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A Smooth Sail for Employers? Immigration Worksite Enforcement

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As Congress continues to appropriate more money to the U.S. Immigration and Customs Enforcement (ICE), employers in the U.S. will see an increase in immigration worksite enforcement in all industries, and industries involving critical infrastructure, according to officials of ICE who presided in a conference on May 28, 2009, held in affiliation with the immigration bar association.

Immigration worksite enforcement (worksite enforcement) is a process whereby the U.S. federal government, through ICE, enforces the law against the employers in the U.S. in the hope of effectively, including but not limiting to, reducing the demand for illegal employment, and protecting the employment opportunities in the U.S. for the U.S. lawful workforce. All employees must be authorized to work in the U.S., either automatically (U.S. citizen or lawful permanent resident) or by the U.S. Citizenship and Immigration Services (USCIS).
Among other things, ICE agents are encouraged to conduct more investigation on employers' compliance with the employment verification system on Form I-9. ICE's new policy is to increase the number of fines levied on sanctioned employers, and to adopt more uniformity in the level of fines across the U.S. In addition to fines, ICE may also debar certain companies, found in violation of worksite enforcement, from accepting contracts from the U.S. federal government.

Much of the worksite enforcement policy was developed only two or three years ago and they continue to evolve rapidly because it was only in 2005 that the U.S. government started to increase its focus on worksite enforcement. ICE continues to provide training to their ICE agents on worksite enforcement policy to increase their agents' expertise in executing the law on worksite enforcement.

Due to the continuous evolution of worksite enforcement policy, upon worksite enforcement from ICE agents, the employers, when appropriate, should not be afraid to respectfully challenge the ICE agents' interpretation of the worksite enforcement law.

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