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Immigration enforcement and the workplace

FAQ • By Daniel Costa • April 15, 2025

Overview

Immigration enforcement and the workplace

In this section we look at the types of actions that the Department of Homeland Security (DHS) takes to enforce immigration laws at workplaces. What happens when DHS raids a workplace? How do raids affect workers and employers? What is E-Verify?

Immigration is among the most important economic and political issues and a main topic of discourse and debate among policymakers and the public. But misperceptions persist about many fundamental aspects of this crucial topic, such as:

- the size and composition of the immigrant population
- the effects of immigration on the economy and workforce
- the difference between permanent immigration pathways that lead to green cards versus temporary and precarious immigration statuses
- various other facets of the U.S. employment-based migration system
- policy options for reform

This document provides essential background and facts, as well as answers to frequently asked questions, including relevant data, charts, and extensive citations to key sources.

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What are ICE worksite raids and I-9 inspections?

Worksite or workplace “raids” are operations carried out by U.S. Immigration and Customs Enforcement (ICE), a subagency of the U.S. Department of Homeland Security (DHS). The purpose of raids is to detect if persons are employed unlawfully at a workplace. When these occur, ICE agents come to a workplace with a judicial warrant to question and possibly detain workers whom ICE suspects are present in the United States without a lawful immigration status. The ICE agents may also target the employer’s business practices and seek to review documentation on file with the employer about the immigration status of their employees.

Raids are frequently carried out with a large and intimidating show of force: ICE agents often show up armed and seal workplace exits, arrest employees, sometimes en masse, and seize files and computer equipment. Sometimes ICE is supported by local law enforcement in conducting the raid. For example, they may show up to ensure workers are unable to flee, by helping close off exits and shutting down traffic in the area.

The law that ICE seeks to enforce in worksite raids began with the Immigration Reform and Control Act (IRCA), which was enacted in 1986. It requires employers to verify the identity and employment eligibility of their employees and sets forth criminal and civil penalties (known as “employer sanctions”). A key section of the law, which can be found at 8 U.S.C. § 1324a(b), requires employers to verify the identity and employment eligibility of all individuals hired in the United States after November 6, 1986. A key federal regulation that implements the requirement, at 8 C.F.R. § 274a.2, designates the Employment Eligibility Verification form (more commonly known as Form I-9) as the main way for employers to document the identity and work authorization status of their employees, and lists the eligible documents that can be used. Employers are required to maintain original Form I-9s for their current employees and to produce them when requested by ICE.

ICE also conducts smaller-scale operations that do not usually involve collaboration with other agencies or a judicial warrant. In these cases, ICE simply shows up at a worksite, with or without an administrative warrant, and may or may not arrest someone. ICE also conducts I-9 inspections (sometimes also referred to as audits) that are not in the context of large raids, which are commonly referred to as “silent raids.” (Both raids and I-9 inspections are enforcing the same provisions of the law.)

In the case of an I-9 inspection, ICE must give a “Notice of Inspection” at least three business days in advance, sometimes with a subpoena, which demands that the employer produce information about hiring, payroll and tax records, and other business information, in addition to the employer’s I-9s and copies of supporting identification documents. ICE agents and/or auditors then conduct an inspection of the I-9s and related documentation for compliance, including comparing employees’ documentation against DHS and Social Security Administration (SSA) records. I-9 inspections can sometimes take months or even years to complete. When ICE finds inconsistencies or indications of false documents, the employer receives at least 10 business days to make corrections. ICE may also issue a “Notice of Suspect Documents” if they believe a particular worker or workers are not

