



Top 20 Immigration Compliance Tips For Hospitality Employers

Insights

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Recent events have made clear that immigration compliance will be a main focus for the Trump administration. The hospitality industry has always been a target for such investigations and we expect the scrutiny to increase in the not-too-distant future. We expect the next round of immigration compliance investigations to focus on I-9 Notices of Inspection, criminal investigations, worksite raids, H-1B and H-2B audits and investigations, H-1B and L-1 site visits, and E-Verify compliance and monitoring.

In light of this expected scrutiny, now is a good time to review your company's immigration related practices and procedures and make any necessary adjustments. The following tips will help protect you and limit exposure to violations:

1. Create a corporate immigration compliance policy.
2. Ensure that you are using the correct version of the I-9 form. As of January 22, 2017, only the version of the I-9 form dated November 14, 2016 is acceptable.
3. When completing the I-9 form for a new hire, the employee must complete Section 1 before starting work on the first day, and you must complete Section 2 and the certification section by the end of the third business day.
4. When completing the I-9, do not engage in discrimination or document abuse by requiring the employee to provide specific documents or more documents than are minimally required.
5. If the document(s) presented by the employee is on the I-9's List of Acceptable Documents, reasonably appears genuine, and relates to the person presenting it, you may accept that document to complete Section 2.
6. Timely re-verify work authorization documents before they expire and do not allow an employee to continue to work after the expiration date.
7. Do not re-verify U.S. passports, passport cards, Permanent Resident Cards, or List B Identity documents.
8. For employees working on a visa, be cautious when making any changes to the terms and conditions of employment, including job title, duties, location, and salary. If it is necessary to do so, contact an immigration attorney to determine whether you should file an amended petition to notify United States Citizenship and Immigration Services (USCIS) of the changes.

9. For all H-1B petitions, make sure the Labor Condition Application Public Access File is complete and ready for inspection.
10. Make sure a company representative is prepared to answer questions about the worker's employment during an H-1B or L-1 site visit. Designate an alternative contact person if your company representative is not available when an investigator arrives.
11. Notify all H-1B and L-1 employees of the possibility of a site visit and instruct them not to speak with an investigator without first notifying the company representative.
12. Keep track of your employee's work authorization expiration dates and make sure extensions are timely filed.
13. Withdraw H-1B and H-2B petitions if the employment ends before the end date listed on the approval notice.
14. For H-2B petitions, make sure you are following all of the terms and conditions of employment listed in the job order.
15. Be cautious when asking an employee to pay the costs for obtaining a work visa or permanent residence; the law requires employers to pay some sponsorship costs.
16. Prepare the E-Verify query using the information listed on the I-9 form.
17. Submit the E-Verify query no later than the third business day after the employee starts working.
18. Do not take adverse action against the employee if you receive a tentative non-confirmation and the employee contests the matter.
19. Close your E-Verify cases once you receive a final result.
20. Seek legal counsel if the E-Verify Monitoring and Compliance Unit contacts you. The Unit could refer your company to the U.S. Department of Justice for investigation, and you should not handle that process alone.

Creating a culture of compliance and reviewing your company's immigration practices is the best way to prepare your company for an immigration investigation. Our firm's [Global Immigration Practice Group](#) can assist you with all compliance matters.

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