

How to manage immigration compliance

Jamie Gilpin

Whether your business has sent American workers abroad or you employ foreign nationals at a US office, you know that handling employee immigration is complex. But if you are not well versed in US immigration law, you may be inadvertently failing to complete tasks or update paperwork that could put your business at risk of noncompliance.

These five strategies can help ensure your business remains compliant with all relevant laws and avoids the fines and penalties associated with breaking the rules.

1. Keep up with changing immigration policies

It is no secret that the Trump administration has made immigration enforcement a priority. To date, the change that stands to have the greatest impact on businesses was the announcement of a “more targeted approach” to compliance checks for companies that employ H-1B visa holders.

Announced in April, the new approach essentially means that the US Citizenship and Immigration Services (USCIS) will be more likely to inspect workplaces that it considers more likely to be out of compliance, including those with a high ratio of H-1B workers to those without H-1Bs.

For now, the best way to prepare for this new policy is to have all documentation for foreign workers in place and easily accessible. New

rules permit digital storage of public access files, which helps simplify management of these files – a welcome upgrade for documents known for their complexity. It is also wise to make sure someone in your HR department is staying abreast of policy changes.

2. Do not try to “set it and forget it”

Think of managing employee immigration as a bit like fitness: it is something you have to put time into on a regular basis. In addition to changing federal policies, it is important to remember that your employees’ personal status may change: they may get married, finish school, come to the end of a visa or otherwise do things that could change their immigration status.

Make it a point to check in regularly with foreign national employees about life changes and be sure you have a point person who is tracking visa renewal dates.

3. Know which organizational changes might affect your compliance requirements

One reason managing immigration is so complex is that it is affected by so many moving pieces. If your company undergoes structural reorganization or change, you may be legally required to update or resubmit immigration paperwork.

Common changes that require action around immigration status include the following:

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- restructuring;
- mergers and acquisitions;
- spinoffs;
- stock and asset acquisitions;
- consolidations;
- name changes;
- relocations;
- bankruptcies;
- layoffs;
- reorganizations; and
- downsizing.

Obviously, these types of shifts come with enough complexities already, so if your HR team is not equipped to handle the immigration component, be sure you secure legal counsel who is.

4. Create a plan for site inspections

Inspections by USCIS or the Department of Labor are a normal part of employing foreign nationals, but they can also be stressful if

your company is not prepared. To make sure an unannounced inspection does not lead to fines or penalties, prepare yourself for success:

- put your plan in writing;
- assign a point person who will lead the inspector around, as well as a backup in case the primary is out when the inspection happens;
- notify all foreign nationals about what inspections are, why they happen, and what to expect;
- notify other key stakeholders, including front desk personnel;
- make sure all immigration documentation is easy to find and access;
- talk to your legal counsel about how to handle an inspection. If your lawyer cannot be present, it is often wise to have them participate over the phone; and
- run a drill to ensure everyone understands their role and identify weak areas.

5. Do not be afraid to seek outside help

If you do not have full-time legal counsel on staff or the counsel you have on retainer does not have experience with immigration law, know that you can seek outside help to manage your foreign national employees. Whether you have a direct relationship with an immigration attorney or enlist the help of an immigration services company like Envoy, working with a third party lets you tap into expertise without putting an undue burden on your existing resources.

About the author

Jamie Gilpin is the Chief Marketing Officer and Workforce Trends Analyst at Envoy Global. Envoy provides the only immigration management platform that makes it seamless for companies to manage and hire a global workforce by combining legal expertise with proprietary technology. Jamie Gilpin can be contacted at: meghan@propllr.com