conduct the review.

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*Homeland Security Investigations
Office of the Special Agent in Charge*

U.S. Department of Homeland Security
14641 N. 74th Street
Scottsdale, AZ 85260

NOTICE OF INSPECTION

During the inspection, the undersigned will discuss the requirements of the applicable federal laws and regulations with you. In addition to presenting your company's Forms I-9, your company will need to present copies of any identity and/or employment authorization documents copied as part of the employment eligibility verification process. If your company utilizes an electronic system or software product to create electronically generated/modified/stored Forms I-9, you will need to present: the name of the electronic system or software product utilized; the internal business practices/protocols related to the generation of, use of, storage of, security of, and inspection and quality assurance programs for, your electronically generated/modified/stored Forms I-9. In addition, you will need to present: the indexing system identifying how the electronic information contained in the Form I-9 is linked to each employee; documents describing the system used to capture the electronic signature, including the identity and attestation of the individual signing the Form I-9; and the audit trail for each electronically generated/modified/stored Form I-9. Further, pursuant to 8 C.F.R. Section 274a.2(e)(8)(ii), the undersigned may contact you to schedule a demonstration of the generation of an electronic Form I-9 by the electronic system or software product used by your company.

I-9 Notice of Inspection (NOI) Checklist
(Redacted)

Inspection Checklist

In conjunction with the Notice of Inspection provided to your company and to expedite the I-9 inspection, U.S. Homeland Security Investigations (HSI) is requesting the following records:

1. Original Form I-9, Employment Eligibility Verification for all current employees and former employees one year after termination of employment from the date the Notice of Inspection was served.

NOTE: HSI will take custody of the original Forms I-9 (and copies of identity and work authorization documents). The company should make a copy of the Forms I-9 and attachments for their records. A receipt will be provided identifying the number of original Forms I-9 HSI receives.

2. All copies of identification and work authorization documents verified in Section 2 of Form I-9.

3. Copies of any E-Verify screen prints generated for individual employees.

4. A list of all employees receiving wages one year prior to the Notice of Inspection to present identifying employee name, Social Security Number, hire date, termination date, and physical work location. An electronic EXCEL version of this list is preferred, if available.

5. Copies of quarterly Unemployment Insurance Tax submissions to the Arizona Department of Economic Security for all quarters beginning one year prior to the delivery of the Notice of Inspection.

6. Copies of payroll registers listing wages by employee for all pay periods one year prior to the service of the Notice of Inspection to present.

7. For any workers/employees provided through an employment agency, temporary staffing agency, employee leasing agency, or a professional employer organization (PEO) co-employment agreement one year prior to the delivery of the Notice of Inspection through present:

- a. a by-name list of workers/employees identifying, Social Security Number, start date, termination date, amounts paid, and physical work location (detailed invoices submitted by the agency providing the listed information will satisfy this item).
- b. name and address of the agency/ies through which the workers/employees was obtained; and
- c. copies of any contract/service agreement between the company/companies and the agency/agencies providing



U.S. Immigration
and Customs
Enforcement

DHS Form I-138 (6/09) - Page 4 of 6

the workers/employees.

8. For any workers paid as contract labor and/or with compensation reported on IRS Form 1099 during the period covered by the inspection (one year prior to the delivery of the Notice of Inspection through present):

- a. a list identifying worker name, Social Security Number, date work began, termination date, the amounts paid to the worker, and physical work location of the worker;
- b. copies of all IRS Forms 1099 issued to the workers;
- c. copies of any employment applications and independent contractor agreements signed by the workers;
- d. copies of IRS Form SS-8 "Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding" prepared for any worker; and
- e. copies of IRS Form W-9 "Request for Taxpayer Identification Number and Certification" prepared for any worker.

Method of Response

Preferred:

Retain the requested records in an accessible data file format such as "XML", "CSV", "TXT", or "PDF". The data file(s) should be delivered via e-mail to Auditor Doreen Greves at Doreen.D.Greves@ice.dhs.gov.

