

# Houston undocumented worker debate intensifies

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Connie Lewis, Reporter - *Houston Business Journal*

[Email](#)

When it comes to the federal government's increased scrutiny on undocumented workers, one prominent Houston immigration attorney thinks the ends may justify the means.

Houston businesses should embrace the federal government's push to audit employer records to uncover undocumented workers, said [Charles Foster](#), partner and co-chairman of Houston-based law firm Foster Quan LLP. He sees it as a step toward enacting immigration reform and creating programs to bring in foreign workers on a temporary basis to fill jobs as needed.

That's how some observers view the efforts of the U.S. Immigration and Customs Enforcement, or ICE, to weed out undocumented workers with audits rather than conduct forceful raids on businesses.

President [Barack Obama](#) wants to enact "meaningful reform," Foster said, "but Republicans are not interested in the discussion. There's the fear that he would be buying a large percentage of the Hispanic vote."

Foster served as an advisor to former President [George W. Bush](#) on U.S. immigration policy and also to Obama during the 2008 election campaign.

Some 500 companies nationwide were recently notified the government would inspect their hiring records. This follows 2,393 notices issued during fiscal 2011, which ended in September — a 375 percent hike from fiscal 2008, according to ICE. The documents sought include I-9 employment eligibility forms. ICE does not release the names of companies it notifies.

"They're going after employers of semi-skilled, nonprofessionals in the workforce," Foster said. "A lot of these jobs are in construction, housing maintenance and restaurants. These are jobs that a lot of American citizens won't take."

Indeed, the use of undocumented workers has always been a controversial topic in the Houston region. A lengthy list of companies and organizations has signed up to attend a Dec. 15 debate that will give voice to both sides of the immigration issue, sponsored by the Greater Heights Area Chamber of Commerce.

One high-profile audit involved Champion Window Inc. of Houston, which resulted in the company saying in October it would close because it needed to eliminate more than 100 positions. Champion is a subsidiary of Dallas-based Atrium Windows and Doors. Earlier in the year the firm released 269 employees because they didn't have proper work documentation.

[Massey Villarreal](#), CEO of Precision Task Group Inc., a technology company, and vice chairman of the [Greater Houston Partnership](#)'s Immigration Task Force, agrees with Foster on the use of audits.

"There are not enough visas offered on a yearly basis," Villarreal said. "The need for low-skilled, low-wage workers is enormous."

But if the auditing push causes employers to lose workers and productivity, some critics of the audits say that could take a toll on the fragile economy, though Foster said the effects would be minimal.

"It's less than it would be if the economy was better," he said. "Now because there are more people in the workforce than there are jobs, it's easier for an employer to fill a position when another worker leaves."

It's estimated that of the 11 million undocumented individuals in the United States, 400,000 are in Texas, Foster said.

However, since most come with a spouse and at least one child, Foster thinks the actual number of workers is likely far less.

If companies are worried about the possibility of an audit and not having their records in order, Foster said they could conduct their own pre-audit. That route is less expensive and painful than incurring fines by ICE, particularly since they're often only given short notice about an audit, he said.

"Often by the time a company comes to us it's after the damage has been done and their records have been seized," Foster said.

E-Verify, an Internet-based system, also enables businesses to determine a potential employee's citizen status.

Prevention is the best cure, said [Tom Davis](#), partner and president of Spring-based Davis Brothers Construction.

The firm, which specializes in building apartments and college dormitories, is a general contractor with a staff of about 30. Davis said he could vouch for the documents of his own employees, for which he's responsible, but not necessarily those of his subcontractors and their subcontractors.

“If we’re audited, it won’t affect me at all,” he said. “But I couldn’t guarantee that a lot of the sub’s workers have proper paperwork.”

Davis agrees with Foster that the jobs immigrants take usually aren’t filled by U.S.-born workers.

“Nobody but Hispanics come and apply for jobs in the construction market here, yet they make good money — from \$15 to \$20 an hour,” Davis said.

[Tim Payton](#), owner of Stafford-based RAM Windows, which manufactures custom windows, said all of his 25 employees are certified as eligible to work in the U.S.

“We have them verified from the beginning,” Payton said. “There are certain folks who skirt the rules.”