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**EXECUTIVE SERIES:**  
LABOR & EMPLOYMENT



## Immigration Updates Every Employer Needs to Know

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## Introduction

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- Nonimmigrant & Immigrant Visa Updates
- Practical Employer Takeaways & Action Items

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## Key Immigration Policy Updates & Executive Orders

The Trump administration has issued several executive orders affecting immigration policies, which, while not directly targeting employers, may significantly impact the workforce.

- **Protecting the United States from Foreign Terrorists and Other National Security and Public Safety Threat.**
  - This order directs DHS and Department of State to implement stricter “enhanced vetting” for visa applicants and those already in the country.
  - The order directs all agencies to be thorough in vetting during visa issuing process.
  - We anticipate more delays in visa issuances due to administrative processing and additional security clearances.
    - Consular posts report a notable rise in 221(g) administrative holds and clearance delays. (See 90 Fed. Reg. 8124 (Feb. 2025); DOS Cable 25-076, Sept. 2025).
- **Protecting the American People Against Invasion.**
  - DHS is to set new enforcement policies to address illegal entry, unlawful presence, and removal of those unlawfully present in the U.S.
  - TPS and other humanitarian parole programs are being phased out.
    - Following the Supreme Court’s October 3, 2025 decision (Texas v. Mayorkas), DHS began terminating several TPS and humanitarian parole programs (Venezuela, Cuba, Haiti, Nicaragua).
    - Employers must reverify Form I-9 and E-Verify records as TPS and parole-based EADs expire through 2026. (See DHS Notice, 90 Fed. Reg. 20112 (Oct. 7, 2025); USCIS Policy Alert PA-2025-18).

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## Key Immigration Policy Updates & Executive Orders

- **Designating Cartels and Other Organizations as Foreign Terrorist Organizations and Specially Designated Global Terrorists.**
  - Delays in background checks for foreign nationals from certain countries.
- **Guaranteeing the States Protection Against Invasion.**
  - Imposes additional vetting requirements on those immigrating to the United States.
  - Will cause delays in visa and green card processing.
- **America First Trade Policy.**
  - Directs Congress to review implementation of trade agreements to ensure employers give preference to hiring domestic workers and industries likewise favor U.S. manufacturers.
    - Presidential Proclamation 10481 (Sept. 21, 2025) established a \$100,000 H-1B filing fee for large or non-exempt employers, plus mandatory DOL site visits and random compliance audits. (See Presidential Proclamation 10481, Sept. 21, 2025; DOL Field Memo 25-09).

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## Compliance & Enforcement Trends

- **Increased Federal Enforcement Priorities.**
  - DHS, ICE, and other agencies have significantly expanded resources for worksite audits, site visits, I-9 compliance enforcement, and cooperation between federal and local authorities.
    - DHS, ICE, and DOL have significantly increased funding for worksite investigations, I-9 audits, and E-Verify monitoring under the 2025 enforcement budget.
    - Interagency task forces now coordinate data between USCIS, SSA, and IRS to identify discrepancies in employment records. ICE Worksite Enforcement Bulletin, Sept. 2025; DHS OCAJO Memo 25-03.
- **Demand & Staffing Impacts from Enforcement / Worker Uncertainty.**
  - Employers are reporting worker shortages or reluctance among immigrant workers, likely driven by increased enforcement, uncertainty about immigration status, or fear of exposure.
- **Legislative & Regulatory Changes.**
  - Multiple laws, regulation, executive orders have introduced or expanded obligations: stricter documentation, mandated audits; increased fines; strengthened employer verification responsibilities; tightening discretionary factors in adjudications.
- **Enforcement of Onboarding & Verification Procedures.**
  - Unannounced inspections and document requests; I-9 audits are increasing. Employers are expected to maintain current, compliant documentation, following updated forms and verification standards.
    - DHS conducting unannounced site inspections focused on onboarding procedures and document retention. Employers expected to use Form I-9 (edition 08/01/25) and maintain digital audit trails.
- **Risk of Exposure Beyond Immigration Status.**
  - Enforcement focus is not just about status, but about any noncompliance: paperwork, onboarding, I-9, verification, retention of HR/immigration records. Even small errors or omissions are at risk.

