

GROWERTALKS

JZ on D.C.

3/5/2025

Steps on How to Handle ICE Visits

Compiled by Jennifer Zurko

With the increase of U.S. Immigration & Customs Enforcement (ICE) visits to businesses and communities around the country, a reader suggested we share some guidelines to help you understand how to handle these situations professionally and lawfully. For those who use H-2A, the chance of a scenario where ICE would need to be involved is less, but it's always a good reminder to make sure that all of your employee records are up to date and in compliance with federal and state regulations.

The following guidelines have been compiled from local Chicagoland businesses who have a large Latino staff, but please keep in mind that these are *just* guidelines, not legal advice—always consult your attorney for specific guidelines. If you don't currently have an attorney for your business on retainer, AmericanHort's premium members have access to JPH Law for legal counsel. Learn more at americanhort.org/advocacy/jph-law.

1. Stay calm and professional

- ICE visits can be stressful, but encourage all employees to remain calm.
- Assure employees that your company is compliant with all employment laws.

2. Do not grant immediate access

- ICE cannot enter non-public areas without a **judicial warrant** (signed by a judge).
- Clearly distinguish between public areas (e.g. parking lot, reception, lobby) and private areas (e.g. workspaces, offices, breakrooms). Restrict access to private areas to employees only.
- If ICE arrives, politely ask for a copy of the warrant and verify its legitimacy before allowing access.

3. Know the difference in warrants

- **Judicial Warrant (court-issued):** Required for ICE to enter non-public areas.
- **Administrative Warrant (ICE-issued, Form I-200/I-205):** Does NOT grant permission to enter.
- If ICE is asking to search anything beyond the limitations of the warrant in possession, verbally state they do not have consent to search.

4. Know the difference between Inspections and Raids

- **Inspections:** Intended to audit I-9 records; will have advance notice; HR must lead the response
- **Raids:** Intended to detain undocumented workers; no warning, ICE requires a warrant

5. Direct ICE to your HR manager or another designated company representative

- They are the only ones who should communicate with ICE.
- Inform ICE officers that company policy requires legal review of any warrants before compliance.

6. Do not provide employee records without proper authorization

- Employee records (I-9s, payroll) should not be handed over without legal review.
- *ICE must present a subpoena or court order to access these records.*

7. Ensure employee rights are protected

- Employees have the right to remain silent and do not need to answer ICE questions or sign documents.
- Employees should verbally assert their rights:
 - “I am asserting my right to remain silent.”
 - If questioning continues: “I am asserting my right to call my attorney.”
- Employees are not required to show documents beyond what was already provided for employment verification.
- Employers are NOT obligated to help ICE identify, locate or sort employees by nationality.

8. Communicate with employees

- If ICE arrives, reassure employees that the company is following legal protocols.
- Avoid speculation and unnecessary panic—provide only factual updates.

9. Contact legal counsel immediately

- Designated company representatives/HR should be notified as soon as ICE arrives or I-9 audit is received to ensure proper handling.
- Do not consent to searches or provide information without legal review.

10. After the ICE visit ...

- Document everything: Agents’ names, everything they did while on site and any requests they made.
- If any employees are detained, ask where they are being taken before ICE leaves the premises.
- Let everyone on your team know that the company is always looking out for their best interests. Anything you can do to make your employees feel like they have a safe place to work has never been more important.