NOTE: The ICE e-mail system filters incoming messages containing file attachments of 10 MB. For larger files, attach the requested responses to multiple e-mail messages.

Alternative:

The records should be delivered to Auditor Doreen Greves at U.S. Immigration and Customs Enforcement:
16541 N 74th Street, Scottsdale, AZ, 85260

If you have questions, please contact Auditor Doreen Greves at (480) 632-2519.

You are requested not to disclose the existence of this summons for an indefinite period of time. Any such disclosure will impede the investigation and thereby involve with the enforcement of Federal law.

END OF DOCUMENT



U.S. Immigration
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Enforcement

DHS Form I-138 (6/09) - Page 5 of 6

What is DACA and TPS?



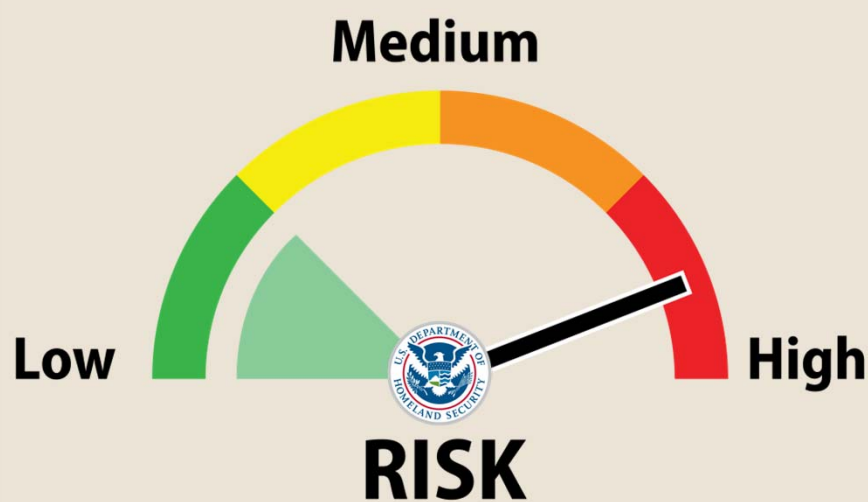
- **Deferred Action for Childhood Arrivals**
- Established in 2012 by executive order
- Grants some undocumented immigrants brought to the U.S. as children temporary relief from deportation
- To apply, must have arrived in U.S. before age 16; lived in U.S. since June 15, 2007; be in high school, a high school graduate, or veteran; and have no felony convictions
- *DACA recipients can get a work permit*
- **Temporary Protected Status**
- Established by Congress in the Immigration Act of 1990
- Temporary relief from deportation available to nationals of designated countries that are confronting an ongoing armed conflict, environmental disaster, or extraordinary and temporary conditions
- *TPS recipients can get a work permit*

WEATHERING THE ICE STORM

- Launch of the largest deportation operation in U.S. history
- Using federal agents (ICE, CBP, DEA, US Marshalls, etc.)
- Section 287(g) state agreements to use local police
- Targeting undocumented criminals.
- Ended arrest restriction on “sensitive areas,” including houses of worship, schools, and hospitals
- Targeting employers with undocumented workers with civil fines- deportation of workers
- Threat of criminal prosecution if “knowingly” employing, harboring, shielding, or concealing unauthorized persons



High Risk Industries



High Risk Industries



Construction



Agricultural



Manufacturing



Hospitality



Food Processing



The Jobs Immigrants Hold

Occupations with the highest share of noncitizen US workers



Source: 2022 American Community Survey, compiled by IPUMS

Bloomberg


Other At-Risk Employers

Employers previously audited and issued a fine or warning notice



Employers issued a Notice of Inspection (NOI), but the case is unresolved

Office of Investigations
U.S. Department of Homeland Security
[Address]
[Address]

 U.S. Immigration and Customs Enforcement

NOTICE OF INSPECTION

[Date]

[Name of Company Official]
[Company Name]
[Company Address]

Dear Sir/Madam:

Section 274A of the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986, requires employers to hire only United States citizens and aliens who are authorized to work in the United States. Employers must verify employment eligibility of persons hired after November 6, 1986 using the Employment Eligibility Verification Form I-9.

