

# WHAT TO DO DURING A GOVERNMENT AGENCY VISIT

If the enforcement branch of a government agency appears at a [company name]'s place of business, please follow the steps set forth below. **FIRST, make sure your HR manager and Operation personnel work together.**

1. Determine who the investigators are? Ask for a business card. Make sure they really are with the agency they claim. If you are suspicious, call the local agency office or the number on the business card to verify their identity.

2. Find out why the investigators are at your business:

If DOL appears (Wage & Hour, OSHA, etc.), you can ask them to come back at a more convenient time:

- Ask them to come back when you have had a chance to assemble your records and speak with counsel.

If Immigration and Customs Enforcement appears, determine if they are there for:

- A “**RAID**,” which requires a Search Warrant, **DOES NOT** require advance notification.
- An **I-9 AUDIT** (to verify employment eligibility) **DOES REQUIRE** three days’ advance notice in writing but no search warrant. Some ICE agents will present a subpoena (in conjunction with an audit), suggesting that you need to comply with it immediately. However, you are entitled to three days’ advance notice, and ICE **CANNOT** use a subpoena to shortcut that. Nevertheless, [company name] may choose to cooperate.

3. Stay calm. Be polite no matter how angry you might feel. Losing your temper will only make matters worse.

4. **IF** the investigators present a Search Warrant, examine it carefully. It should identify:

the agency or officers;

the location to be searched;

the specific items or individuals to be seized (if known); and

the expiration date for the court order.

**Note: A warrant is a court order that gives law enforcement agents permission (or the right) to search your property. Resisting a warrant may result in contempt of court.**

5. Contact [your inside legal counsel contact] immediately (work \_\_\_\_\_/home \_\_\_\_\_/cell \_\_\_\_\_). If you are unable to reach him/her and you are faced with an audit or raid call your outside counsel, [outside counsel's name], as quickly as possible. His/her office number is [phone number] and his/her cell number is [cell number]. It’s a good idea to consult with an attorney who is versed in immigration or employment law **anytime** one of these agencies shows up.

6. Notify any temporary agency which currently has employees working on site of the RAID or AUDIT and your expectation of their full cooperation.

7. During a raid, you have the right and **SHOULD** accompany the investigators on their search. Take notes on what is occurring. Especially make notes if any unusual or disturbing behavior occurs (such as “badgering” employees or questioning only foreign-appearing employees). Make an inventory list of the items and computer files seized.

8. **ONLY** allow investigators to see the records they are legally entitled to see (what is listed in the warrant or subpoena).

- During an I-9 AUDIT, you are technically required to produce **ONLY** the I-9 forms for inspection (not seizure). If ICE wants to see anything else, you **CAN** require the agent to get a valid subpoena. You **ARE NOT** required to produce photocopies of the documents employees presented to establish identity and/or employment eligibility and counsel will work with you before deciding to hand over any identity or employment eligibility documents.

- During a Wage & Hour Audit, you are required to provide payroll documents but not I-9 forms or tax documents.

9. **DO NOT** allow documents to be removed from your property without making copies. The warrant in a raid permits them to remove originals. **DO NOT**, without the advice of legal counsel, turn over more documents than the law requires. During an audit (without a warrant), nothing in the law requires you to give original forms or to make photocopies of forms.

10. **KNOW YOUR RIGHTS.** For example, you, your supervisors and your employees are not required to answer any questions. Also, you have the right to continue operating your business during the investigators’ visit. **DO NOT SIGN ANYTHING!**

11. **DO NOT** do anything that could get you into trouble such as trying to prevent access to the premises or blocking entrances. **DO NOT** hide employees, advise them to run or hide or help them escape from the premises.

TO: ALL MANAGERS, SUPERVISORS AND HUMAN RESOURCES  
PERSONNEL

FROM: VP OF HUMAN RESOURCES  
VP AND GENERAL COUNSEL

RE: IMMIGRATION COMPLIANCE AT [COMPANY NAME]

DATE: \_\_\_\_\_

We want each of you to understand that we believe strongly in complying with the immigration and employment laws. We expect each of you to follow the immigration and employment laws to the letter. Because [COMPANY NAME] has a large workforce, one person or even the Human Resources Department cannot be expected to make sure that [COMPANY NAME] is in compliance with the immigration and employment laws in every single case. Accordingly, all of us must work together to ensure we are compliant. Specifically, we expect the following:

1. All Form I-9s must be completed in full and the identification and work authorization documents must be reviewed and approved by trained HR personnel to ensure compliance with immigration laws. No one other than a trained Human Resource professional and the newly hired employee should complete a Form I-9.
2. If you obtain information that an employee has provided false information about the employee's identity or work authorization, you should report that information to Human Resources immediately. Employees are also encouraged to call the Hotline at [ ] to report these incidences.
3. If an employee's employment with [COMPANY NAME] terminates for any reason and if you learn that the employee has returned to employment at any [COMPANY NAME] facility using a different name, you should report that information to Human Resources immediately.
4. If an investigation reveals that an employee has provided false information about the employee's identity or work authorization, the employee will be subject to appropriate disciplinary sanctions up to and including termination.
5. It is not acceptable for managers, supervisors, or human resources personnel to ignore information indicating that an employee has provided false information about the employee's identity or work authorization. Managers, supervisors or human resources personnel who fail to report information that affects [COMPANY NAME] compliance with the immigration laws will be subject to appropriate disciplinary actions up to and including termination.
6. [COMPANY NAME], under the advice from legal counsel, will cooperate with investigations conducted by the Bureau of Immigration and Customs Enforcement (ICE). Your superiors, fellow managers and supervisors, and your fellow employees may report your violation of these standards to the appropriate plant and law enforcement officials.

Questions can be directed to [Corporate Compliance Officer's name] at [phone number].

I have read, understand and agree to comply:

\_\_\_\_\_ / \_\_\_\_\_

Employee Signature / Employee Name PRINTED

Date

## IMMIGRATION RESPONSE TEAM INFORMATION

Facility	Address Phone# Fax#
Facility Manager	Phone# Email Fax#
Corporate Compliance Officer	Phone# Email Fax#
Human Resources Manager	Phone# Email Fax#
Information Technology Manager	Phone# Email Fax#
Receptionist/Guard	Phone# Email Fax#
Corporate Legal Counsel	Phone (work)# Cell# Home phone# Email Fax#
Outside Immigration Legal Counsel	Phone (work)# Cell# Home phone# Email Fax#

# AGENCY VISIT FORM

Facility: \_\_\_\_\_ Date and Time:

Agency:

Agent's Name:

Address:

Phone:

Email:

Badge Number:

Agent's Name:

Address:

Phone:

Email:

Badge Number:

Purpose of Visit:

Requested Records:

Names of those requested to Interview (if any):

**CALL LEGAL COUNSEL**

SAMPLE