

Vail Daily

Businesses strive for legal workers

Some Vail Valley businesses have trained to spot fake documents

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Johnie's garden employees Arturo Aguliar, left, and his father Salvador build a water feature at a home in Minturn. The Aguliar's are from Zacatecas, Mexico.

Kristin Anderson/Vail Daily

EAGLE COUNTY, Colorado —The landscaping crew building on a pond and waterfall in a Minturn backyard speak with marked accents and hail from Mexico, but Johnie's Garden owner John Rosenfeld knows all his workers are documented and legal immigrants.

Most of the crew are here through the H-2B program, a federal program that brings seasonal guest workers into the country.

Like many other local employers, Rosenfeld said he sees hundreds of job applicants each year, some here illegally, and hiring H-2B workers is one way Rosenfeld said he makes sure his employees are legal.

For other applicants, Rosenfeld said, the company always asks for documentation, and people who can't produce paperwork are turned away.

His office manager has taken training classes in order to learn how to spot fake visas and papers, both of which the office sees quite often, he said.

"It's easy to spot if you've had the training," Rosenfeld said. "Some companies don't even mess with it and just hire people, but it's important that we stay above board."

The extra precautions not only protect his business, but keep things fair for the rest of the workforce — both citizens and people who go through the legal immigration processes.

Upping enforcement

Stricter enforcement of illegal hiring laws and greater awareness has made hiring undocumented workers a hot-button issue, leading some businesses like Johnie's Garden to change their hiring practices or are take extra precautions.

"The laws haven't changed," said Immigration and Customs Enforcement (ICE) Spokesman Carl Rusnok. "What's changed is that there's more enforcement of existing immigration laws. We've always fined employers, but ICE has found out what really acts as a deterrent is criminal prosecuting."

Penalties for knowingly hiring an illegal worker can range from fines to criminal prosecution to seizure of the business.

ICE has made record numbers of arrests the last couple years of both illegal workers and employers. More than 860 criminal arrests for illegal work site operations and 4,000 deportation arrests were made in 2007 — a tenfold increase compared to five years ago, according to ICE.

As of May, ICE made more than 850 criminal arrests tied to work site enforcement investigations. Of those arrests, 75 were owners, managers, supervisors or human resources employees facing charges including harboring or knowingly hiring illegal aliens.

Although the law requires all employers to verify the employment eligibility and identity of their employees, most of the enforcement on ICE's part has been for large-scale operations, Rusnok said.

"ICE believes, and I think legitimately, that the vast majority of employers want to do the right thing, so these are for egregious cases," Rusnok said.

That means that for a mid-sized or small business in Eagle County, enforcement is really up to the employer, points out Avon immigration attorney Chris Pooley.

"If you look at the numbers, enforcement is next to zero," he said. "Employers can continue to hire illegal workers with next to zero chance of anything happening to them."

Beefing up the hiring process

But some are "doing the right thing."

Rob LeVine, manager at The Antlers at Vail, said the condo and conference center has always done social security and background checks on all their employees.

"We do everything we can (to check)," he said. "And it's definitely not unusual to come across applicants without legal documentation."

Christie Lodge Human Resources Director Bill Uttech said that the hotel has also taken some extra steps to beef up their hiring process beyond what the law requires.

"As long as you look at a document and it looks valid, according to the government, we're in the clear," Uttech said. "But just as employers, we want to be sure."

The hotel has used an increasing number of federal guest worker programs, such as the H-2B program and student worker J-1 program.

However, last year U.S. Congress drastically limited the number of returning H-2B visas issued, meaning businesses that depend on those workers could face a labor shortage.

Also, a law firm helps the hotel do pre-employment screening, and uses a federal electronic database called E-Verify, which checks the social security numbers of employees. Using the database to check employees is voluntary by federal law, but required under Colorado law.

However, it is a system that can be inaccurate, marking a legitimate social security number as invalid.

"I get clients all the time who can't get a driver's license in Colorado, even though they're legal and approved for visas, because the DMV is using E-Verify," Pooley said.

Uttech from the Christie Lodge said he's seen a few mistakes from the system, but E-Verify definitely works, he said.

"We don't get too many invalid applications, but it kicks them back just enough to make you appreciate the system," he said.

However, other employers said they've found the system quite helpful and accurate.

LeVine of The Antlers said he has also seen a few errors — both verifying an invalid social security number, and rejecting a valid number — but when used with other background checks, the system works.

Kathy Rossman, the human resources director at Vail's Sonnenalp resort, added, "It's pretty simple to check these numbers."

"It's a free service, and it's been pretty accurate," she said of E-Verify.

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