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## Compliance & Enforcement Trends

### I-9 Audits and Compliance

- **Form I-9 Requirements.**
  - Employers must verify identity and employment authorization for all employees within 3 business days of hire.
  - New Form I-9 (edition 01/20/25) is mandatory, featuring revised attestations and a remote verification checkbox for E-Verify users. USCIS Notice, 90 Fed. Reg. 19344 (Sept 2025).
- **Audit & Enforcement Trends.**
  - DHS and ICE have expanded nationwide worksite audits and data-driven E-Verify cross-checks with SSA and IRS. Penalties increased 18 percent under DOL Rule 25-09 (Sept 2025).
  - Focus on multi-site and federal contractor employers; even technical violations can trigger fines. ICE Worksite Enforcement Bulletin (Sept 2025); DHS OCAJO Memo 25-03.
  - Surge in site visits and unannounced inspections by ICE.
  - Priority given to high-risk industries (construction, hospitality, agriculture, tech contracting, logistics).
  - Expanded review of remote verification records and I-9 retention practices.
- **Best Practices.**
  - Conduct regular internal I-9 audits and document all corrections with initials and dates. Train HR and management on lawful handling of ICE inquiries and remote verification.
  - Retain I-9s for the required period (3 years after hire or 1 year after termination).

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## Compliance & Enforcement Trends

- **Common Pitfalls in 2025 Audits.**
  - Use of outdated I-9 versions.
  - Incomplete Section 2 attestations or missing document titles/numbers.
  - Failure to reverify expiring EADs (TPS / parole holders).
  - Improper remote inspection records or missing audit trail.
- **Employer Liability.**
  - Employers face civil and criminal penalties for knowingly hiring or retaining unauthorized workers.
  - “No-match” letters resumed in 2025 — employers must respond carefully to avoid discrimination claims.
- **Preparation is Key.**
  - Develop an internal response plan for potential audits or raids.
  - Train management on lawful handling of ICE inquiries.
  - Know employees' rights and employer obligations during enforcement actions.

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## Compliance & Enforcement Trends

### E-Verify

- **What is E-Verify.**
  - E-Verify is an online system that allows employers to verify the employment eligibility of their employees using federal government records, specifically those from the Department of Homeland Security and the Social Security Administration.
  - It checks the information provided by employees on their Form I-9 against federal databases to confirm their right to work in the U.S.
- **Mitigating Employer Risk.**
  - Compliance with Immigration Laws.
    - Using E-Verify helps employers comply with federal and state immigration laws, reducing the risk of employing unauthorized workers.
    - This system provides a more reliable and efficient way to verify work eligibility compared to manual document reviews.
  - Avoiding Penalties.
    - Employers who fail to verify their employees' work authorization status or hire unauthorized workers may face fines, penalties, or even criminal charges.
    - States are increasingly mandating E-Verify usage, and failure to comply with these laws can lead to significant legal and financial risks.
  - Reducing Legal Liabilities.
    - By using E-Verify, employers reduce the risk of legal challenges or lawsuits related to employee eligibility.
    - The system provides a defense in case of an audit or investigation by federal or state authorities.
  - Improved Hiring Process.
    - E-Verify helps streamline the hiring process, ensuring that only individuals legally eligible to work are hired, which ultimately saves time and resources.

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# Compliance & Enforcement Trends

## E-Verify

- **State Legislative Trends.**
  - In response to the Trump administration's focus on immigration enforcement, several state legislatures are introducing bills that require employers to use the federal E-Verify system to confirm a worker's eligibility to work in the U.S.
  - Currently, twelve states have bills pending that would make E-Verify mandatory for employers.
- **New and Expanded Requirements.**
  - States like Idaho, Indiana, Montana, and Texas are proposing new E-Verify requirements, mandating its use alongside Form I-9 verification for new hires.
  - Other states are looking to expand existing E-Verify mandates and increase penalties for noncompliance. For example, Florida's HB 1033 could revoke an employer's business license and impose fines of up to \$10,000 for employing unauthorized workers.
- **Current E-Verify Mandates.**
  - Nine states already require most employers (with some exceptions for small businesses) to use E-Verify: Alabama, Arizona, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Utah.
- **Impact on Employers.**
  - These potential changes could significantly affect your business operations, requiring careful attention to hiring practices and compliance with state-specific laws.
  - Employers should stay informed about developments in E-Verify legislation to avoid potential penalties and ensure they remain compliant with federal and state requirements.

