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Criminal Prosecution Possible for Employing Illegal Workers but Enforcement is Lax

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Partner Robert Lee and associate Yane McKenzie, both in the firm's Immigration Practice Group, were quoted in the January 6, 2025 *Dive Brief* article, "[Criminal Prosecution Possible for Employing Illegal Workers but Enforcement is Lax.](#)"

"ICE is more likely to issue criminal penalties for a finding of knowingly hiring or continuing to employ unauthorized noncitizens," say Robert Lee and Yane Park McKenzie [in a blog post](#). Lee is a partner and McKenzie an associate at Troutman Pepper Locke. Their post isn't in connection with the TRAC report.

Penalties can be as high as \$2,789 for each I-9 with substantive violations and \$27,894 for knowingly hiring or continuing to employ workers without authorization, according to a Department of Justice rule. If sentenced to prison, terms can be for up to six months, the Troutman attorneys say.

To avoid prosecution, whether civil or criminal, companies should conduct an audit of the I-9s they have on file to make sure they're compliant, the attorneys say.

The most common problems with I-9s, which must be filled out by all employees, not just those who aren't citizens, have to do with timing and completeness, the attorneys say. If they're filled out late, or don't include documents to verify what's included on the forms or aren't signed properly, companies can be fined. Failing to re-verify workers after their I-9 expires is another common violation.

In addition to conducting an I-9 audit, companies should provide training to HR staff on how to complete the forms and have a policy to ensure handling of the forms is consistent across the company, the attorneys say.

Companies in the construction, agriculture, manufacturing and hospitality industries can expect to see an uptick in ICE raids in the upcoming Trump administration, the attorneys say, because these industries tend to have a high proportion of positions that traditionally don't require extensive training or education.

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In making these raids, ICE often uses what are called Blackie's warrants. These permit the agency to investigate a worksite without having to provide names or descriptions of the people being sought.

"With Trump's policy on cracking down on unauthorized workers in the U.S., far-reaching raids of this nature are

more likely to occur,” they said in their post.

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