

# Immigration and Customs Enforcement (ICE) Worksite Raid: Rights and Responsibilities

## Scope of Operation

**Preparation is critical.** Even if an employer correctly verifies work authorization of all employees, ICE could investigate the workplace.

**Notify legal counsel.** When ICE arrives at the worksite, call your GT immigration attorney immediately. The receptionist or company representative can inform the officers that pursuant to company policy, they are calling the company's attorney.

**Raid process.** ICE officers are free to enter any public areas of the workplace but must have a valid search warrant or the employer's consent to enter non-public areas.

- A valid warrant must be signed and dated by a judge. It will include a time frame within which the search must be conducted, a description of the premises to be searched, and a list of items to be searched for and seized.
- An ICE officer will serve the search warrant on a receptionist or company representative and alert other agents to enter.
- The company can accept the warrant but not consent to the search. If the company does not consent to the search, the search will proceed but the company can later challenge it if there are grounds to do so.
- Depending on the type of business, ICE may demand that equipment be shut down and that no one leave the premises without permission.
- ICE may move employees into a confined area for questioning.

**Post-Raid Issues.** The investigation does not end after ICE leaves the premises. ICE will thoroughly review items seized during the raid and the investigation, including undercover surveillance, can continue for many months.

## Rights and Responsibilities

### Employers have several rights and responsibilities during an ICE worksite raid:

- If a search warrant is presented, examine it to ensure that it is signed by a judge, it is served within the permitted time frame, and that the search of the area and items is within the scope of the warrant. Be sure to send a copy of the warrant to your attorney.
- Write down the name of the supervising ICE agent and the name of the U.S. attorney assigned to the case.
- Have at least one company representative follow each agent around the facility. Note any items seized and ask if copies can be made before they are taken. If ICE does not agree, you can obtain copies later.
- Do not block or interfere with ICE activities or the agents.
- If officers present a valid warrant and want access to locked facilities/non-public areas, provide access.
- Object to a search outside the scope of the warrant. Do not engage in a debate or argument, simply present your objection to the agent.
- Request reasonable accommodations, as necessary. If agents insist on seizing something that is vital to your operation, explain why it is vital and ask for permission to photocopy it before the original is seized. Reasonable requests are usually granted.
- Protect privileged materials.
  - If agents wish to examine documents designated as attorney-client privileged, inform them they are privileged and request that documents not be inspected by agents until you are able to speak to your attorney.
  - If agents insist on seizing such documents, you cannot prevent them from doing so.
- Ask for a copy of the list of items seized during the search. The agents are required to provide this inventory to you.
- Company representatives should not give statements to agents or be interrogated before consulting with an attorney.
- Do not hide employees or assist them in leaving the premises. Do not provide false or misleading information, falsely deny the presence of named employees, or shred documents.
- Consider the health and welfare of employees. Enforcement actions can sometimes last for hours. If an employee requires medication or medical attention or if employees are primary caretakers of children, communicate these concerns to the ICE officers.
- For contractors employed by a staffing company: Direct immigration questions related to a contractor to the staffing company.

### Employees have the right to remain silent and the right to an attorney:

- You may ask if your employees are free to leave. You may inform employees that they may choose whether or not to talk with ICE, but do not direct them to refuse to speak to agents.
- Employees do not need to answer questions about their immigration status, country of birth, or how they entered the United States.
- If ICE tries to determine employees' immigration status by asking them to stand in groups according to status, they do not have to move, or can move to an area that is not designated for a particular group.
- Employees may refuse to show identity documents that disclose their country of nationality or citizenship.
- If employees are detained/taken into custody, ensure their families are contacted and any money owed to the employees is paid.

*Information contained herein is for informational purposes only, is general in nature, and is not intended to and should not be relied upon or construed as a legal opinion or legal advice regarding any specific issue or factual circumstance. Nor is this information intended to create, and receipt of it does not create, an attorney-client relationship between you and the firm. You should consult an attorney to obtain legal advice.*