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More 'Silent Raids' Over Immigration

By MIRIAM JORDAN

The Obama administration intensified a crackdown on employers of illegal immigrants, notifying another 1,000 companies in all 50 states Wednesday the government plans to inspect their hiring records.

Businesses across the U.S. that rely on low-skilled labor are working to stave off Immigration and Customs Enforcement audits, which can lead to the loss of large numbers of employees, reduced productivity and legal expenses.

Wednesday's surge in so-called silent raids drew criticism from both the U.S. Chamber of Commerce and immigrant advocates.

It brought to 2,338 the number of companies audited by ICE in the fiscal year that began Oct. 1 and topped the prior year's record of 2,196. The audits, affecting such businesses as garment makers, produce growers and fast-food chains, result in the firing of every illegal immigrant found on a company's payroll.

For employers, the audits can lead to both civil and criminal penalties. The possibilities range from fines and being barred from competing for government contracts to criminal charges of knowingly employing illegal workers, evading taxes and engaging in identity theft.

Previously

[Chipotle Hiring Probe Expands 5/4/11](#)

[Probe and Arrests at Restaurant Chains 4/21/11](#)

[Feds Target Illegal Hires 2/17/11](#)

Employers of all sizes were notified they must hand over I-9 employment-eligibility forms, which contain Social Security numbers, dates of birth and statements by employees of their citizenship status. ICE didn't identify the businesses because of "the ongoing, law-enforcement-sensitive nature of the inspections," said a spokeswoman, Gillian Christensen.

Officials of ICE, a unit of the Department of Homeland Security, said the audited companies operate in areas defined as "critical infrastructure and key resources," including food production, information technology, financial services and construction. Affected businesses could include cargo handlers, caterers of food for the military and builders of dams and highways, said immigration lawyers.

The U.S. Chamber of Commerce in the past has refrained from making public comments about the audits. But on Wednesday, Randy Johnson, a senior vice president, said: "We are concerned the audits are being based more on a fishing expedition than firm facts."

He added, "Because these audits can cost millions of dollars in lost productivity and attorneys' fees, the government should move carefully and only when based on solid foundation that there is in fact illegal behavior." ICE doesn't reveal its criteria for deciding who gets audited.

Policing Illegal Labor

So far in fiscal 2011, there have been:

2,338

Employer audits launched

157

Criminal arrests of employers

\$7.1 million

Fines levied

262,282

Deportations overall

The U.S. is home to about 11 million illegal immigrants; two-thirds participate in the labor force, according to the Pew Hispanic Center. They typically use a made-up Social Security Number or the identity of a legal U.S. resident or citizen.

Entire sectors have come to rely on illegal workers. Clothing maker American Apparel laid off more than a quarter of its factory workers, or 1,500 employees, after an audit in 2009. It later blamed the audit for a loss of productivity that brought it to the brink of bankruptcy.

Chipotle Mexican Grill, which owns and operates nearly 1,100 outlets, has let go hundreds of workers since an audit that began last year in Minnesota and stretched to Virginia and Washington, D.C. Restaurant analysts expect the company's financial results to be affected as it seeks to hire and train new workers.

Illegal immigrants are the backbone of some sectors of U.S. agriculture. "Given the fact that, admittedly, 70% to 80% of our work force is improperly documented, ICE audits can eliminate that percentage of our productive capacity. You cannot stay in business," said Tom Nassif, president of Western Growers, an association of fruit and vegetable growers and packers in California and Arizona.

Many employers say they don't have the ability to police their work forces. They say they also fear discrimination lawsuits, which some have faced, for demanding additional documents from workers they suspect are in the U.S. illegally.

In the past, ICE agents have initiated audits in one region, and companies in the same business were unlikely to face inspection elsewhere. But "businesses can no longer assume an audit is isolated in one location. It's spreading nationwide," said Julie Myers, ICE chief during the Bush administration, who advises companies on immigration.

She said some companies are trying to do "proactive I-9 inspections" to ensure their work force is legal.

Larger employers have been increasingly targeted since the establishment earlier this year of an ICE audit office outside Washington.

Enforcement activity during the Bush administration focused on high-profile raids in which thousands of illegal immigrants were arrested and placed in deportation proceedings. Relatively few companies and their executives were prosecuted.

In contrast, the Obama administration has made employers the center of its enforcement strategy because jobs are the magnet for illegal immigration, officials say.

The strategy has been interpreted as an attempt by the president, who favors an overhaul of immigration laws, to show hard-liners he is cracking down on illegal immigration.

It draws flak from more than one part of the political spectrum. Advocates for immigrants say it forces workers to leave well-paying jobs with benefits for lower-paying positions in the underground economy.

"I-9 audits do not diminish the unauthorized work force. Instead, they disrupt operations and expand the cash economy, as workers find jobs with bad-actor employers who exploit them," said Eliseo Medina, International Secretary-Treasurer of the Service Employees International Union.

Peter Schey, an attorney for American Apparel, called it "a senseless policy in the name of making a down payment on comprehensive immigration policy."

Foes of illegal immigration, such as House Judiciary chairman Lamar Smith (R., Texas), say the audits are ineffectual because they don't result in deportations and enable dismissed illegal workers to find other jobs and displace Americans.

Rep. Smith introduced legislation this week to make mandatory the use of E-Verify, an electronic database run by the government, which checks the work-eligibility of hires.

Wendy Madden, a business immigration attorney in Montgomery, Ala., said several of her clients, in utilities and food production, had received notices of inspection from ICE, and were surprised because they have been participating in E-Verify. "The fact you participate in E-Verify doesn't mean you won't be audited," she said.

Write to Miriam Jordan at miriam.jordan@wsj.com

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