



6210 N Rockwell,
Chicago Illinois 60659

An Open Letter to President Elect Barack Obama

The Guatemalan Immigrant Movement in the United States – MIGUA Requests Urgent Actions from President Elect Barack Obama

December 23, 2008

President Elect Barack Obama
Chicago, Illinois, USA.

Dear President Elect Barack Obama,

The Guatemalan Immigrant Movement in the United States, MIGUA, (a network of Guatemalan immigrant organizations in the US) would like to take this opportunity to congratulate you on your triumph. Latino voters and immigrant residents, who were not able to participate in the electoral process, have placed our hopes in your promises for change. We hope your government will improve the way the Latino immigrant community is treated in the United States - offering a way to improve their lives and those of their families – as well as relations with their countries of origin.

Despite the challenges your administration will face in approving comprehensive reform to regularize the immigration status of more than 12 million undocumented immigrants that live, work and contribute their taxes and talents to this beautiful country, we urge your administration to put forth executive actions that will benefit the undocumented immigrant community immediately and alleviate the state of terror under which our undocumented community members are currently living.

Your historical inauguration as president next January 20th is the best opportunity to continue to make history by initiating a change in tone with respect to the immigrant community - establishing a strong foundation for a new era in our society.

Mr. President Elect Barack Obama, these are the administrative action that MIGUA urges you to consider in the first six months of your administration independently of any legislative progress on immigration reform:

- **Immediate stop to raids and deportations:**

Beginning in 2006 the Department of Homeland Security (DHS) through the agency of Immigration and Customs Enforcement (ICE) increased its actions targeting the detention and removal of undocumented, Latino immigrants. ICE has executed massive raids nationwide which have resulted in the separation of families and the interruption of social and economic life in many communities. Additionally, community testimony speaks to the grave violations of due process rights and civil rights as well as the violations to the US constitution that ICE committed during these activities. (Please see enclosed articles).

Therefore, it is just to declare a moratorium on these ICE actions against individuals and communities until Congress approves a comprehensive reform of immigration law.

- **Collaboration between local law enforcement and ICE**



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In the past few years ACCESS (Agreements of Cooperation in Communities to Enhance Safety and Security) has provided a way for ICE to pressure local law enforcement agencies to enforce federal immigration laws. Section 287 (g) of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) provides local authorities the justification to do this work. In addition, these agreements result in increased racial profiling and have been a financial burden on local governments. (Please see enclosed copy of the document titled, “Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act”).

Therefore the promotion of these agreements between local authorities and ICE, based on 287 (g) should be ended and the current agreements should be annulled. This will ensure local authorities to not step beyond their jurisdiction and attempt to enforce federal laws.

- **Social Security “No-Match” Letters:**

Each year, employers file a Wage and Tax Statement (Form W-2) with the Social Security Administration (SSA) and the Internal Revenue Service (IRS) to report how much they paid their employees and how much they deducted in taxes from employees’ wages throughout the year SSA sends a “no-match” letter when the names or Social Security numbers (SSNs) listed on an employer’s Form W-2 do not match SSA’s records. The letter’s purpose is to notify workers and employers of the discrepancy and to alert workers that they are not receiving proper credit for their earnings, which can affect future retirement or disability benefits administered by SSA.

However, on March 26, 2008, DHS issued a supplemental proposed rule that purports to clarify its August 2007 final rule regarding an employer’s legal obligations upon receiving a no-match letter.ⁱ On October 10, 2007, the U.S. District Court for the Northern District of California preliminarily enjoined implementation of the August 2007 rule, finding that it would cause irreparable harm to both innocent workers and employers. Shortly after the decision, DHS asked the court to suspend the litigation while it revised the rule so it would pass legal muster and address the concerns raised by the court. Now, DHS states that it is reissuing the 2007 final rule “without change.” Furthermore, the SSA database is not an immigration database and does not contain “real-time” data on individuals’ immigration status or work authorization.ⁱ

Therefore, the suspension of both the DHS arbitrary, new ruling and the issuance of these letters to employers should be enacted immediately. Such administrative action would ensure the decision of the 9th Circuit Federal Court, which ruled against the use of Social Security “No Match” letters as a statement upon individuals’ immigration status be respected.ⁱⁱ

- **The Real ID Act:**

This legislation requires states to produce new, standardized driver’s licenses with machine-readable technology, and to create databases that hold copies of American citizens’ sensitive identify documents, including immigration status.ⁱⁱⁱ Implementing this law will cost more than \$11 billion over five years, have a major impact on services to the public and impose unrealistic burdens on states to comply with the act by the May 2008 deadline.^{iv}

Therefore, we feel it is important that your administration repeal this costly and ineffective law. Real ID will only make it more difficult for US citizens to obtain much needed driver’s licenses and begins to move the nation in the direction of a national ID which can potentially infringe on the privacy rights of individuals.

