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## SEIU Recommended Immigration Administrative Actions for the new Administration

The immigration problem in this country can only be solved by comprehensive immigration reform. Piece-meal reform, such as enforcement-only, will do nothing to resolve the problem. Nonetheless, the Bush Administration pursued an enforcement-only approach by attempting to implement a number of administrative actions that we believe are not justified and illegal. These actions have done nothing to resolve the immigration problem and should be rescinded.

### Top SEIU Priorities for Departmental Action

**1. Withdraw the No-match Regulations:** These regulations require employers to terminate employees who appear on a SSA no-match list and who are not able to resolve the discrepancy in the SSA records within 90 days. DHS issued the regulations in September 2006, but they were challenged and enjoined by a federal district court. DHS then engaged in a supplemental rulemaking and re-issued the regulations without any changes last October. The regulations will not become effective until the Judge lifts the injunction. The government has asked the court to do that but a decision is not expected until the early part of 2009. The regulations were issued despite the fact that it has been established that the SSA database is seriously flawed. They do nothing to reduce the number of undocumented workers since there is nothing in the regulations that stops workers terminated because of a SSA no-match from simply getting a different job. The regulations simply churn the workforce. The regulations will also cause work-authorized workers and U.S. citizens who are not able resolve the errors with their SSA numbers within 90 days to be unjustifiably terminated. The regulations are also contrary to law. These regulations should be withdrawn.

### **2. ICE Raids:**

▶ **The Questionable Benefits of ICE Raids are Not Outweighed By Their Costs to individuals and communities.** ICE raids have done nothing to resolve the immigration problem. They have, however, damaged employers, caused suffering to many individuals and destroyed communities. In the absence of comprehensive immigration reform, ICE raids serve no useful purpose that justifies the harm they cause people and communities. ICE raids should be suspended to allow the new leadership at DHS to evaluate their costs and benefits.

▶ **Honor Workers Constitutional Rights.** In conducting raids, ICE has failed to honor the constitutional rights of individuals (documented and undocumented) who have been detained in the raids and as a result has faced much public criticism and many expensive lawsuits. Raids should not proceed without first putting in place procedures that will ensure the constitutional rights of all persons affected by the raids, including the right to counsel, the right to due process and the right not to be subjected to unreasonable searches and seizures.



- **Instead of Focusing Enforcement on Hard-Working Immigrants, Enforce the Labor Laws.** Employers hire undocumented workers often because they believe that they can get away with violating the labor laws more easily if the workers are undocumented. Labor law violations are rampant on worksites where there are undocumented workers. However, raids have the effect of removing the victims of and witnesses to the labor law violations which means that the employer has effectively been given immunity from prosecution. Real enforcement of the labor laws will remove one strong incentive to hire undocumented workers. Raids should not proceed without coordination with the DOL's labor standards enforcement and witnesses and victims of labor law violations should be given temporary status so that the labor law violations can be prosecuted.

**3. Don't Make E-Verify Mandatory Until It Has Been Perfected:** It has been shown that the e-verify database has many errors and is not fully reliable. Use of the flawed database to verify work-authorization will result in many work-authorized immigrants and U.S. citizens wrongly being denied employment because of database errors. Mandatory verification of employment status should appropriately only be part of comprehensive immigration reform. The Department should also be investigating alternative ways of verifying employment status. Therefore, President Bush's Executive Order requiring federal contractors to enroll in e-verify for all of their workers should be rescinded along with the implementing regulations. In addition, to relying on a flawed database, this Executive Order is contrary to law because it exceeds the President's authority to issue Executive Orders and conflicts with the E-Verify legislation.

#### **Other Important Administrative Actions**

**4. Speed Up the Processing of Citizenship Applications.** Due to a large increase in citizenship applications, CIS built up a backlog a year ago of almost 1 million applications, and the estimated a wait time for having an application processed was 16-18 months. This is not acceptable. CIS did take some steps to speed up the processing of applications. However, more needs to be done to ensure that the backlog is promptly eliminated, and that going forward, applications will be processed in a reasonable period of time.

**5. Expand eligibility for TPS Status to Immigrants from Distressed Countries.** Temporary Protected Status (TPS) can be granted to immigrants who are temporarily unable to safely return to their home country because of ongoing armed conflict, an environmental disaster, or other extraordinary and temporary conditions. Unfortunately, there are many countries today that have suffered natural disasters and armed conflict, and therefore, DHS should not be hesitant to grant immigrants from these countries TPS as a humanitarian gesture. For example, four storms ravaged Haiti and more than 850,000 people were displaced and 50,000 homes were damaged or destroyed. Under similar circumstances, the U.S. has granted Temporary Protected Status (TPS) to Honduran, Nicaraguan and Salvadoran nationals. Haitians at this time are unable to safely return to their home country and should be granted TPS.



6. **The Bush H-2A program regulations must not be allowed to stand.** In February 2008, the Department of Labor (DOL), along with the Department of Homeland Security (DHS), published proposed regulations which would dramatically weaken the protections under the H-2A program. Under the proposal, the statutorily required labor certification would be replaced by an attestation scheme that would essentially make approval of H-2A applications automatic. Requirements to recruit and hire U.S. workers would be reduced. The critical wage standard would be lowered in many cases to the federal minimum wage. The requirement to provide free housing would be replaced by a voucher scheme. Implementation of these regulations would effectively end any hope of improving the wages and working conditions of American farm workers. Given the fact that the H-2A program is uncapped, these regulations would not be minimum standards for U.S. workers, but rather would set the “ceiling” for what U.S. farm workers could ask from their employers because growers would have an unlimited number of foreign guest workers available under these conditions, and no obligation to hire U.S. workers who ask for more. The public comment period for both the DHS and DOL proposed rules ended April 14, 2008. The issuance of these regulations is imminent and the rules may include an effective date of 30 days. If these regulations are allowed to go into effect early in 2009, there could be a dramatic expansion of fraud and abuse in the H-2A program as contractors take advantage of the new attestation procedures to game the system. The OIG has already concluded that the attestation-plus-audit procedures are not working in other visa programs where they have been used.

The Administration should rescind these regulations by any appropriate means.