

Federal Agencies to Step Up Enforcement of Immigration Laws Against Employers

Two federal agencies recently announced plans to continue their strategy of aggressively targeting employers for violations of immigration laws, and to toughen sanctions against employers who hire illegal immigrants. At a February 22, 2008 briefing on Immigration Enforcement and Border Security Efforts, Department of Homeland Security (“DHS”) Secretary Chertoff and Attorney General Mukasey announced that DHS will continue to partner with the Department of Justice (“DOJ”) to enforce immigration laws against employers in response to Congress’ recent failure to pass comprehensive immigration reform.

Secretary Chertoff stated that worksite enforcement will remain a critical element of the strategy for dealing with illegal immigration. In 2007, DOJ (a) issued criminal indictments against human resources directors for harboring illegal aliens and inducing them to remain in the United States illegally; (b) raided a processing plant that harbored more than one hundred illegal aliens; and (c) prosecuted a Midwestern business owner, who was sentenced to eighteen months in prison for harboring illegal construction workers in several states. The joint announcement signals that similar enforcement tactics likely will continue in 2008 and beyond.

Moreover, both DHS and DOJ plan to add additional weapons to their enforcement arsenal in 2008. Most importantly, DHS will publish a new “no-match” rule to facilitate verification of employees’ social security numbers. The Department’s prior rule would have required employers to conduct a thorough investigation any time an employee’s social security number could not be verified with DHS. That rule has been struck down by a federal court, and it remains to be seen what requirements the new no-match rule will impose.

DHS and DOJ also announced plans to publish new regulations substantially increasing civil fines against employers who violate laws prohibiting the hiring of illegal immigrants. In addition, both agencies will continue to prosecute violating employers criminally, and will continue to promote the use of the *E-Verify* system as an effective means of verifying an alien’s employment authorization.

Because the government is stepping up its enforcement of immigration laws, employers must

become more proactive in ensuring they comply with immigration rules. To that end, employers should review the DHS *Handbook for Employers* and train their human resources personnel on the employment eligibility verification rules enumerated in DHS Form M-274. Employers should also consider registering for the *E-Verify* program and all other enforcement tools promoted by federal agencies as a means of falling within the safe-harbor protections against hiring illegal aliens. Doing so may help decrease the likelihood of criminal prosecution and civil penalties under federal immigration regulations.

Should you have any questions concerning this article, contact Brandon E. Davis at brandon.davis@phelps.com or 504-584-9312.

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