

# How Home Builders Should Handle ICE Visits Targeting Vendors and Independent Contractors

Immigration Customs Enforcement (ICE) investigations targeting vendors, subcontractors, or independent contractors can disrupt operations and potentially expose homebuilder contractors to legal liabilities. It's crucial to handle such situations carefully, ensure compliance with immigration laws, and avoid knowingly allowing vendors to employ individuals who do not have proper authorization to work in the United States.

Below is a comprehensive guide to managing ICE visits, including specific considerations related to vendors and independent contractors.

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## 1. Initial Response

- Immediately notify the site manager if ICE agents arrive targeting vendors, subcontractors, or independent contractors.
- Verify the authenticity and scope of ICE's documentation, such as audit notices or warrants.
- Determine whether the investigation pertains specifically to vendors, subcontractors, or independent contractors.

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## 2. Coordination with Vendors and Independent Contractors

- **Notification:** Inform the specific vendors, subcontractors, or independent contractors subject to the ICE investigation promptly.
- **Legal Advice:** Advise vendors and independent contractors to consult their own legal counsel to safeguard their rights.
- **Protocol Adherence:** Remind vendors and independent contractors to follow the company's established procedures for handling ICE visits.

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## 3. Dealing with Independent Contractors

### Legal Obligations When Working with Independent Contractors

Contractors must exercise caution when working with independent contractors and ensure compliance with immigration laws. Under federal law, knowingly using the services of an independent contractor who lacks lawful authorization to work in the United States constitutes "actual knowledge" of that individual's undocumented status and is not permissible.

### Key Points to Remember:

- If a contractor becomes aware—directly or indirectly—that an independent contractor is undocumented, continuing to use their services can lead to legal violations.
- Ignoring signs of an undocumented immigration status (e.g., falsified documents or obvious discrepancies in work authorization) does not absolve the company of responsibility; "willful blindness" is considered the same as actual knowledge under U.S. immigration laws. This would be considered constructive knowledge and the general contractor would stand in the shoes of the subcontractor/vendor for liability.
- Contractors must not engage in arrangements that are designed to circumvent immigration compliance laws, including outsourcing to vendors or subcontractors who knowingly use undocumented workers.

### Best Practices:

- Establish clear policies prohibiting the use of undocumented workers and communicate these policies to vendors, subcontractors, and independent contractors.
- Review and insert language in vendor contracts that requires the vendor to comply with all immigration laws and regulations. ([Download sample contract language](#))

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## 4. During the Audit or Raid

- **Restrict Access:** Ensure ICE agents' access is confined to areas and operations specifically outlined in the audit notice or warrant.
- If the warrant targets vendors, subcontractors, or independent contractors specifically, ensure that searches are limited to their designated site operations or work areas.
- **Coordination:** Work with representatives of vendors or independent contractors to organize a compliant response and ensure all legal requirements are met.

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## 5. Post-Visit Procedures

- **Debrief:** Hold a post-visit meeting with all involved vendors and independent contractors to document what occurred during the ICE visit.
- **Documentation:** Keep detailed records of all interactions with ICE agents and any materials or information seized during the visit.
- **Guidance:** Advise vendors and independent contractors on the necessary steps for handling follow-up actions required by ICE.

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## 6. General Considerations for Vendors and Independent Contractors

- **Encourage Preparedness:** Ensure vendors and independent contractors establish their own protocols for managing ICE visits, including legal consultations and documentation.
- **Clarify Authority:** Vendors, subcontractors, or independent contractors cannot obstruct or consent to ICE searches on behalf of the site owner.
- **Compliance Awareness:** Ensure independent contractors understand the legal risks associated with undocumented status and the company's policies against knowingly employing unauthorized workers.
- **Review Contracts:** Ensure that all contracts contain immigration compliance requirements.
- **Maintain Communication:** Establish and maintain open communication channels to coordinate responses and minimize operational disruptions during ICE investigations.

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## ICE Trolling Job Sites and Public Sites Near Job Sites

Employers should approach interactions with ICE agents carefully and respectfully, but maintaining vigilance is equally important. If ICE officers are observed lingering around a business premises or nearby properties and are attempting to engage with employees or neighbors, this could be a sign of a larger effort to gather information for probable cause to trigger an audit or judicial warrant.

These "fishing expeditions" can be highly disruptive to the workplace and community. In such situations, it's crucial to notify legal counsel promptly so that the regional office or relevant authorities can be informed, and appropriate measures taken. In many instances, legal representatives can intervene and request the agents to leave the premises, protecting the rights and privacy of the business and its staff.

Here are some steps a site superintendent or business leader might want to take:

### Immediate Actions

1. **Notify Supervisors and Management:** Immediately inform higher management or the company's designated point of contact for such incidents. If your company has a general counsel or legal team, they should be looped in as soon as possible to guide next steps.
2. **Contact Legal Counsel:** It is critical to notify legal counsel before engaging with ICE agents in any formal way. Attorneys specializing in immigration and workplace law can provide immediate advice and, if necessary, contact ICE on the company's behalf to

clarify the situation, assert any applicable legal protections, and request the agents vacate the premises if their presence is unwarranted.

3. **Inform Site Personnel and Workers:** Discreetly notify crew leaders, supervisors, or trusted staff members about the presence of ICE agents. Instruct employees to remain calm, avoid unnecessary interactions with the agents, and avoid disclosing personal information unless legally required to do so. This communication should be delivered carefully to prevent panic or disruptions to work productivity.