

# Audits of companies for illegal immigrants rise

Manuel Valdes, Associated Press 3:22p.m. EST December 23, 2012

SEATTLE (AP) — U.S. Immigration and Customs Enforcement reached its highest number yet of companies audited for illegal immigrants on payrolls this past fiscal year.

Audits of employer forms increased from 250 in fiscal year 2007 to more than 3,000 in 2012. From fiscal years 2009 to 2012, the total amount of fines grew to nearly \$13 million from \$1 million. The number of company managers arrested has increased to 238, according to data provided by ICE.

The investigations of companies have been one of the pillars of President Obama's immigration policy.

When Obama recently spoke about addressing immigration reform in his second term, he said any measure should contain penalties for companies that purposely hire illegal immigrants. It's not a new stand, but one he will likely highlight as his administration launches efforts to revamp the U.S. immigration system.

"Our goal is compliance and deterrence," said Brad Bench, special agent in charge at ICE's Seattle office. "The majority of the companies we do audits on end up with no fines at all, but again it's part of the deterrence method. If companies know we're out there, looking across the board, they're more likely to bring themselves into compliance."

While the administration has used those numbers to bolster their record on immigration enforcement, advocates say the audits have pushed workers further underground by causing mass layoffs and disrupted business practices.

When the ICE audit letter arrived at Belco Forest Products, management wasn't entirely surprised. Two nearby businesses in Shelton, a small timber town on a bay off Washington state's Puget Sound, had already been investigated.

But the 2010 inquiry became a months-long process that cost the timber company experienced workers and money. It was fined \$17,700 for technicalities on their record keeping.

"What I don't like is the roll of the dice," said Belco's chief financial officer Tom Behrens. "Why do some companies get audited and some don't? Either everyone gets audited or nobody does. Level the playing field."

Belco was one of 339 companies fined in fiscal year 2011 and one of thousands audited that year.

Employers are required to have their workers fill out an I-9 form that declares them authorized to work in the country. Currently, an employer needs only to verify that identifying documents look real.

The audits, part of a \$138 million worksite enforcement effort, rely on ICE officers scouring over payroll records to find names that don't match Social Security numbers and other identification databases.

The audits "don't make any sense before a legalization program," said Daniel Costa, an immigration policy analyst at the Economic Policy Institute, a Washington, D.C., think tank. "You're leaving the whole thing up to an employer's eyesight and subjective judgment, that's the failure of the law. There's no verification at all. Then you have the government making a subjective judgment about subjective judgment."

An AP review of audits that resulted in fines in fiscal year 2011 shows that the federal government is fining industries across the country reliant on manual labor and that historically have hired immigrants. The data provides a glimpse into the results of a process affecting thousands of companies and thousands of workers nationwide.

Over the years, ICE has switched back-and-forth between making names of the companies fined public or not. Lately, ICE has emphasized its criminal investigations of managers, such as a Dunkin' Donuts manager in Maine sentenced to home arrest for knowingly hiring illegal immigrants or a manager of an Illinois hiring firm who got 18 months in prison.

Many employers also wonder how ICE picks the companies it probes.

"Geography is not a factor. The size of the company is not a factor. And the industry it's in is not a factor. We can audit any company anywhere of any size," Bench said. He added ICE auditors follow leads from the public, other employers, employees and do perform some random audits.

But ICE auditors hit ethnic stores, restaurants, bakeries, manufacturing companies, construction, food packaging, janitorial services, catering, dairies and farms. The aviation branch of corporate giant GE, franchises of sandwich shop Subway and a subsidiary of food product company Heinz were among some of the companies with national name recognition. GE was fined \$2,000.

In fiscal year 2011, the most recent year reviewed by AP, the median fine was \$11,000. The state with the most workplaces fined was Texas with 63, followed by New Jersey with 37.

The lowest fine was \$90 to a Massachusetts fishing company. The highest fine was \$394,944 to an employment agency in Minneapolis, according to the data released to AP through a public records request.

A Subway spokesman said the company advises franchise owners to follow the law. A Heinz spokesman declined comment.

Bench didn't have specifics on what percentage of fines come from companies having illegal immigrants on their payroll, as opposed to technical paperwork fines in recent years.

Julie Wood, a former deputy director at ICE who now runs a consulting firm, said she'd like to see the burden of proving the legality of a company's workforce go from the employer to the government. She'd like to see a type of program, such as E-Verify, be implemented with the I-9 employment form. E-Verify is a voluntary and free program for private employers that checks a workers eligibility.

"At the end of the day, the fine is the least of it," she said. "Usually the company will spend more on legal fees. But it is a huge headache for the company to lose workers."

Wood said she'd like to see the agency go after more criminal charges and focus on companies that treat workers inhumanely.

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