



## Immigration Issues Preview

US Immigration and Customs Enforcement (ICE), an agency of the US Department of Homeland Security, is expected to increase its enforcement actions in the coming year to ensure that employers are complying with immigration laws.

For 2010, ICE will be increasing its worksite enforcement to review an employer's compliance with the terms of any visas sponsored by the employer. For example, if an employer petitioned for one of its employees to have H-1B status, an onsite visit by ICE agents may include a review of the job duties, salary, and job location of the H-1B worker to determine whether they are consistent with the terms of H-1B status.

ICE agents may review Form I-9s, which are used by employers to verify the work authorization of employees, including US citizens. ICE agents may determine that the work authorization used when an employee originally completed the Form I-9 has expired and the employer failed to update it or re-verify an employee's work authorization as required by law.

ICE can also issue subpoenas commanding the employer's personal appearance before ICE. At such appearances, employers may also have to provide certain documents such as Form I-9s, payroll reports, tax statements, and US Citizenship and Immigration Services (USCIS) forms and documents. Employers should have a procedure in place to be able to produce those documents.

Employers found to have violated US immigration laws may be subject to civil and/or criminal penalties. Publicity risks also are a matter of concern, as the government may issue press releases on its enforcement actions.

Should you have any questions, please contact the Arent Fox attorney with whom you work or a member of Arent Fox's International Trade Practice Group.