

**NOTHING FREEZES BUSINESS LIKE ICE—
ARE YOU I-9 COMPLIANT?**

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PAY US NOW OR PAY THE GOVERNMENT LATER.
OUR RATES ARE LOWER!

Would you be prepared for an ICE audit today? If you don't have a written I-9 policy with all forms perfectly in compliance, then you are at risk.

An ineffective I-9 policy could subject your business to large fines, even if the errors are technical. In fact, technical errors often make up the bulk of fines levied by Immigration and Customs Enforcement (ICE). When dealing with federal regulations, a **policy of prevention could save your organization the pain of expensive fine.**

BACKGROUND

In 1996, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act, or IIRAIRA. This law reduced the number of identity documents an employer could accept from employees. **DHS issued a new version of the I-9 today. Make sure you are in compliance.**

DOES YOUR COMPANY HAVE A WRITTEN POLICY? IT SHOULD.

Any employer, regardless of size, who does not have a written policy, should take immediate steps to implement a consistent and thorough policy in order to avoid penalties and fines should an Immigration and Customs Enforcement (ICE) agent come knocking on their door one day—**an increasingly likely chance in our current climate.**

Key issues that an employer should consider are:

- ☛ Are you complying with proper retention rules?
- ☛ Do you know when you must and must not re-verify?
- ☛ Is your policy effective to comply & avoid discrimination?



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- ☛ Should you make copies of employee's identity docs?
- ☛ Do you perform a yearly audit?

ICE AUDITS UP BY 1000% (THAT IS NOT A TYPO). In the past five years, ICE has ramped up its efforts to crack down on the hiring of unauthorized workers and to verify proper compliance with the I-9 program. The numbers below tell you all you need to know about the increased scrutiny to which all businesses are going to be subject.

ICE AUDITS: Increase from 250 in 2007 to **3,000 in 2012**
ICE FINES: \$1 million in 2009 to **\$13 million in 2012**
ICE ARRESTS: 238 Company Managers **Arrested in 2012**
PENALTY: Company Fined **\$17,700 for Record Keeping Errors**

CIVIL AND CRIMINAL PENALTIES

If an employer runs afoul of its I-9 obligations, the penalties can be harsh. If an employer is found to be liable for unlawful hiring, penalties range from \$275 to \$16,000 per unauthorized alien.

Besides unlawful hiring, ICE can assess penalties against an employer for violating verification and recordkeeping requirements, which range from \$110 to \$1,100 per I-9 *per violation*.

Although criminal penalties do not apply to violations that are purely paperwork in nature, an employer should also keep in mind that it can be charged with criminal penalties for "pattern or practice" violations.

No matter the size of your company, you need a written I-9 policy. ICE audits businesses of all sizes and in all industries. Don't be unprepared when they show up on your doorstep.

TRUE or FALSE? Our company doesn't have any foreign workers so I don't have to worry about I-9 ICE investigations. (Answer in next week's issue.)

The DeFranco Law Group offers this free Email Alert service to provide information on recent developments in immigration law. Questions? Please send us an email at mdefranco@yourimmigrationcenter.com.

About the Author

Marisa DeFranco is an immigration attorney with 17 years of experience. In 2011, she was honored as a **Top Woman of Law** by Massachusetts Lawyers Weekly. Attorney DeFranco is also a **National Award Winner**, receiving the National Legal Aid & Defenders Association's Beacon of Justice Award for her Pro Bono Service (300+ hours of service in 15 months) in 2010.

Attorney DeFranco recently had an [Opinion column published in the Boston Herald](#), and was previously published in the ABA's book, *The Road to Independence: 101 Women's Journeys to Starting Their Own Law Firms*. She has authored several scholarly articles, including [Gender Asylum: Bringing the Law into the 21st Century](#). In 2011-2012, Ms. DeFranco was a candidate for U.S. Senate in Massachusetts. Ms. DeFranco is a [frequent contributor on WGBH](#) and [CBS Nightside with Dan Rea](#).

DeFranco Law Group specializes in all aspects of immigration and nationality law, including litigation in Federal Court, business and family-based cases, asylum and naturalization. The firm's business-based immigration practice includes hands-on experience in a wide range of industries, from small businesses to Fortune 500, including healthcare, IT, biotechnology, construction, restaurant and service industries and entrepreneurs.

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