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Audits becoming the new ICE raids

By Matt O'Brien / *MediaNews Group*
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Immigration agents made headlines during the Bush administration when they rushed into Midwestern meatpacking plants, a New England leather goods factory and Bay Area ethnic restaurants, handcuffing dozens of employees who would later be deported.

The agents arrested seven people at Vallejo's Empire Buffet at the corner of Sonoma Boulevard and Redwood Street last September. Altogether, the agents arrested 21 people in a four-part immigration sweep across Solano County.

Eventually, Vacaville residents Rui Yang Lin, Bi Xia Ni, Fa Yong Ni and Ru Zhu Ren pleaded guilty to unlawful employment of illegal aliens as a result of the operation.

Today, those high-profile raids have been replaced with a quieter but more expansive arm of immigration enforcement: The forensic auditor.

"Being an employer, it's like getting a letter from the Internal Revenue Service. You panic," said Manuel Cunha, president of the Fresno-based Nisei Farmers League. "It's a real frightening deal for employers."

Most audits are invisible to the public, and land with a softer impact than a raid, but they are common enough to worry some employers.

Federal agents this month are probing more than 150 California businesses and 1,000 nationwide, the latest in a surge of civil inspections that began in the spring.

"They were selected because we received leads or intelligence indicating there might be problems with their workforce, and these businesses might have (connections) to

public safety and critical infrastructure," said ICE spokeswoman Virginia Kice.

The inspections typically begin with a phone call and are followed by visits from auditors with U.S. Immigration and Customs Enforcement, or ICE, who ask to review the I-9 forms that all employees must fill out to verify their identity and eligibility to work in the United States.

"A lot of people in business now know a company who's had an I-9 audit," said lawyer Dan Brown, who was a policy director at ICE during the Bush administration. "They are more nervous and taking the threat more seriously."

Along with the threat of fines and a tarnished reputation, many companies face the added costs of attorneys to navigate the conflicting demands of the government and the company's own bargaining agreements with union workers.

Targets range from brand-name firms to small companies, but ICE will not identify them unless employers are dealt a fine. Among the industries targeted because they are part of the nation's "critical infrastructure" are those involved in the food supply chain, officials have said.

That means investigations are hitting California farmers, who are widely known to employ tens of thousands of undocumented immigrants but whose operations were largely untouched by immigration enforcement for years.

Before this year, when ICE visited a farm, dairy or packing plant, the agency was typically looking for one immigrant who was wanted by law enforcement, said Cunha, whose group advocates for Central Valley farmers.

Some food businesses are now finding that the government wants to review their entire workforce, including longtime employees they know from church or family functions. The audits are hardest for older farmers who still use carbon paper and punch-in time cards and have not transitioned into the digital age of record-keeping, Cunha said.

"There's so much confusion. No education has been done," said Cunha, who brought his concerns to ICE's director at a meeting last month in Washington, D.C. "I don't just blame this administration, but this is the one that's doing the audits with no education."

The inspections are a way of enforcing immigration law without launching disruptive and controversial raids, said Philip Martin, a professor in labor and agricultural economics at UC Davis. It's unclear if the new focus will be prolonged, he said.

"We don't know how it's going to play out," Martin said. "Workplace enforcement was never a terribly high priority."

Brown said the Obama administration's push for more employer audits marks a significant shift and has already caused companies across the country to fire employees who do not have the right paperwork.

"The use of I-9 inspections kind of tailed off in the late 1990s and then really tailed off after 9/11," said the former ICE official. "There was a bigger focus on homeland security and terrorism concerns rather than vanilla immigration enforcement."

Brown said some officials had not considered civil inspections effective because the audits were time-consuming and the fines too small to be taken seriously by corporations.

"With the Bush administration's focus on criminal investigators, I think probably a lot of employers didn't feel impacted by that," Brown said.

Fine amounts increased by 25 percent last year, so companies penalized for the first time must pay \$375 to \$3,200 for each unauthorized worker. ICE this year has issued final orders demanding companies pay almost \$800,000, an increase from the less than \$200,000 collected from a total of eight cases the year before.