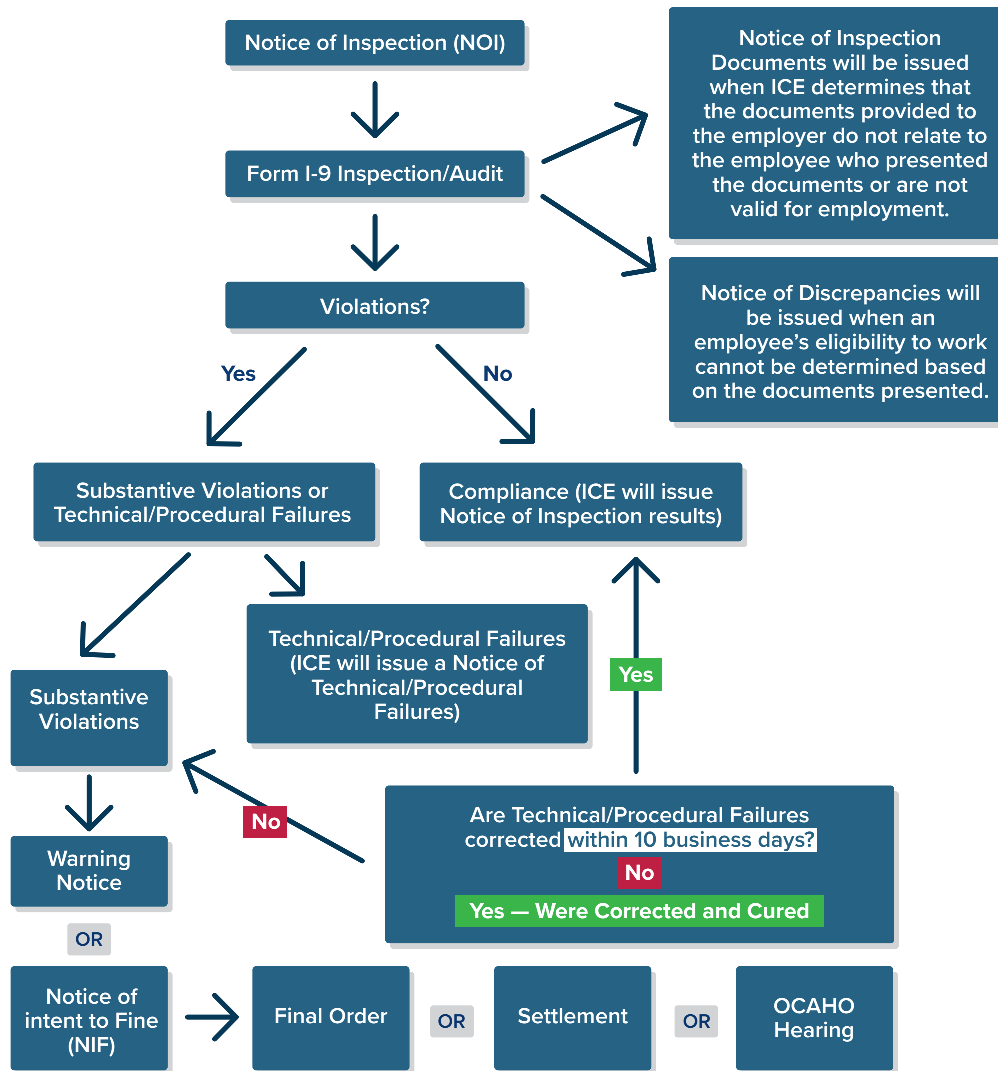
authorized to work. The employer must then either contest the finding or terminate the worker. The employee must also be given an opportunity to update their documentation. **Figure A**, which ICE published on their website, depicts a flow chart for the steps in an I-9 inspection.

ICE has the authority to issue fines for violations. An employer may be issued a monetary fine for all substantive violations and uncorrected technical or procedural failures, and the fines range from $288 to $28,619 per worker, depending on the type and severity of the violation, including whether they are considered minor paperwork issues or more serious breaches like knowingly employing unauthorized workers.

Figure A

What happens during an I-9 inspection?

Form I-9 inspection/audit process flow chart from U.S. Immigration and Customs Enforcement



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How many I-9 inspections does ICE carry out every year?

