

HR BEST PRACTICES



HR Audits

What Triggers Them And
How Can I Prepare?



It's like a scene from a scary movie. There's dim lighting, a spooky soundtrack, and an agent shows up at your door and says: "You are under audit." (Cue the piercing scream!)

As an HR professional, this may be a recurring nightmare for you. Not that you are intentionally trying to game the system or do the wrong thing. You might be convinced you are doing all the right things, but a minor mistake in procedure or execution can snowball quickly and lead to additional scrutiny. With that scrutiny can come major fines and even criminal proceedings.



What types of HR audits are there?

We may all be familiar with IRS tax audits for individuals or businesses, however, HR professionals need to be aware and prepared for the following audits, especially when it comes to new hire paperwork.

I-9 audits

Immigration and Customs Enforcement (ICE) is a federal law enforcement agency under the Department of Homeland Security (DHS). One of their primary missions is to protect America from illegal immigration that threatens national security and public safety, including enforcing more than 400 federal statutes. If ICE has reason to believe that your organization is not complying with the rules and regulations around verifying the eligibility of your employees to work in the United States, you may be audited. If targeted, you will receive a Notice of Inspection (NOI) and have as few as 3 business days to provide the Forms I-9 and supporting documentation for your current and former employees. You can learn more about this process [here](#).

State forms audits

There are hundreds of forms that are unique to states and can cover everything from pregnancy accommodations to wage theft. Many of these forms require employers to inform employees of their rights — sometimes at the time of hire. Because these requirements are unique to particular states and change frequently, they can be difficult to keep up with. This is especially true for multi-state employers and those with an increasing number of remote employees who may work in a state where there isn't a physical office location.



What might trigger an HR audit?

Did someone turn you in? Did you get flagged by the government? Here are some examples of triggers that may lead to a deeper look at your organization.

Complaints from individuals:

These individual complaints may originate from state or federal hotlines, web submissions, or even lawsuits, and they all have the potential to spell trouble for your organization.



JOB APPLICANTS

You interviewed someone for a position and they weren't chosen. They file a complaint with the EEOC (Equal Employment Opportunity Commission) claiming that you discriminated against them and are not treating all applicants fairly.



CURRENT EMPLOYEES

A disgruntled current employee has knowledge that you might not be following proper procedures and makes a complaint.



NEW HIRE/CURRENT

You might be demanding a specific type of document when verifying or reverifying an employee's Form I-9, which might be considered discriminatory.



FORMER EMPLOYEES

A former employee is holding a grudge against you because they were fired or had a bad experience.



COMPETITORS

A competitor is trying to disparage your organization so they can distract you. They file a complaint to keep you busy and potentially generate bad PR to help them increase market share.

ICE data analysis:

ICE may respond to any of the individual complaints listed previously, but they also instigate investigations on their own. Their advanced software constantly analyzes their extensive databases of employment and immigration data, looking for patterns or inconsistencies that may flag organizations who might not be playing by the rules.

Tips from other state and federal agencies:

Government agencies coordinate in certain instances. The FBI (Federal Bureau of Investigation), the DOJ (U.S. Department of Justice), and the IRS (Internal Revenue Service) are often investigating organizations for a wide variety of reasons, criminal and otherwise. If during their case they find systemic failures relating to hiring practices or illegal activities, they may refer that employer to ICE or other agencies for further scrutiny.

What industries are most likely to be audited?

Typically, industries that have high volumes of hiring, high turnover, or a history of past violations tend to get more scrutiny from the government, such as retail, restaurant, healthcare, critical infrastructure, and manufacturing.





What should I be doing?

Start by auditing yourself now. Being proactive helps you in the long run. Several factors come into play when determining penalty amounts, including whether there was a good faith effort to comply. Performing internal audits to find mistakes and make corrections shows your efforts toward compliance, which may be considered “good faith.” This audit could include gathering all your current forms, paper and electronic, so you can evaluate your current compliance risk. [This resource](#) from ICE provides guidance for conducting internal I-9 audits.

Purge old I-9s and certain state forms. During audits, you are responsible for errors on **any** forms in your possession, so getting rid of forms that have already met their retention requirements is a best practice. For I-9s in particular, once a person’s employment has been terminated, you must keep their Form I-9 on file for three years after the date of hire OR one year after the date employment is terminated, whichever is later. For state forms, the rules obviously vary and are unique to that particular form. Having someone who can help you keep track of these requirements is key to helping you limit or avoid fines or penalties.

Document, document, document. If you didn’t document it, you didn’t do it. Things don’t get done correctly if they aren’t written down. Having documentation of your onboarding and form procedures is a good practice to help ensure consistency and should be attested to by all applicable personnel. If you are audited, it’s a helpful tool to provide that shows you are operating in good faith.



If your organization needs help with your I-9 process or any aspect of onboarding, reach out to our subject matter experts at [Equifax Workforce Solutions](#). To see how prepared you are for an audit, download our [HR checklist for I-9 enforcement](#).

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