

## Front Lines

7/1/2018

### ICE Raids Corso's

*Ellen C. Wells*

Immigration and Customs Enforcement (ICE) agents raided northern Ohio garden center and nursery Corso's Flower & Garden Center on a Tuesday morning in June, arresting 114 workers. The raids, occurring at two different Corso's locations, were conducted with more than 200 law enforcement officials, making it one of the largest employer crackdowns to happen in recent years.

As of press time, no criminal charges have been brought against Corso's, and the company released a statement in the days after the raid saying, "If mistakes were made or if anyone used false, fraudulent or otherwise disingenuous identification documents or other documents to secure employment at Corso's, the company was not aware of those things."

However, agents departed the scene with a large number of documents, so the investigation continues. It all started last fall when the U.S. Border Patrol arrested a supplier of stolen and fake identity documents. This investigation led to an inquiry into Corso's filed documents. This turned up 123 employees with suspicious credentials.

According to The Washington Post, among others, the Corso's raid was the latest to target industries that rely heavily on non-U.S. workers; previous large raids include a meat-processing plant in Tennessee, 7-11 convenience stores and, as I recall, there was a large-ish raid on hotels here in Boston recently. And, among other things, it highlights the need for action when it comes to developing immigration policy that, in my opinion, is soundly based on the needs of the American economy.

In other words, it continues to be complicated. Meanwhile, when it comes to big-ticket political issues, the industry's go-to person for clarification and suggestions is Craig Regelbrugge, AmericanHort's Senior VP for Industry and Research. I reached out to Craig via email about the Corso's situation to ask for suggestions on how small family ag-based businesses can protect themselves and prepare for the future. Here are his suggestions in his own words:

- What happened at Corso's could happen to nearly any labor-intensive agricultural or seasonal business in America. And while we make no judgments either way, history has shown that most employers are exonerated completely or nearly so.
- No time like now to review I-9 practices by conducting a self-audit, including record-keeping procedures.
- Prepare for the possibility of an audit or raid by developing a plan and assigning staff responsibilities.
- Don't make the mistake of getting too picky about documents and exposing yourself to hiring discrimination claims. The legal standard when hiring is that any of the documents approved for I-9 purposes appearing genuine on their face should be accepted as such. You don't want to ask for more than the law requires or to specify which types of

documents you will or won't accept.

- Given the worsening labor situation, more and more employers are exploring, or turning to, the H-2 visa programs (H-2A for growers, H-2B for non-agricultural). Both programs have their limits; B is, of course, subject to an unrealistic cap and is very oversubscribed. In either case, do your homework first or you will learn lessons the hard way.
- E-Verify is an option some employers are considering. It is not a foolproof system (we are told that good fake documents can and do clear E-Verify), but the program does give an employer who is using it properly a strong defense that they're doing everything the law allows. Of course, going into E-Verify has the practical effect of severely restricting the applicant pool that's likely to apply and accept a job.
- We at AmericanHort are thought leaders and issue experts in this space. We have detailed employer guidance available to our members. Premium members have access to legal support resources. We are conducting a "know before you go" into H-2A webinar in two weeks [June 20].
- And finally, we need meaningful reform! The Administration is working to improve the H-2A program and we're hopeful that will help. Beyond that, we face severe challenges that only Congress can fix. That fight goes on ... **GP**