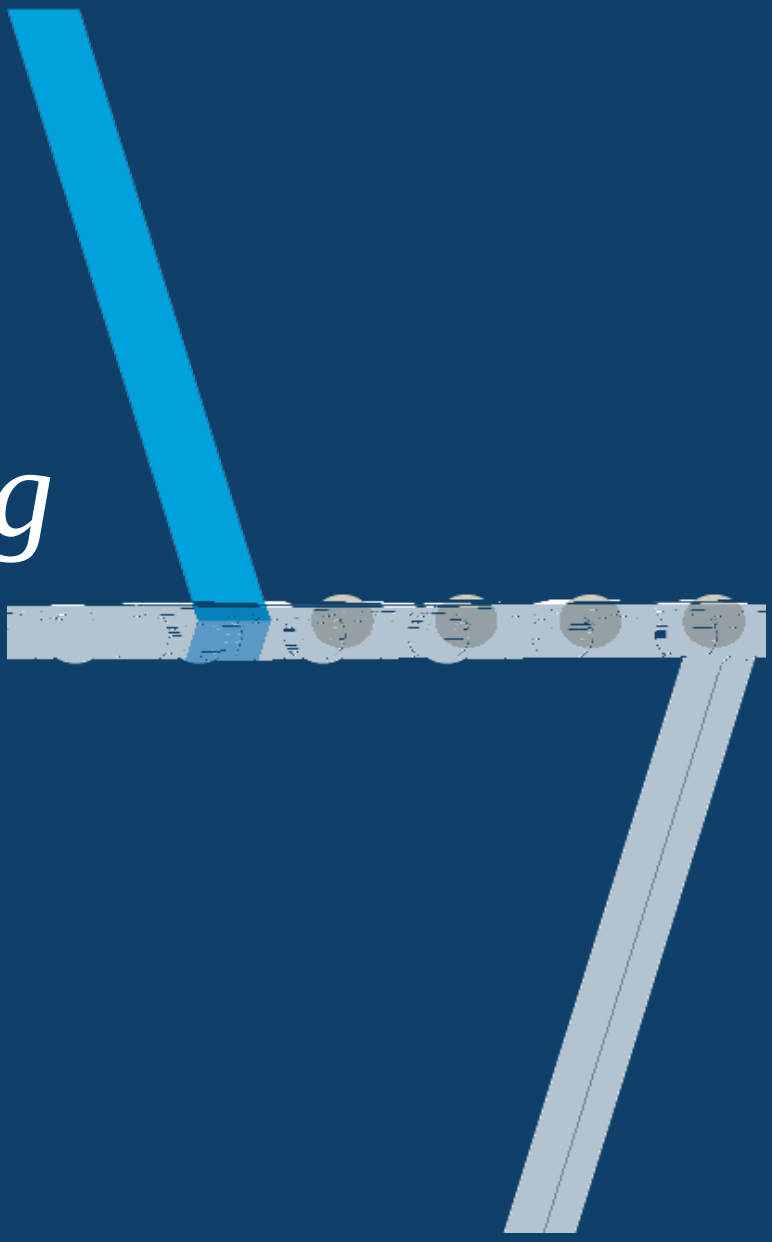
# *When ICE Comes Calling*



U.S. Immigration &
Customs Enforcement
on the Jobsite

Learn more at
*www.ice.gov*

*The following information is not legal advice, and NAHB strongly encourages members to work with local counsel to establish a compliance protocol that suits their unique needs.*

# WORKSITE ENFORCEMENT OF EMPLOYERS' FORM I-9 RECORDS

| Characteristics of the Law | Administrative Audit | Authorized Raid |
|---|---|---|
| Notice of Inspection (NOI) issued to compel employers to produce Forms I-9 and related materials | | |
| Employers provided at least three (3) business days to produce the Forms I-9 | | |

Paperwork errors that are uncorrected can lead to more serious

– to ensure accuracy and prepare a complete and easy-to-follow documentary response.

Carefully review, with outside counsel where possible, the NOI and any accompanying subpoena to clearly understand the scope of ICE's request. NOIs and subpoenas can come in different versions and may be drafted in different ways.

employee, ICE has been unable to determine his or her work eligibility. The employer should provide the employee with a copy of the notice and give the employee an opportunity to present ICE with additional documentation to establish eligibility.

Notice of Procedural Failures — notes procedural violations identified during the inspection and gives the employer 10 business days to correct the forms or otherwise become substantive violations.

Warning Notice — issued in circumstances where substantive verification violations were identified, but circumstances do not warrant a monetary penalty and the employer is expected to comply going forward.

Notice of Intent to Fine (NIF) — may be issued for substantive, uncorrected procedural violations, or knowingly hiring and continuing to employ unauthorized workers.

## RAIDS AUTHORIZED BY JUDGES

*How Does an Employer*

## CHECKLIST
*During Search*

| | |
|---|---|
| | Do not consent to search on behalf of company – may bind company. |
| | Do not discuss legal or factual issues to protect privilege concerns. |
| | Do not destroy or conceal materials. |
| | No employee is obligated to speak with agents, but the company cannot instruct employees *not* to speak with agents. |
| | Minimize and coordinate public statements to maintain confidentiality. |

## CHECKLIST
*After Search*

| | |
|---|---|
| | After search, debrief with counsel and employees, and review any agent contacts. |
| | Provide reassurance to employees |
| | Direct all communications with ICE through outside counsel |
| | Beware of whistleblower and retaliation concerns |
| | Recreate files that were taken |

*Additional ICE worksite information can be found at www.ice.gov.*

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