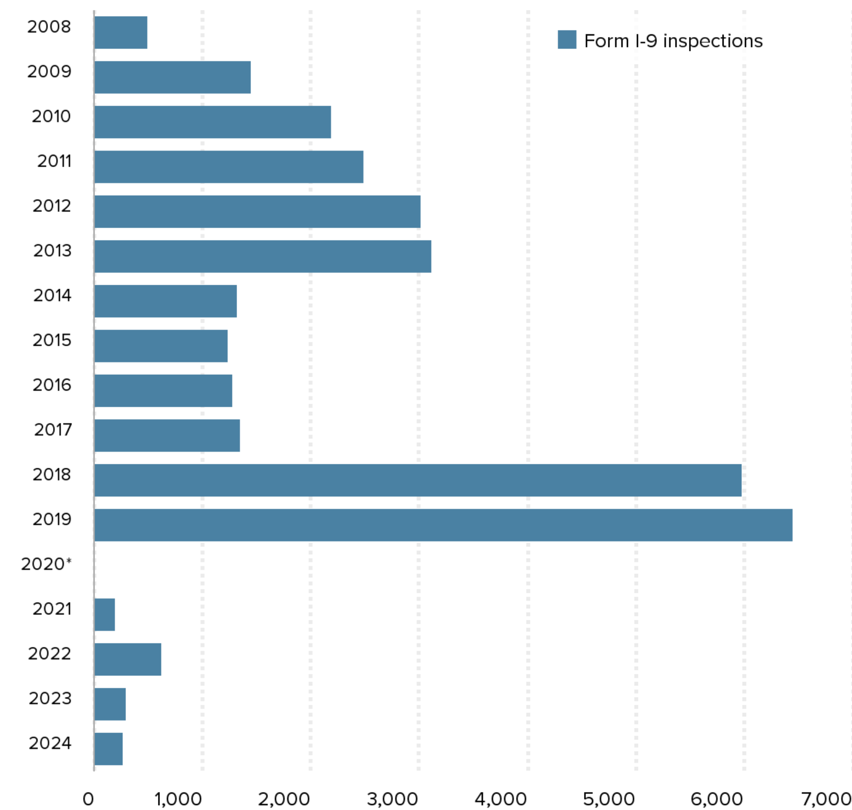
Figure A shows the number of I-9 inspections that U.S. Immigration and Customs Enforcement has carried out between the fiscal years (FY) 2008 to 2024. The number of I-9 inspections has fluctuated widely over those years, from a low of 503 during the final year of the George W. Bush administration to a peak of 6,456 in 2019 during the first Trump administration, with an average of 2,033 inspections conducted per year over the 2008 to 2024 period.

The first Obama administration greatly ramped up the number of I-9 inspections, reaching a high of 3,127 in fiscal year 2013, as the administration pushed for comprehensive immigration reform in Congress. The number of I-9 inspections then dropped by more than half during the second Obama administration. In the first full fiscal year of the Trump administration (FY 2018), the number of I-9 inspections more than quadrupled compared with the final fiscal year of the Obama administration (FY 2016). The number of inspections then dropped significantly during the Biden administration, with the highest total being 624 during FY 2021 to 2024.

Figure A

I-9 inspections by ICE have fluctuated since 2008, peaking during the first Trump administration

Form I-9 inspections conducted by Immigration and Customs Enforcement by fiscal year, 2008–2024



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What effects do worksite raids have on workers and communities? What about employers?

The main policy justification for worksite raids that some proponents offer is that they protect U.S.-born workers from unfair competition by punishing employers and removing undocumented workers from the labor market. This, the theory goes, should raise wages and improve labor standards. However, the reality is very different.

Instead of improving conditions for workers, worksite raids rarely result in significant punishment for lawbreaking employers. When employers are punished, the punishment and fines levied on employers are so minimal that they are unlikely to be effective at deterring illegal conduct, and the harshest penalties are rare because the legal standard for them is difficult to prove and they are reserved for repeat violators. Instead, raids enable employer lawbreaking while punishing workers and degrading standards for all workers, regardless of immigration status, and mostly serve to increase the power employers have over workers. In fact, employers can use the threat of calling ICE to coerce their immigrant employees to accept substandard working conditions and not report employer lawbreaking.

The Immigration Reform and Control Act of 1986 created the "employer sanctions" regime that ICE enforces when it conducts worksite raids, which was ostensibly intended to punish employers for hiring workers without authorization to be employed in the United States. The law requires that employers check and inspect the documents provided to them by job applicants, to determine if they are genuine, but they are not cross-referenced by the employer with any database or federal agency (unless the employer is enrolled in E-Verify, an electronic employment eligibility verification system). The stiffest penalties are for employers whom ICE can prove "knowingly" hired someone without the proper documentation, and the dollar amounts can range from $288 to $28,619 per worker, depending on the type and severity of the violation.

