

Worksite Enforcement U.S. Immigration and Customs Enforcement *Advisory*



Know Your Workforce: The Key to Immigration Compliance

A recurrent issue encountered in ICE worksite enforcement investigations today is the abuse of the Social Security card by individuals seeking to satisfy the work authorization requirements mandated by federal law. The Social Security card has long been a favorite of fraudulent document vendors. In fact, immigration fraud investigators have coined the term “three pack” to refer to the frequently encountered fraudulent document combination of the Social Security card, the state driver's license or identity card, and a work authorization document.

A common Social Security card fraud theme is for individuals without work authorization to assume the identity of persons with valid identity and work authorization documents to establish employment eligibility during the I-9 process.

ICE is issuing this worksite enforcement advisory to make employers aware of significant fraud trends encountered by the law enforcement community so that employers do not inadvertently facilitate acts of identity theft within their own workforce. ICE, in cooperation with other federal agency partners, such as the Social Security Administration, USCIS and the Federal Trade Commission are working together to enhance efforts to protect and promote the integrity of the Social Security number.

Case Study: Know Your Work Force

ICE investigators have found that many aliens who are not authorized to work in the United States claim to be U.S. citizens when completing the Form I-9 and use authentic Social Security numbers that belong to U.S. citizens. In one investigation, ICE conducted an I-9 audit of an employer and discovered that most of the workforce claimed U.S. citizenship even though the industry historically employs a large percentage of non-U.S. citizens.

Keying in on this anomaly, ICE determined that many of the workers had supplied the employer with Social Security numbers issued from one particular non-local jurisdiction—in this particular case, Puerto Rico. This fact is

February 2008

Contact IMAGE at
image@dhs.gov
or
IMAGE Coordinator
425 I Street NW
Washington, DC 20536

U.S. Immigration and
Customs Enforcement

ICE

Report Suspicious Activity
to the ICE toll-free tip line:

1-866-DHS-2-ICE

1-866-347-2423

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significant because prior immigration investigations have determined that “document mills” frequently use Social Security numbers that seemingly originate in one jurisdiction and that unauthorized aliens frequently use “breeder documents” such as the Social Security card and birth certificate as a stepping stone to obtain valid state identity documents as a means to escape detection by law enforcement and employers.

Things to Look for

Notable changes in the claimed citizenship or immigration status of your workforce

No one knows your work force better than you. When you customarily hire aliens with authorization to work in the U.S. and you notice your employees claiming to be U.S. citizens in numbers that strike you as abnormally high or atypical for your region and/or industry, you should consider contacting your local ICE office.

As noted above, investigations by ICE have uncovered schemes by local document vendors who traffic in legitimate identification documents belonging to U.S. citizens, typically from one particular state, possession or territory. If you notice that your new hires are suddenly presenting identical documentation (birth certificates, or driver's licenses, for example), from one particular state, possession or territory (or locality), this may warrant further inquiry by discussing with the employee his or her connection with the particular issuing entity, or by contacting ICE for further information.

Employers are reminded that it is unlawful to discriminate against employees based upon their national origin, including “foreign” appearance or accent, with respect to hiring, firing, and the terms and conditions of employment. See Title VII of the Civil Rights Act of 1964. In addition, it is unlawful to discriminate based upon citizenship or immigration status against U.S. citizens or nationals, refugees, asylees, or lawful permanent residents, with respect to hiring, firing, or employment verification. See the Immigration and Nationality Act's anti-discrimination provision, 8 U.S.C. § 1324b. Additionally, the employer should not request more or different documents or refuse to honor documents that appear genuine and relate to the individual.

Case Study:

Middle management isn't immune from prosecution

During another ICE investigation, an employee of a company noticed co-workers tearing up IRS W-2 records. When the employee approached a supervisor about what he saw, the supervisor stated that it did “not matter since those employees were illegal anyway.”

The employee informed ICE investigators of what he had seen and heard. The investigation ultimately led to the arrest of several managers as well as a large portion of the work force.

Don't ignore relevant information.

Indifference to the law by supervisors and employees is never a good business practice and may result in criminal charges against you, your company and your employees. 8 CFR, Part 274a.1 codifies the concept of “constructive knowledge” for employers to include instances that the employer “...has information available to it that would indicate that the alien is not authorized to work... .”

Things to Look for

Social Security “Employer Correction Requests” or no-match letters

Respond to Social Security “Employer Correction Requests” or no-match letters. Check your records to ensure you have recorded the information correctly. Check with your employee to verify the information given to you is correct. Verify any corrections with SSA. Encourage the employee to resolve the issue with SSA and ensure any corrections are valid by checking again with SSA.

Any other discrepancies identified by SSNVS (Social Security Number Verification System)

If a company finds inconsistencies after submitting a Social Security number to the Social Security Administration (SSA), employers should immediately check their records for errors and discuss/address the issue with the employee and the SSA if the error cannot be identified. See www.socialsecurity.gov for instructions on proper use of the SSNVS system.



Depiction of the SSA 1995 revision.

Social Security cards

Although this advisory deals primarily with the fraudulent use of valid SSN cards, the Social Security card remains susceptible to fraudulent reproduction.

Social Security cards are not immigration documents but are used to establish employment authorization. Social Security cards have been issued since 1936 and have been revised more than 20 times. Originally, the seal on the Social Security card read Social Security Board. In May of 1980, it was changed to the Department of Health and Human Services.