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# TPS and EAD Updates

- **Program Expirations / Changes in TPS & Parole.**
  - Following the Supreme Court's Oct 3, 2025 decision in Texas v. Mayorkas, DHS began terminating parole programs for Cuba, Haiti, Nicaragua, and Venezuela (CHNV) and winding down associated C11 (parole-based) EADs.
  - Several Temporary Protected Status (TPS) designations are expiring between late 2025 and early 2026, including Venezuela, Haiti, and Sudan.
  - DHS announced limited grace periods for EAD validity to allow orderly wind-down and transition filings. [DHS Notice, 90 Fed. Reg. 20112 (Oct 7, 2025)].
- **Automatic EAD Extensions / Validity Periods.**
  - For TPS-based EADs filed or renewed on or after July 22, 2025, automatic extensions are limited to up to 1 year or the duration of TPS designation—whichever is shorter.
  - Parole-based EADs (C11) are no longer eligible for automatic extensions unless renewed before program termination.
  - Facially expired EADs may still be used for Form I-9 reverification if supported by a valid receipt notice or Federal Register notice confirming automatic extension. USCIS Policy Alert PA-2025-18; Federal Register Vol. 90, No. 198 (Oct 2025).
- **New Law: H.R. 1 ("One Big Beautiful Bill").**
  - Shortened validity for many EADs under TPS, parolee, asylum categories: now limited to 1 year (or duration of the status), whichever is shorter.
  - New fees: initial EADs, renewals, and TPS registration fees increased.
- **Employer & Compliance Impact.**
  - Employers must track expiration dates closely and ensure timely reverification of affected workers.
  - Maintain documentation of automatic extension notices to avoid I-9 or E-Verify noncompliance.
  - Expect increased EAD reissuance delays as USCIS transitions to new validity and fee structures.

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## Nonimmigrant & Immigrant Visa Updates

- **Processing Times and Policy Shifts.**
  - Ongoing unpredictable adjudication timelines across H-1B, L-1, and O-1 categories.
  - Sharp increase in RFEs and denials—especially for positions USCIS deems “non-specialized” or lacking clear employer-employee control.
  - Implementation of the H-1B Fee and Labor Integrity Proclamation (Sept 21, 2025) imposes a \$100,000 filing fee for large/non-exempt employers, extending review times and triggering additional site visits. Presidential Proclamation 10481 (Sept 21, 2025); DOL Field Memo 25-09.
- **Consular Processing Challenges.**
  - Visa appointment backlogs persist in key posts (India, Mexico, Brazil) due to enhanced security screening.
  - Expanded “administrative processing” and secondary clearances under the Protecting the United States from Foreign Terrorists Order (Feb 2025).
  - Renewed restrictions on nationals from certain countries based on security vetting and immigration violations.
  - Consular officers applying bans more strictly, with fewer waivers granted.
- **Permanent Residency (Green Card).**
  - PERM labor certification delays now averaging 12-14 months; DOL prioritizing integrity audits.
  - Priority-date retrogression continues for India and China employment-based categories through FY 2026, affecting workforce planning and mobility.
  - DHS considering one-year validity limits on EAD/AP combo cards under H.R. 1 (Sept 2025).

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## Practical Employer Takeaways & Action Items

- **Prepare for Heightened Enforcement.**
  - Expect more unannounced site visits and I-9 audits as DHS, ICE, and DOL coordinate under new Worksite Enforcement Directive (Sept 2025).
  - Establish an internal response plan for inspections and subpoenas; train management on lawful handling of ICE agents and document requests.
- **Audit I-9s.**
  - Conduct internal audits; correct errors; use latest I-9/E-Verify procedures.
- **Reassess Immigration Strategies.**
  - File early; plan for staffing gaps; adjust sponsorship.
- **Track Work Authorization.**
  - Monitor TPS, parole, EAD expirations; use E-Verify and alerts.
- **Stay Current on TPS/EAD.**
  - Calendar renewals; apply automatic extensions correctly.
- **Plan for Delays.**
  - Build in lead time for visas; assess travel ban and consular risks.

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