

PREFACE

Over the past 10 years, and since an earlier iteration of this book was published, immigration worksite enforcement has increased dramatically at both the federal and state levels. It began to increase at the federal level in 2007 after efforts to pass Comprehensive Immigration Reform failed in Congress. At that point, President George W. Bush's administration intensified immigration worksite enforcement.

During the first six years of President Barack Obama's administration, worksite enforcement increased to unprecedented levels. Although worksite enforcement efforts were diverted in 2015 and 2016, it has begun to increase under President Donald Trump. It would not be surprising to see worksite enforcement reach the highest level ever.

The situation for today's employers is much more complex than perhaps at any time, and it will only get more confusing. Employers have to, of course, comply with the Immigration Reform and Control Act (IRCA) of 1986's employer sanctions and anti-discrimination clauses. But now employers are being targeted for a variety of criminal sanctions, including harboring illegal aliens and money laundering, in addition to the criminal penalties contained in IRCA.

Employers may feel caught in the middle: abiding by the Form I-9 requirements enforced by U.S. Immigration and Customs Enforcement (ICE) while not being overzealous in those efforts because it might be viewed as violating the anti-discrimination laws as enforced by the Immigrant and Employee Rights Section (IER), Civil Rights Division of the Department of Justice (formerly Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC)).

Additionally, states have been passing a patchwork of new laws aimed at employers. By 2017, 23 states had passed employer sanctions laws. Of those 23 states, 8 states require all employers who meet jurisdictional standards to use E-Verify, while 12 states require contractors working with state or local governments to participate in E-Verify. And some companies are having their business licenses revoked and state contracts denied and/or revoked when they are found to have hired unauthorized employees.

If government enforcement is not enough, employers now need to worry about matters such as losing out on contracts with companies requiring their contractors to demonstrate immigration compliance, or inheriting an immigration mess in a merger or acquisition.

The I-9 and E-Verify Handbook will help human resource managers, immigration counsel, and others navigate these turbulent immigration waters. The array of compliance-related statutes and regulations are discussed in an easy-to-understand question-and-answer format with illustrations, flowcharts, checklists, and sample documents included, giving the reader tools that will help implement and improve their immigration compliance program.

The book is not intended to be an overall guide to the U.S. immigration system. Instead, it seeks to provide in-depth information on a topic that affects every employer in the country regardless of whether the company hires foreign employees.

We welcome your feedback on this book, particularly your suggestions for future editions. Please always feel free to e-mail us at gsiskind@visalaw.com or bbuchanan@visalaw.com or bbuchanan@sblimmigration.com.

Bruce E. Buchanan
Greg Siskind
September 2017