- **“Identity Theft” Charges on Undocumented Immigrants:**



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The consequences for many immigrant workers recently detained by ICE, has been to be charged with “identity theft” (18 U.S.C. 1028 (A) (a) (1) - which implied sentences of up to 2 years imprisonment) in addition to being submitted to deportation. This has been a major contribution to the ongoing criminalization of immigrants whose status as undocumented workers is considered an administrative infraction according to federal law.

Therefore, the accusation of identity theft against immigrant workers is unwarranted and should be stopped immediately.

- **Expedited Removal of Undocumented Immigrants:**

In 2004 the Attorney General authorized the “expedited removal” of undocumented immigrants detained within 100 miles of a US border (69 Fed. Reg. 48877). However, community testimony speaks to the negative repercussions of this policy upon individuals seeking asylum in the US as well as violations to due process rights.

Therefore, the practice of “expedited removal” should be eliminated immediately. We must uphold the American system of justice and ensure due process protections for all, both U.S. citizens and noncitizens, regardless of their immigration status. We especially need to address the erosion of due process protections for legal permanent residents (LPRs) and refugees that has been the consequence of past laws, policies, and practices including: mandatory detention, the expansion of the “aggravated felony” definition to include violations that are neither aggravated nor felonies, and taking away the ability of judges to weigh individual circumstances and allow someone a second chance.^v

- **Discrimination against undocumented workers**

Since 1999, the Equal Employment Opportunity Commission (EEOC) has acknowledged that undocumented immigrants are more vulnerable to discrimination and exploitation in the workplace and conceded that they deserve the same labor rights as US citizen workers.^{vi}

Therefore, the Department of Labor must invest resources into the enforcement of current US labor laws in order to dissuade employers from hiring Immigrant workers with the sole purpose of circumventing US labor laws.

- **E-Verify**

E-Verify (formerly the Basic Pilot/Employment Eligibility Verification Program) is an online system operated jointly by the Department of Homeland Security and the Social Security Administration (SSA). Participating employers can check the work status of new hires online by comparing information from an employee's I-9 form against SSA and Department of Homeland Security databases. This is yet a further attempt to turn employers into federal immigration law enforcers. Again, like the Social Security “No Match” letter, not only is the information used to determine an individual’s employment status inaccurate (SSA database) but it is another instrument to promote discrimination against immigrants in hiring processes. In particular any administrative or legislative action that disproportionately increases employer supremacy over employees leads to union busting and violations of workers’ rights.

Therefore, the promotion of the E-Verify pilot program should be immediately ended as it encourages employers to use inaccurate data in determining individuals’ employment eligibility and also serves as a tool for the exploiting immigrant workers.



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We trust that you will concede to our recommendations and lend us your support in ensuring their prompt implementation as soon as you take office on January 20, 2009. Enacting these recommendations will greatly improve the current egregious conditions Latino immigrants are currently facing in the US. We are sure you will concur with us that what is good for immigrant families is also good for our society as a whole.

Please rest assure that our leadership at MIGUA, as well as the members of our network of Guatemalan organizations in the US are ready to lend our support to you and your administration, towards a better future for all of us in the United States. Please do not hesitate to contact us at your earliest convenience.

We pray that your hopes for a better America will prevail against the worst odds that our country is facing today, and that your dreams and inspiration will carry us through the tough times Latino immigrant communities are going through, and through the challenges that lay ahead. Together we can!

Sincerely,

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ⁱ "Facts about the Social Security 'No Match' Letter" by National Immigration Law Center (NILC);

http://www.nilc.org/immsemplymnt/SSA-NM_Toolkit/factsaboutno-matchletter_2008-03-26.pdf

ⁱⁱ "PRELIMINARY INJUNCTION: Court Block Government From Implementing Flawed Social Security 'No Match' Rule"; NILC;

http://www.nilc.org/immsemplymnt/SSA_Related_Info/ssa006.htm

ⁱⁱⁱ "Real ID Laws are a National Catastrophe" by Jim Harper; CATO Institute; www.cto.org/pub-display.php?pub_id=9606

^{iv} "The Real ID Act: National Impact Analysis" Presented by: National Governors Association, National Conference of State Legislatures and the American Association of Motor Vehicle Administrators, September 2006;

http://www.ncsl.org/print/statedfed/Real_ID_Impact_Report_FINAL_Sept19.pdf

^v "Immigration Reform and the Current Debate" by Judith Goldberg; Immigrant Legal Resource Center (ILRC) May 2007;

http://www.ilrc.org/resources/IR_debate.pdf

^{vi} "EEOC Issues Guidance on Remedies for Undocumented Workers Under Laws Prohibiting Employment Discrimination" by EEOC; October, 26, 1999; <http://www.eeoc.gov/press/10-26-99.html>