U.S. Immigration and Customs Enforcement (ICE) regulations require the provision of three days notice prior to conducting a review of an employer's Forms I-9. This letter serves as advance notice that ICE has scheduled a review of your forms for *insert date and time*. You may, however, waive the three-day period, should you wish to do so, by annotating and signing the bottom of this letter and advising this office of your decision.

Employer Checklist

1. Implement an immigration policy

- **Include an Immigration Policy as part of your handbook**
 - It should clearly state that
 - Company will only hire individuals with work authorization
- **Address Discrimination**
 - Include a provision prohibiting discrimination
- **Ensure Distribution**
 - Disseminate policy to all employees (can be done without reissuing handbook)
- **Zero tolerance**
 - Managers will be terminated if they knowingly hire unauthorized

Employer Checklist

2. Audit Form I-9s!!

- **Use a third party to audit**

Don't task the individual responsible for completing the Form I-9 for the Company with auditing their own work

- **Make edits in accordance with the M274 Employer Handbook**

Using contrasting ink and consider including a memo explaining the change

- **Do not backdate!**

Accurately date the change

Employer Checklist

3. Are we knowingly employing undocumented folks?

- **Do you have actual knowledge?**

- Do you or any of your managers/supervisors have actual knowledge an undocumented employee is working for you?

- Has an employee admitted to being undocumented? How did the company respond?

- Has the Company previously been audited and informed of unauthorized employees? Did you terminate those employees? Did you rehire them under a different name?

Employer Checklist

4. Do we have constructive knowledge of any undocumented workers on payroll?

- **Do you have constructive knowledge?**
 - Constructive knowledge is usually found based on several pieces of information.
- Do not make presumptions based solely on an employee's national origin or race
- Social Security mismatch letter does not impute constructive knowledge
- Decide how you will respond to constructive knowledge issues (e.g., anonymous report that an employee is undocumented)

Employer Checklist

5. Do you have a Worksite Enforcement Protocol?

Worksite Enforcement Protocol

Clearly mark non-public areas

- Classify areas as “Private” or “Employees Only”.
- Prepare a master list (map).
- Without a valid judicial warrant granting access to non-public areas, agents cannot enter those areas.



Worksite Enforcement Protocol

Identify Initial Point of Contacts(s)

- Identify potential Initial Point of Contact (i.e., receptionist).
- Initial Point(s) of Contact should know who to contact and how to respond.
- Get copy of document, take a picture, immediately send to Primary Point of Contact. Ask if agents can wait until Primary Point of Contact arrives. Know what to do if agents refuse to wait.



Worksite Enforcement Protocol

Identify Primary Point of Contact(s)

- Primary contact should be a senior-level manager or human resources member.
- Contact counsel.
- Primary Contact takes charge— Do not consent beyond what is in judicial warrant.
- Follow agents to ensure don't exceed warrant.
- **Train Points of Contact**



Recognize what a Judicial Warrant is –

- Issued by a court
- Signed by a judge

AO 93 (Rev. 11/17) Search and Seizure Warrant

UNITED STATES DISTRICT COURT

for the _____

In the Matter of the Search of _____
(Identify the property to be searched
or identify the person by name and address)

Case No. _____

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search
of the following person or property located in the _____ District of _____
(Identify the person or describe the property to be searched and give its location):

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property
described above, and that such search will reveal (Identify the person or describe the property to be seized):

YOU ARE COMMANDED to execute this warrant on or before _____ (not to exceed 14 days)
in the daytime 6:00 a.m. to 10:00 p.m. _____ at any time in the day or night because good cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the
person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the
property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory
as required by law and promptly return this warrant and inventory to _____ (United States Magistrate Judge)

Pursuant to 18 U.S.C. § 3105a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C.
§ 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose
property, will be searched or seized (check the appropriate box):

for _____ days (not to exceed 30) _____ until, the facts justifying, the later specific date of _____.

