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Changes to Immigration Enforcement Policies Impact Employers

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Through a series of executive orders and agency actions since taking office on January 20, 2025, the second Trump Administration has implemented drastic changes to immigration enforcement that are increasing incidents of Immigration and Customs Enforcement (ICE) activities, or “raids,” at worksites.

ICE is the agency within the U.S. Department of Homeland Security (DHS) that is responsible for immigration enforcement in the interior (as opposed to “border” areas) of the United States. ICE has many functions and powers. Most notably, its agents from Enforcement and Removal Operations (ERO) have the authority to take certain individuals into custody for the initiation of civil immigration deportation proceedings (removal proceedings).

On January 20, 2025, President Trump signed multiple executive orders pertaining to immigration. Two of these orders, Executive Order 14159 (Protecting the American People Against Invasion) and Executive Order “Securing Our Borders,” contained directions to ICE and other immigration agencies to strengthen enforcement measures and take steps towards the termination of programs that offered broad relief, including valid employment authorization. ICE and DHS subsequently issued updated directives to maximize immigration enforcement and deport (remove) as many individuals as possible.

As a result of these new directives, ICE can now take more widespread enforcement actions, including:

- Conducting previously prohibited enforcement activities (arrests, interviews, searches, and immigration-related surveillance) at or near “sensitive locations,” which include schools, healthcare facilities, and places of worship;
- Terminating grants of humanitarian parole that were approved by the Biden Administration under country-based programs for Ukrainians, Afghans, Cubans, Haitians, Nicaraguans, and Venezuelans;

- Applying a summary deportation process (expedited removal) to individuals who cannot affirmatively prove that they have been continuously present in the U.S. for two years; and
- Taking into custody and initiating removal proceedings against any person who does not have affirmative nonimmigrant status, including certain individuals who have valid employment authorization and temporary protection from removal (such as DACA recipients, TPS recipients, humanitarian parolees, and asylum applicants).

Employers should be aware that the situation is fluid, and additional agency policies impacting ICE activities may be implemented in the future.

To prepare for the contingency of an ICE enforcement action, employers should consider the following actions:

- Designate one or more Employer Representatives who can interact with ICE agents;
- Ensure points of initial contact with the public (e.g., receptionists, security guards, etc.) are trained on how to respond when ICE agents arrive;
- Ensure Employer Representatives can distinguish between judicial warrants/subpoenas and administrative warrants/subpoenas (signed by immigration officers or immigration “judges”), as well as which documents require compliance and under what circumstances;
- Ensure Employer Representatives understand actions that ICE agents are allowed to take on public versus private parts of the premises and under what circumstances;
- Ensure there is a protocol for Employer Representatives during and after an ICE enforcement action;
- Ensure Employer Representatives and other key personnel are aware of their rights and the rights of employees and other parties (e.g., guests, customers, etc.) in the event of an ICE enforcement action; and
- Ensure Employer Representative is aware of state/local law and internal policies that may impact whether and to what extent consent should be given when ICE requires such consent to access certain locations and items on the premises.

Employers can also expect increased immigration-related enforcement activities from other federal agencies and divisions, including audits in the areas of I-9 compliance, E-Verify, and H-1B and L-1 visa programs.

If you have any questions regarding ICE enforcement actions, or any other immigration matter, we encourage you to contact your Vorys attorney.