

Worker plan has no legal support

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WASHINGTON - Days after unveiling a major crackdown on businesses that hire illegal immigrants, the Bush administration is now quietly admitting that its most heavily touted weapon in pursuing employers will be virtually useless.

At the heart of the new rules announced last week is toughened Homeland Security enforcement of so-called "no match" letters - which the Social Security Administration sends to companies when employees have questionable identification numbers.

But Homeland Security officials acknowledged this week that because of a privacy provision in the IRS code, **immigration** officials will actually have no way of knowing which employers have received "no-match" letters, which have complied and which have not.

"While we don't get information directly from the Social Security Administration, we do see that we get a lot of tips," DHS spokeswoman Veronica Nun Valdez said. "There are a number of people that do come forward and tell us an employer is not conforming with the law."

In addition to working with informants, Valdez said **immigration** officials plan to step up investigations and raids, which will likely yield sanctions against violating companies.

But illegal-**immigration** hardliners said they feel bamboozled.

Many noted that working with tips and increasing raids is nothing new, and they said they had assumed that the government had resolved the long-standing data-sharing issue.

Bob Dane said that without Homeland Security being able to get information directly from the Social Security Administration, the new rules are just "empty threats."

"Good God, if they're going to spend money on postage and send out threatening letters, which are long overdue, they need to have some practical enforcement at the end," he said.

Since 1994, the Social Security Administration has sent out the annual letters to companies when a large number of W-2 forms submitted for employees don't match the name or Social Security number the agency has on file.

While there can be several reasons for a "no match," activists note it is often a red flag that a worker is an illegal immigrant.

In the past, companies have largely ignored the letters and "thrown them in the circular file," as Dane describes it.

But the new **immigration** rules the White House rolled out last week promised serious changes.

Starting next month, Social Security officials will send out about 140,000 "no match" letters, with about 35,474 going to employers in California.

The envelopes will include a separate letter from Homeland Security officials informing companies that they might be in violation of **immigration** law and have 90 days to correct the Social Security inconsistencies.

If they do not, the letter warns, the agency could "determine that you have violated the law by knowingly continuing to employ an unauthorized person."

A first-offense fine was increased to \$2,200 per employee.

Homeland Security Secretary Michael Chertoff proclaimed the move means the agency will "clamp down on employers who knowingly and willfully violate the law." Editorial pages across the country proclaimed a new day for **immigration** enforcement.

Left untouched, however, was section 6103 of the IRS code - a privacy provision the government has long interpreted to mean that Social Security officials are forbidden from sharing tax information with other agencies.

Several members of Congress have tried to amend the provision. Most recently the failed Senate **immigration** bill, which also would have granted citizenship to millions of illegal immigrants, sought to fix it.

"It would make it a lot easier," Valdez said.

But without that change - like traffic cops with a stack of tickets but no map to the highway - DHS can only ask Social Security officials to insert its warnings into the "no-match" letters.

"So the most meaningful part of this new initiative may not be so meaningful," said Steven Camarota, research director for the Center of **Immigration** Studies, which advocates restriction of all **immigration**.

"That's not surprising," he said. "The administration has never shown a great desire to enforce the law."

Still, leaders with California industries - such as agriculture and food services, which rely heavily on illegal labor - said they aren't taking any chances.

Trade groups that represent the sectors said they have strongly recommended employers follow the new rules, regardless of the government's ability to trace its own threats.

"I think this is viewed as more of a self-enforcing thing," said John Gay, top lobbyist for the National Restaurant Association, which represents about 1.4 million estimated employees in California. "This is another tool in their kit. It's easier to establish a violation with these rules."

Tom Nassif, president of the California Grower's Association, said any "no-match" letters a company receives will come out during a civil trial if that business is ever cited for **immigration** violations.

And if the company has not complied, it could face the tough new financial and prison penalties.

"We could be targets for these investigations," he said. "It behooves us to do what we can to follow them."

Nassif said he still believes the new rules will cripple California's \$37 billion agricultural industry. About 70 percent of the state's estimated 500,000 farmworkers are illegal immigrants, he said, and he believes most will be fired by fearful employers.

"With that dramatic a loss, I think people stop producing," he said.

Camarota said he suspects the Bush administration hopes the business community, whose division over the recent Senate **immigration** compromise bill helped lead to its failure, will be galvanized into action by the threat of economic upheaval.

"They don't really want to upset the apple cart, they just want to tip it back and forth and act like they're doing something," Camarota said of the administration's rules.

"What they really want to do is get the business community off the dime."

Nassif agreed but called it a risky gamble with the country's economy.

"I think they want the public to be so damaged and so fearful that they raise a clamor," he said.

But, Nassif added, "This is playing Russian roulette. If that gambit doesn't work, then the blood will continue to flow."