Date and time issued: _____

City and state: _____

Judge's signature _____

Printed name and title _____

Recognize what an Administrative Warrant is –

- Homeland Security Document
- NOT issued by a court
- NOT signed by a judge

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U.S. DEPARTMENT OF HOMELAND SECURITY Warrant for Arrest of Alien

File No. _____

Date: _____

To: Any immigration officer authorized pursuant to sections 236 and 287 of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations

I have determined that there is probable cause to believe that _____ is removable from the United States. This determination is based upon:

- ☐ the execution of a charging document to initiate removal proceedings against the subject;
- ☐ the pendency of ongoing removal proceedings against the subject;
- ☐ the failure to establish admissibility subsequent to deferred inspection;
- ☐ biometric confirmation of the subject's identity and a records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law; and/or
- ☐ statements made voluntarily by the subject to an immigration officer and/or other reliable evidence that affirmatively indicate the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law.

YOU ARE COMMANDED to arrest and take into custody for removal proceedings under the Immigration and Nationality Act, the above-named alien.

(Signature of Authorized Immigration Officer)

(Printed Name and Title of Authorized Immigration Officer)

Certificate of Service

I hereby certify that the Warrant for Arrest of Alien was served by me at _____ (Location)
on _____ (Name of Alien) on _____ (Date of Service), and the contents of this
notice were read to him or her in the _____ (Language) language.

Name and Signature of Officer _____
Name or Number of Interpreter (if applicable)

Form I-200 (Rev. 09/04)

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Worksite Enforcement Protocol

Educate employees

- Consider providing Red Cards to all employees educating them on their rights.
- Consider providing additional materials to workers and their families.

Provide Step-by-Step instructions

- Give specific examples:
 - No warrant, but agent wants to speak with employee.
 - Agent has administrative warrant and wants to search.
- Decide on company's level of cooperation.
- Do not interfere with agents.
- Take notes.

You have constitutional rights:

- **DO NOT OPEN THE DOOR** if an immigration agent is knocking. If you are inside of your house, show the card through the window or slide it under the door.
- **DO NOT ANSWER ANY QUESTIONS** from an immigration agent if they try to talk to you. You have the right to remain silent.
- **DO NOT SIGN ANYTHING** without first speaking to a lawyer. You have the right to speak with a lawyer.
- If you are outside of your house, **SHOW THIS CARD TO THE AGENT**. Ask the agent if you are free to leave and if they say you can, leave calmly.



www.RedCardOrders.com

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Worksite Enforcement Protocol

Understand post-visit actions

- Notify employees that agents have left.
- Ensure all employees are accounted for.
- If some employees are taken into custody, notify next of kin.
- Compile notes.
- Identify any seized items.
- Discuss results with your attorney.



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Continuing Investigation

- Agencies will review items seized during the raid
- May conduct undercover surveillance post raid
- May try to get employees who are in custody to provide information about your hiring practices
- May use potential criminal charges against supervisors, etc. to provide information about your hiring practices.



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Take-Aways

- ***Understand your obligations under immigration law.*** If you're unsure, consult counsel.
- ***Monitor updates.*** Things change in the immigration space quickly.
- ***Draft comprehensive policies.*** Review them periodically and conduct training.
- ***Audit before you're audited!*** Are your Forms I-9 in good shape? Do you participate in E-Verify?
- ***Are you in compliance concerning those employees on a visa?***
- ***Plan for workplace audits.*** Can you access Forms I-9 in 3 days?
- ***Do you have a worksite protocols in place?***

Thank you!

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