

Form I-9 / H-1B Compliance

New Jersey Immigration Compliance Attorneys

Recent developments under the Trump Administration show that the U.S. Department of Homeland Security Investigations (HSI), U.S. Immigration and Customs Enforcement (ICE), and the U.S. Citizenship and Immigration Services FDNS Unit, have substantially stepped up their efforts in worksite enforcement, including increased audits of I-9s and (almost always unannounced) and H-1B site inspections. In this regard, our Immigration Law Group provides consultation on Form I-9 compliance, mandatory record-keeping, and E-Verify for those currently required under the law, as well as for those who voluntarily enroll in the E-Verify program.

Immigration compliance should be a priority if your business maintains its staffing needs through the employment of foreign workers.

Employers that knowingly hire unauthorized foreign workers may be held civilly and/or criminally liable for their actions. Our immigration compliance practice focuses on the avoidance of these costly civil fines and criminal penalties for businesses in New Jersey, and throughout the United States.

Worksite Enforcement of Immigration Laws

H-1B Audits:

A study recently conducted by the U.S. Citizenship and Immigration Service (USCIS) found that as many as one in five H-1B applications were affected by either fraud or "technical violations," of the H-1B program. This is likely the impetus behind USCIS' increased anti-fraud enforcement efforts.

Whatever the reason behind such stepped-up efforts, there is no doubt that the USCIS has begun making more and more "surprise visits" to the U.S. worksites of companies that sponsor H-1B visa holders.

The Office of Fraud Detection and National Security (FDNS), a division housed within USCIS National Security and Records Verification Directorate, was created in 2004 to enhance the quality, integrity and security of the U.S. legal immigration system. According to the USCIS, FDNS' primary mission is to detect, deter, and combat immigration benefit fraud and to strengthen USCIS' efforts aimed at ensuring that benefits are not granted to persons who threaten national security or public safety. FDNS is USCIS' primary conduit to the law enforcement and intelligence communities.

USCIS regularly conducts random, unannounced on-site inspections as part of the expansion of its Administrative Site Visit and Verification Program. This program involves the hiring of private contractors to send "investigators" out to conduct site visits to H-1B employers to verify if the H-1B employee is working at the employer and performing the work as outlined in the H-1B petition. Such investigators come with a checklist of questions designed to confirm the identity of the employer who petitioned for the H-1B visa and the visa beneficiary and to verify that both are in compliance with the terms and conditions of the visa.

The objective of the unannounced site visits is clear: to detect fraud and abuses of the visa program. According to USCIS, the offenses range from technical violations to outright fraud, with the most common violation being the nonpayment of a prevailing wage to the H-1B beneficiary.

Thus, it behooves all H-1B petitioners (whether you are a small, privately held IT company or a large, publicly traded Fortune 500 company) to make sure that your immigration compliance program is properly established (i.e., your H-1B Public Access Files (PAF) are properly maintained) and compliant with the applicable regulations.

What should appear in a PAF?

Aside from the ability to produce evidence of payment of the proper wage, H-1B employers must maintain the original LCA (with dates of posting) and a wage memorandum outlining how the wage was determined and a copy of the relevant prevailing wage data. Moreover, evidence of timely notification to USCIS of the termination (whether voluntary or not) of H-1B workers must be regularly available. Finally, with respect to each H-1B worker who was involuntarily terminated prior to his/her authorized period of stay, there should be evidence of an offer of return transportation to the H-1B worker's last country of residence.

I-9 Audits:

The United States government has placed great emphasis on deterring the employment of unauthorized workers. In fact, U.S. Immigration and Customs Enforcement (ICE) and the Department of Labor (DOL) are regularly conducting I-9 audit investigations to expose noncompliant businesses and ensure worksite enforcement of federal immigration laws.

At Meyner and Landis LLP, our Immigration Law Group provides experienced and dedicated immigration counsel to employers and business professionals nationwide on such topics of immigration compliance. In such capacity, we offer proactive counseling services designed to ensure I-9 compliance, as well as aggressive representation for businesses targeted in an upcoming audit.

Our firm is regularly retained by corporate and business clients to address a broad spectrum of immigration compliance and worksite enforcement concerns, including:

- Response to Notice of Inspection (NOI) from ICE or DOL
- Response to Notice of Intent to Fine (NIF) for noncompliance violations
- Defense of hiring practices during government investigations
- Review and audit of H-1B public access files
- Review of current business policies and procedures for I-9 verification and internal I-9 audits
- Performance of an external I-9 audit to ensure worksite compliance
- General preparation prior to upcoming business audit
- Employment verification through E-verify
- Other immigration compliance services

Whether our services are aimed toward preparing for a notified upcoming inspection or minimizing any civil or criminal penalties for noncompliance, our immigration attorneys have the skills needed to protect our clients' rights and best interests. For experienced legal counsel regarding immigration compliance or other immigration concerns, [contact our office](#) to schedule a free case evaluation with an experienced immigration lawyer.

With offices in Newark, New Jersey, the Immigration Law Group of Meyner and Landis LLP conveniently provides immigration services for businesses and individuals throughout the state of New Jersey. The firm's immigration practice, however, is national in scope, encompassing the representation of multinational Fortune 500 employers, businesses and individuals throughout the United States.

[Contact our office](#) to speak with a member of our Immigration Group.