Immigration Update for Employers with Foreign National Employees

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Hall Estill News

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U.S. employers should be aware of recent changes to immigration rules and regulations which may result in stricter enforcement, allowing the Department of Homeland Security (DHS) and its subagencies to more quickly impose fines and other penalties against U.S. employers whose immigration-related records are not in compliance. These records include I-9 forms (for every employee), H-1B public access files and, other immigration documents in personnel files.

The DHS published an interim final rule on June 27, 2025, that reduces the civil penalty timeline under the Immigration and Nationality Act, speeding up the evaluation and penalty process, and replacing the multi-layer process previously available, giving employers fewer procedural safeguards and less time to respond to investigations. This provision would allow Immigration and Customs Enforcement (ICE) to issue, serve, and collect fines more quickly, reducing the time that employers have to negotiate or cure deficiencies before fines are due. Additionally, earlier this year, DHS announced higher penalty amounts that can be imposed on U.S. employers for noncompliance. These adjusted fines include:

- Knowingly hiring or continuing to employ an unauthorized worker: $716 to $28,619 per individual, depending on prior violations
- Form I-9 paperwork errors: $288 to $2,861 per form
- Document fraud violations (first offense): $590 to $4,730; subsequent offenses up to $11,823
- Prohibited fee-shifting or indemnity bonds: $2,861 per occurrence

The announcement of higher fines, combined with faster fee collections, indicates that DHS intends for civil penalties against employers to play a more prominent role in workplace enforcement efforts. Recent legislation has secured $170 billion over four years to expand immigration enforcement, including a budget increase for ICE from $8 billion to $28 billion, and hiring up to 10,000 new agents, for a new total of 16,000 agents.

If your organization employs H-1B, L-1, or other foreign national workers, it's critical to be prepared for any DHS site visits or inquiries. Below are some proactive measures U.S. employers may consider to prepare for a government audit or site visit:

- Conduct an internal audit of personnel I-9 forms (and E-Verify records, if applicable)
- Confirm that H-1B wage data are correct and public access files are available on request
- Ensure that recruiters and hiring managers understand and comply with I-9 documentation requirements
- Create a site visit response plan, and designate a point person to manage communications and interactions with DHS officers

As always, Hall Estill stands ready to assist your company with any immigration-related questions or concerns. Contact a Hall Estill Attorney for assistance.

Practices

- Employment-Based Immigration and Compliance