

Erickson Column: ICE steps up audits



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Last Wednesday was a wake-up call for the business community. U.S. Immigration and Customs and Enforcement (ICE) officials issued a Notice of Inspection to 652 U.S. businesses that their records would be audited. The reason: to determine whether or not these businesses have knowingly hired persons not authorized to work in the U.S. This new initiative from ICE, to audit the Form I-9 employment eligibility verification records of selected companies nationwide, is a move that is consistent with President Obama's stance on illegal hiring practices. An ICE spokeswoman said: "Part of the strategy is to let businesses know that we mean business."

It seems that the government has realized that tougher enforcement on the business could be a key first step in significantly reducing the illegal portion of the U.S. workforce. Perhaps the tougher sanctions will be the answer in getting business to comply with U.S. hiring requirements.

In targeting the business community, the government has adopted a strategy that makes sense. The reason is simple. Undocumented workers are only able to work because of the employers who knowingly provide them with employment. Once the employer stops hiring those without work authorization, the problem will be spoken of in the past tense. In addition, making it more difficult to find U.S. employment at least arguably lessens the numbers of those entering the U.S. to begin with.

In terms of taking this particular initiative seriously, the business community would be well advised to listen up. The businesses that were targeted by ICE this time were primarily selected based on prior investigations. However, given the fact that there are approximately 12 million illegal immigrants in the U.S., it seems clear that many other businesses should be taking steps to get their employment practices in order. It is unlikely that ICE will be finished after it completes its audit of those 652 businesses selected.

For those businesses facing an ICE audit, the possible consequences are significant. Companies found to have knowingly violated U.S. immigration laws by hiring illegal workers will face the threat of significant fines and penalties, which could include an inability to bid on government contracts. In addition, executives could also face serious jail time. I suspect that the threat of jail time will get everyone's attention. It makes hiring unauthorized workers less of a cost-benefit analysis and more of a "do-I-really-want-to-go-to-jail" analysis.

U.S. immigration policy has long been the hot potato that our government has simply not been able to get a handle on, or take the steps necessary to effectively deal with. The fact that there are approximately 12 million people living illegally in the U.S. speaks volumes as to how long the issue has been ignored.

The new ICE initiative comes at a time when the Obama administration is about to tackle the numerous issues associated with immigration reform. What it shows is that Obama is not waiting for the reform agenda to be sorted out before taking next steps on what amounts to a security issue.

As the immigration reform policy begins to take shape, it will be important that fairness and thoughtfulness underscore the process. With the administration's audit strategy, it does raise questions as to what comes next if employers are prosecuted for hiring undocumented workers. In essence, what happens when illegal workers are no longer getting regular paychecks? How long can/will they remain in the U.S. once they no longer are able to secure employment? What will they resort to in order to support their families?

The new initiative signals the seriousness with which the administration is focused on U.S. employers and illegal employment. Immigration reformers are no doubt disappointed as they likely wanted to see a temporary status first provided to illegal workers, and then the ICE initiative launched at those businesses who continue to employ the undocumented.

As I see it, despite the risks of an ICE audit, there will be some employers that continue to hire illegal workers. The ICE audits, while they no doubt will get the attention of a majority of the business community, will leave some employers willing to take the risk. There are certain jobs that some business owners apparently aren't able to fill with U.S. workers. As a result, some owners will be faced with making a decision to hire illegal workers for those positions, even in the face of a potential ICE audit.

What the Obama administration has reaffirmed with the ICE initiative is that employing unauthorized workers is illegal and no longer something that will be ignored. And that if they catch you, there will be consequences. The initiative appears to be a smart move in terms of the administration's overall immigration strategy; the question remains as to whether or not it will have meaningful impact in eliminating illegal employment.

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