But employers can claim that they thought the documents provided by employees were genuine, which means the administrative fines that employers may be liable for—if any—will amount to a slap on the wrist. As the *New York Times* reported in 2018, "A handful of employers faced prominent criminal cases in recent years, but most companies employing workers illegally avoid serious charges, because it is often impossible to prove that they knew someone had handed in fake documents." Furthermore, employers can even negotiate the fines assessed to them to pay a lesser amount and appeal them to the Office of the Chief Administrative Hearing Officer.

In addition, worksite raids only enforce immigration laws, not labor standards like the minimum wage and overtime pay or workplace safety laws. Thus, ICE does not determine whether an employer violated wage-and-hour or labor laws (unless ICE works in tandem with the U.S. Department of Labor (DOL), which rarely occurs). That means that if an employer targeted in a worksite raid stole wages from their workers, for example, the employer would not be required to pay the back wages they owe their workers. The employer would likely get away with paying a nominal fine, if any, perhaps even for an amount that was less than the wages they stole from their employees.

Workers, on the other hand, are typically given the option to sign a voluntary departure order, some are detained and released on bond, and some are held in custody. Arrested workers may sometimes end up signing paperwork consenting to deportation without appeal before having access to legal counsel. And once workers are detained and deported by ICE, it will be much more difficult for the workers to bring any workplace claims against their employers. As one report on raids has documented, there have been multiple instances where ICE has conducted workplace raids “that have come in the middle, or followed closely on the heels, of a DOL or other agency investigation or court action,” which can end up disrupting DOL’s attempt to hold employers accountable.

Since raids normally happen in low-wage industries with high rates of workplace violations, there is a high likelihood that the impacted workers may have been the victims of wage-and-hour violations. For example, in one of the largest raids ever conducted, against seven employers in Mississippi, one of the targeted companies, Koch Foods (a poultry processing plant) had settled one year earlier with the Equal Employment Opportunity Commission for $3.75 million for extensive discrimination against its Hispanic and female employees. Since Koch Foods was known for violating other workplace laws, it’s possible that many of the workers there had also suffered wage-and-hour violations that merited an investigation. Instead of sending DOL to investigate, the Trump administration sent ICE to Koch Foods to target many of those same Hispanic workers at the plant, arresting hundreds of them. While some criminal indictments were issued for corporate executives of some of the other targeted companies, there were no criminal charges levied against Koch Foods personnel or executives. The combination of exploitable workers and employers operating with impunity with respect to wage-and-hour violations results in worsened conditions for all workers in the workplace or in the same industry, regardless of their immigration status.

Furthermore, there are instances in which ICE has cooperated with employers when they request to verify the immigration status of their employees—essentially calling ICE on themselves—when a workplace dispute exists or when a union organizing drive is ongoing. This allows employers to use raids as a tool to keep workers from speaking out about unsafe workplace conditions or labor and employment law violations, and to prevent workers from exercising their right to collective action.

Workplace raids also harm communities, and the economic and social impacts can be long-lasting. Numerous organizations, researchers, and news reports have documented these impacts, which can be severe and traumatic for children. Children have come home from school only to discover that one or both of their parents have been deported and there is no one at home to care for them. The fear of raids has led to immigrant parents and their children not showing up at school. Raids can also produce poor health outcomes for those involved. And communities can lose a significant portion of their population and tax base, making it hard for businesses that rely on these workers to recover.

What is E-Verify?

