

# Immigration & Workforce Compliance in Hospitality

**Fisher  
Phillips**



**David Jones** | Regional Managing Partner, Memphis  
National Immigration Practice Co-Chair

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# Current Events in Immigration



## Kristi Noem, Secretary of Department of Homeland Security

- DHS has a budget of \$62 billion and over 260,000 employees

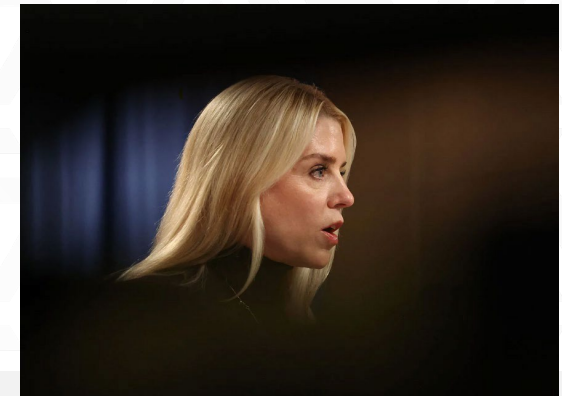


## Tom Homan Named “Border Czar”

- Will oversee day-to-day operations and strategy on border security
- Advocate for targeting undocumented workers **and the businesses** that hire them
- “I will run the biggest deportation operation this country has ever seen”

## U.S. Attorney General Pam Bondi

- Justice Department has put new emphasis on prosecutions and investigations with a focus on states that have helped undocumented immigrants
- After taking office, Bondi immediately issued several directives, including a commitment that the DOJ will “use all available criminal statutes to combat the flood of illegal immigration”



# 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. On February, Trump removed Acting ICE Director on the grounds that deportations were going too slowly.

- **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. Although challenged and temporarily enjoined, the Supreme Court has allowed the revocation to move forward.

- **Revocation of Temporary Protected Status (TPS):**

- DHS revoked the latest TPS designation for approximately 600,000 Venezuelans residing in the United States as well as the latest TPS designation for Haiti by publication in the Federal Register. This also has been challenged. Both actions were challenged, and enjoined. Supreme Court has allowed the Venezuelan revocation to move forward.

- **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



# 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**.



# 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

# What protections are available?

- **Employers and employees have rights under law, regardless of status**
  - 4<sup>th</sup> Amendment – protects people against unreasonable search and seizure of their home, person and belongings
  - 5<sup>th</sup> 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
- **Warrants**
  - 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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# Best Practices



# 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.

# 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.
- 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.

# 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.

# 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



# 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.

# 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.
- 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.

# I-9 Compliance

- Provide updated training for all managers, human resources personnel, and staff involved in the I-9 process.
- Provide updated training for all involved in the E-Verify process, including training on fraud awareness and anti-discrimination.
- Update immigration policies in handbooks.
- If your company does not have an immigration compliance policy, now is the right time to consider implementing one.

# I-9 Compliance

- Update internal business processes associated with I-9s and E-Verify.
- 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;
- Enlist outside immigration counsel to conduct an attorney-client privileged audit of your I-9s
- 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.




# Fisher Phillips Resources



# Employers' Rapid Response Website

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

Employer DHS/ICE Raid  
Preparedness Action Plan Checklist



1. 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.

☐ Immigration Point Person:

Name:

Contact Info:

2. 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.

☐ Inform employees that they should not communicate with DHS/ICE/CBP on the Company's behalf.

3. 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.

4. Handling ICE or CBP Agent Arrival

☐ Step 1: Ask agents if they have a warrant.

☐ Step 2: If no warrant is presented, deny access to employees, documents, and non-public areas.

☐ Step 3: If a warrant is presented, carefully review its details.

5. 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.

6. Managing the Search and Seizure Process

☐ Cooperate within the limits of the warrant.

☐ 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.

7. Employee Rights and Conduct

☐ Inform employees that it is their **choice whether** to answer questions from ICE agents.

☐ Inform employees that it is their **choice whether** to remain silent and request legal representation.

8. 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.

9. Handling Arrested or Detained Employees

☐ Gather details on where detained employees are being taken.

☐ Notify legal counsel or an immigration attorney for assistance.

10. 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.

11. 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.

☐ Coordinate with crisis communications team to manage post-raid internal and external communications and to limit risk and minimize exposure.


☐ Provide necessary support to affected employees.

☐ Revise and update this action plan based on new developments or legal requirements.

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# Employers' Rapid Response Team Hotline

## 24/7 Emergency Hotline:

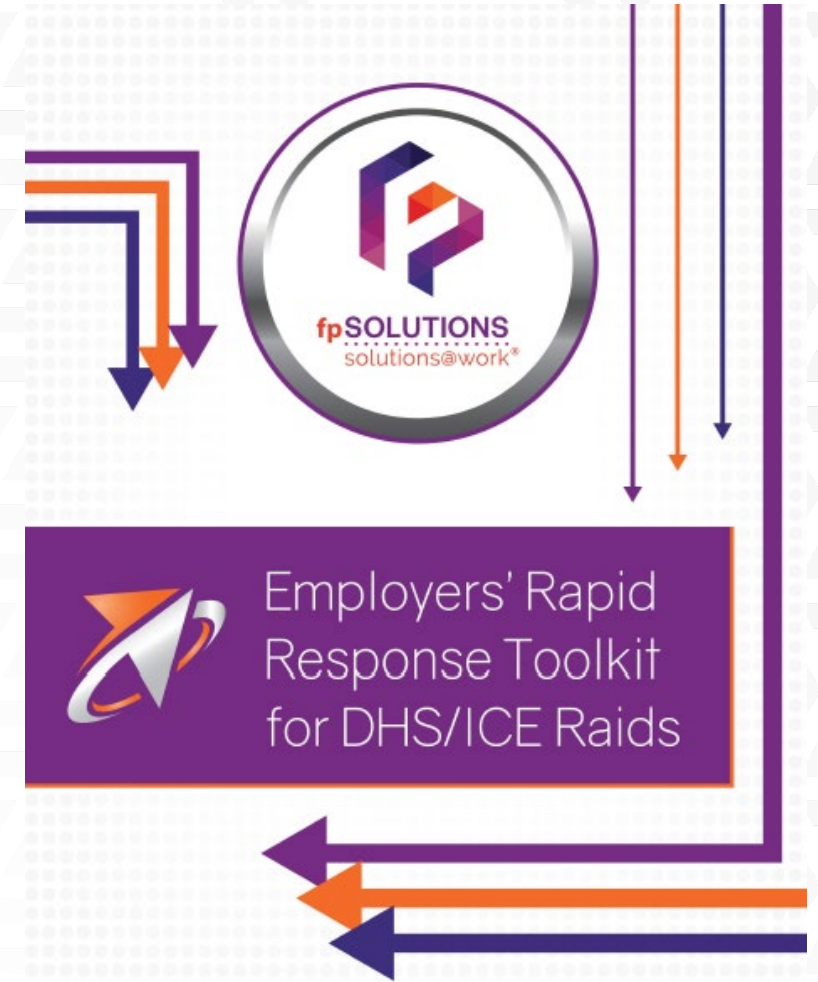
In the event of an active ICE enforcement action, call us at **877-483-7781** for immediate assistance.

[DHSRaid@fisherphillips.com](mailto:DHSRaid@fisherphillips.com)



# Employers' Rapid Response Toolkit for DHS/ICE Raids

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



# QUESTIONS?

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# THANK YOU

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**David Jones**  
Partner | Memphis  
901.526.0431  
[djones@fisherphillips.com](mailto:djones@fisherphillips.com)

