

## ***Federal Government Makes Employers Subject of Immigration Enforcement with I-9 Audits and E-Verify Monitoring***

In recent weeks, the Department of Homeland Security (DHS) has begun fulfilling its promise of investigating employers who hire illegal workers by initiating two major steps: conducting audits of employers' I-9 forms and preparing for increased monitoring of the E-Verify System.

As mentioned in the AGC article, [DHS to Focus on Prosecuting Employers Who Hire Illegal Workers](#), the Immigration and Customs Enforcement Division of DHS (ICE) has notified several hundred companies of the intent to audit their I-9 forms. Employers chosen for the administrative audit received a Notice of Inspection (NOI) with instructions to present all original I-9 forms and supporting documents within three (3) days along with the company's hiring records. According to a July 1 [press release](#), ICE issued these notices to 652 businesses nationwide, compared to 503 notices issued in all of 2008. In the press release, ICE identified the 652 employers as those resulting from "leads and information obtained through other investigative means." Review AGC's [Seven Critical Steps for Surviving an I-9 Audit](#) for guidance once an NOI is received.

ICE isn't the only division of DHS tasked with handling employer relations when it comes to immigration compliance. The U.S. Citizenship and Immigration Services division of DHS (USCIS) has announced its plans to use a new system to monitor the use of the [E-Verify](#) system. The new Compliance Tracking and Management System (CTMS), which is intended to alert employers of potential issues and misuse of E-Verify in order to correct any deficiencies, will be used to identify such things as the fraudulent use of Alien numbers, wrongful employee terminations due to tentative non-confirmations, verification of applicants instead of employees, verification of only some employees and failure to use E-Verify consistently, to name a few. Although USCIS does not have the authority to investigate and prosecute employers or workers based on its findings through CTMS, USCIS may share the information it gathers with ICE as well as other law enforcement agencies in order to build a case against an employer.

Employers are encouraged to be proactive in developing a system for using E-Verify before a circumstance arises. A first step is to review the basic guidance provided by USCIS with expert counsel to outline a specific set of best practices, such as:

- Providing E-Verify basic compliance training and I-9 training for all E-Verify users;
- Running and evaluating reports on E-Verify use on a regular basis and sharing the information with an individual who is not involved with E-Verify operations;
- Having outside auditors and legal counsel review the process to assess exposure and concerns;
- Establishing and maintaining safeguards to prevent use of the E-Verify process for unlawful discrimination;
- Creating and implementing procedures for handling a possible E-Verify review by USCIS, including contacting legal counsel; and
- Conducting integrated, annual I-9 and E-Verify internal audits.

As immigration enforcement and monitoring becomes a more pressing concern for companies across the country, it is important for employers to become aggressive in developing and executing Best Practices for staying compliant with current immigration laws.