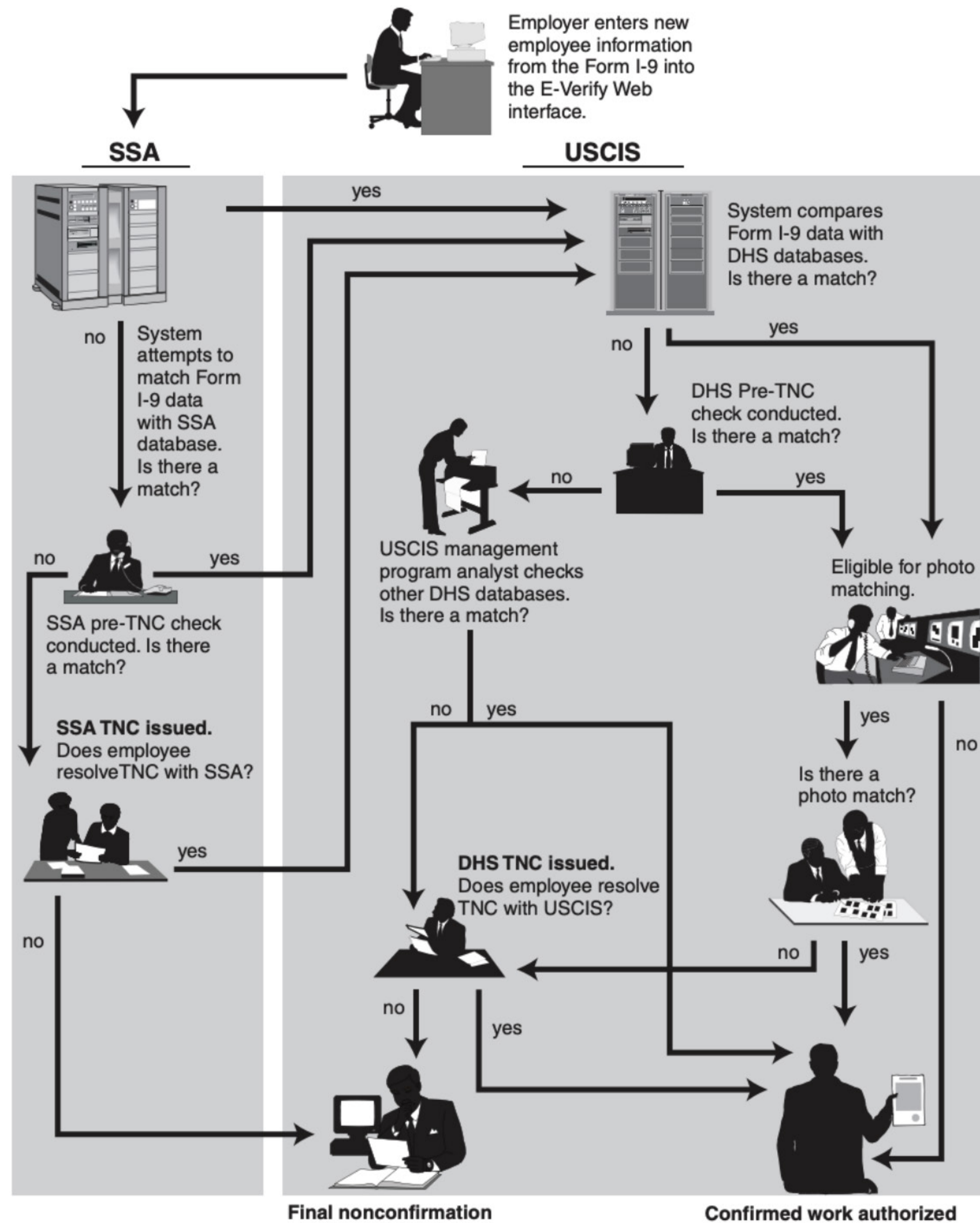
E-Verify is an electronic employment eligibility verification system run by the federal government online and administered through U.S. Citizenship and Immigration Services, a subagency of the U.S. Department of Homeland Security (DHS), in partnership with the Social Security Administration (SSA). E-Verify is used to confirm employment eligibility by electronically matching information from an individual's Form I-9 against records from the SSA and DHS. E-Verify should only be used after a worker has been hired by an employer to confirm employment eligibility, not beforehand to check if a job applicant is authorized to work in the United States. While E-Verify is a voluntary program for most employers, it has been mandated by law for federal contractors, and by state and local laws for some states, localities, and employers.