In April 1995 it was changed to read Social Security Administration. Some counterfeiters have failed to notice these changes.

Additionally, there are Social Security cards that have been issued since 1982 with the annotation “NOT VALID FOR EMPLOYMENT,” and beginning in 1992 with the annotation “VALID FOR WORK WITH INS AUTHORIZATION” which has now changed to DHS.

In October 1983, security features were added to the card. All Social Security cards issued since October 1983 have been printed with raised (intaglio) printing and the signature line consists of microline printing of the words “SOCIAL SECURITY ADMINISTRATION” in a repeating pattern.

Additional Resources and Issues

- Enroll in the online E-Verify program sponsored by USCIS and supported by the Social Security Administration to verify employment eligibility for all of your new employees. Updates to this system such as the use of a “photo tool” and the implementation of fraud detection procedures will help to reduce instances of impostor related fraud.
- Be vigilant to abnormal trends such as an unexplained surge in identity documents issued from a particular state, locality, etc., particularly if the surge does not correspond to information on record regarding your employee’s prior employment or prior residences.
- Employers may utilize commercially available database software or credit checks to compare the reported use of the Social Security card number with the reported work history and residences of the employee. This information may indicate either that your employee is the victim of identity or other fraud, or it may indicate that your employee is using a stolen number. You should contact ICE for further information.
- Do not ignore information that you learn as an employer that indicates an employee is not authorized to work.
- A listing of local ICE offices is available at www.ice.gov.

ICE recommends that employers not take any adverse action against an employee based solely on what is contained in this advisory. ICE merely reminds employers to use diligence in the recruitment and hiring of employees and emphasizes that employers should not ignore relevant information.

IMAGE Employer Certification Requirements: Best Employment Practices

To become an IMAGE participant, your company must adhere to the following Best Employment Practices, required for certification.

1. Use the DHS employment eligibility verification program E-Verify to verify the employment eligibility of all new hires.
2. Establish an internal training program on the hiring process, with annual updates (i.e., on how to manage completion of Form I-9 [Employment Eligibility Verification Form]), and on how to detect the fraudulent use of documents in the I-9 process, and cooperate with ICE to make employees available for ICE training sessions as deemed appropriate.
3. Permit the I-9 and E-Verify process to be conducted only by individuals who have received this training, and include a secondary review as part of each employee's verification, to minimize the potential for a single individual to subvert the process.
4. Arrange for annual I-9 audits by an external auditing firm or a trained employee not otherwise involved in the I-9 process.
5. Establish a self-reporting procedure for the reporting to ICE of any violations or discovered deficiencies.
6. Ensure and document the definitive resolution of no-match letters received from the Social Security Administration (SSA), per SSA and Department of Homeland Security guidance.*
7. Establish a tip line mechanism (inbox, e-mail, etc.) for employees to report activity relating to the employment of unauthorized aliens, and a protocol for responding to employee tips.
8. Establish and maintain appropriate policies, practices and safeguards against use of the verification process for unlawful discrimination, and to ensure that U.S. citizens and authorized workers do not face discrimination with respect to hiring, firing or recruitment or referral for a fee because of citizenship status or national origin.
9. Communicate IMAGE guidelines to other companies in the hiring network (such as employment services and agencies) and contractors and subcontractors. Work toward incorporating IMAGE guidelines into relationships and agreements with these companies and establish a protocol for assessing the adherence to the Best Employment Practices guidelines by the company's contractors and subcontractors.
10. Submit an annual report to ICE to track results and assess the effect of participation in the IMAGE program. The report should include (a) identification of individuals removed from employment in accordance with participation in the IMAGE program; (b) instances and resolution of SSA no-match letters; (c) major organizational changes; and (d) identification of any vulnerabilities that are found to be exploited by unscrupulous employees and unauthorized aliens. When appropriate, ICE encourages timely disclosure in advance of the annual report. Discovery or allegations of substantive criminal violations must be **immediately** reported to ICE (in accordance with Best Employment Practice 5, above), whereas technical violations may be documented in the annual report. For more information on the IMAGE Program or to request an information packet, please visit www.ice.gov/image.

To combat unlawful employment ICE has introduced the ICE Mutual Agreement between Government and Employers (IMAGE). IMAGE is a voluntary partnership initiative to assist employers in building legal workforces. IMAGE is designed to build cooperative relationships between government and industry to reduce the unlawful employment of illegal aliens through strengthened employment practices and enhanced training of employers. By voluntarily participating in IMAGE, companies reduce unauthorized employment and the use of fraudulent identity documents. As part of IMAGE, ICE and U.S. Citizen and Immigration Services (USCIS) will provide education and training on proper hiring procedures, fraudulent document detection, use of the E-Verify employment eligibility verification program and anti-discrimination safe-guards. For more information, please visit IMAGE online at www.ice.gov/image. To obtain additional information regarding IMAGE, click on IMAGE Information Packet Request.

To provide feedback regarding this ALERT, send an e-mail to IMAGE@dhs.gov.

* On October 10, 2007 the U.S. District Court for the Northern District of California issued a preliminary injunction in *AFL-CIO, et al. v. Chertoff, et al.* (N.D. Cal. Case No. 07-CV-4472 CRB). The preliminary injunction enjoins and restrains DHS and the Social Security Administration from implementing the Final Rule entitled "Safe-Harbor Procedures for Employers Who Receive a No-Match Letter."