The E-Verify process works this way: When the system cannot match a worker's information to data contained in DHS and SSA databases, the system will issue what's known as a tentative nonconfirmation (TNC). Within 10 days of being issued a TNC, the employer is responsible for notifying the employee of the TNC, and within those same 10 days, the employee must notify the employer if they will take action to attempt to resolve it. The employee then has eight days to rectify the TNC or else the TNC becomes a final nonconfirmation (FNC). Once an FNC has been issued, the employer must terminate the worker or face potential liability under federal immigration law. (**Figure A** is a flow chart created by the U.S. Government Accountability Office that shows the steps involved when an employer and a noncitizen employee use E-Verify to check the employee's identity.)

Figure A

Employers and workers have 10 days to respond to a tentative nonconfirmation in E-Verify, and the employee has eight days to resolve it

The E-Verify process for employees attesting to be non-U.S. citizens on the Form I-9



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How does E-Verify impact worker rights and the economy?

Virtually since E-Verify's inception, advocates and employers have raised significant concerns about E-Verify's accuracy, efficacy, and negative impact on workers' rights. One way that workers can be harmed is when E-Verify cannot match a worker's information to data contained in U.S. Department of Homeland Security (DHS) and Social Security Administration (SSA) databases, and the system issues what's known as a tentative nonconfirmation (TNC). Within 10 days of being issued a TNC, the employer is responsible for notifying the employee of the TNC, and within those same 10 days, the employee must notify the employer if they will take action to attempt to resolve it. However, if the employer fails to notify the worker, the worker is unlikely to become aware of the TNC's existence, meaning they won't know that they are not authorized to work, and thus, won't be able to take action to resolve the TNC.

To resolve a TNC, workers must often travel to a government office (or multiple offices) to correct the error, which creates a burden for workers needing to travel there during work hours, as well as loss of income during the time needed to do it. Workers who are, in fact, authorized to work but who cannot correct E-Verify's error in time typically face termination. This is the case even if the employer never informed the worker of the TNC; in that situation, workers have no viable recourse, and employers face no penalty for failing to inform the worker.

Sometimes the E-Verify system erroneously issues a TNC, meaning it misidentifies a U.S. citizen or work-authorized immigrant as lacking work authorization. While the error rates have decreased over the years, even a relatively low error rate results in tens of thousands of workers being impacted, by erroneously being deemed not eligible for a job, with one study estimating that nearly 760,000 workers have been harmed by E-Verify. Negatively impacted workers could have their hiring held up or lose a job they are eligible for, in addition to the loss of time and wages that result from having to navigate multiple parts of the federal bureaucracy to fix their record. Another study showed that work-authorized noncitizens are 27 times more likely to experience an E-Verify error than U.S. citizens are, a discrepancy that disproportionately impacts low-income workers and workers of color.

Workers and job applicants have certain rights when it comes to the E-Verify process that they should be aware of, but ultimately, there are insufficient privacy and due process protections, which allow employers to use E-Verify as a tool to discriminate against and retaliate against workers who speak up about workplace abuses, wage theft, and health and safety violations—or who try to join with other workers in union-organizing efforts. Such instances have been significant enough that at least one state has passed laws to protect workers from employers who abuse the E-Verify system.

Mandating E-Verify for all U.S. employers is a policy priority for many conservatives and advocates of lower immigration levels. They argue that mandatory E-Verify would prevent

employers from being able to hire workers who lack an immigration status, opening up jobs for U.S.-born workers. The reality is that—in addition to many U.S.-born workers being harmed by E-Verify's known errors—mandating E-Verify will not create jobs. Instead, it would push more workers into the informal economy, keeping them from working on formal payrolls. In fact, the economic incentive for businesses to keep employing migrant workers far exceeds the cost of complying with immigration, labor, or employment laws. And migrant workers moving from formal to informal payrolls will reduce payroll tax levels that fund social safety net programs that benefit U.S. workers. One report from the Congressional Budget Office found that over a 10-year period, a mandatory E-Verify requirement would reduce Social Security payroll tax revenue by $88 billion.

In terms of the impact on individual workplaces and industries, there's no question that pushing more workers into the informal economy with an E-Verify mandate would leave them subject to more exploitation and employer lawbreaking, which employers could get away with more easily. Already in many industries, employers subvert labor and employment laws by misclassifying employees as independent contractors, allowing them to avoid providing workers with benefits or safe workplaces. A mandate for all employers to use E-Verify would turbocharge this exploitative business model and lead to degraded wages and working conditions for all workers across many low-wage industries, regardless of their immigration status. Having more workers in the informal economy hurts workers on formal payrolls too because those workers will have to compete with workers who are easily exploitable and have no choice but to accept lower wages and substandard working conditions to remain employed. A solution that will raise labor standards for all workers is to ensure that there are never entire classes of workers that have fewer workplace rights than others. This can be achieved by providing a path to citizenship and work permits to workers who currently lack them, and with increased labor standards enforcement from the U.S. Department of Labor that is blind to immigration status.

The federal government spends 14 times more on enforcing immigration laws than it does on labor standards that protect workers

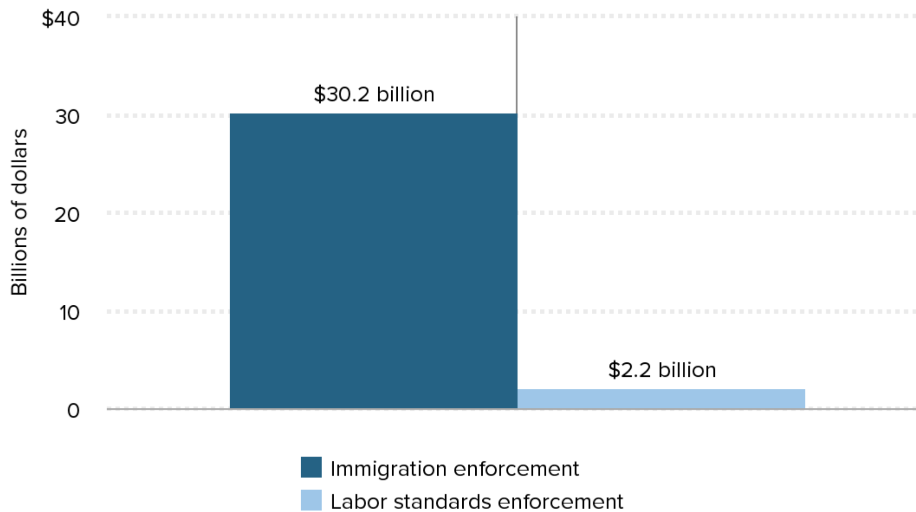
An EPI analysis of federal budget data reveals that in terms of spending, the top federal law enforcement priority of the United States is immigration enforcement. In other words, the nation's top enforcement priority is detaining, deporting, and prosecuting migrants, and keeping them from entering the country without authorization. In fact, funding for immigration enforcement exceeds the combined funding for the five main U.S. federal law enforcement agencies.

In order to carry out its immigration enforcement priorities, U.S. immigration enforcement agencies received $30.2 billion from Congress in fiscal year 2023, as **Figure A** shows. Congress's willingness to protect workers and labor standards, however, is a different story. All U.S. labor standards enforcement agencies that protect workers received only $2.2 billion, despite being tasked with protecting over 165 million persons in the U.S. workforce (also **Figure A**).

Figure A

Government funding for immigration enforcement was nearly 14 times as much as for labor standards enforcement

U.S. government funds appropriated for immigration and labor standards enforcement, fiscal year 2023 (in billions)



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The gap between the amounts appropriated for immigration enforcement compared with labor standards enforcement means that immigration enforcement agencies are now funded at a rate that is nearly 14 times higher than the budgets of all federal labor standards enforcement agencies combined. This is up from 12 times as much in 2021—and when it comes to staffing, EPI research has shown that immigration enforcement agencies had eight times as many staff as labor standards enforcement agencies in 2021. The ultimate result of these disparities is to increase the fear that migrant workers already have when considering whether to report workplace violations—thereby making it less likely that labor standards enforcement agencies will discover employer lawbreaking—and to hobble labor agencies, so they lack the resources to adequately respond when they receive complaints.