

Insights, News & Events

NO IMMIGRATION SURPRISES IN PRESIDENT'S PROPOSED BUDGET

Mandatory E-Verify, Boosted Enforcement Among Priority Requests

Insights
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President Trump's proposed budget released by the White House earlier this week contains no real surprises when it comes to the immigration provisions. The budget supports President Trump's promises to increase immigration enforcement, build a physical wall on the nation's southern border, limit refugees, and reform the immigration system. Further, the budget requests the funds to implement the items contained in the president's immigration executive orders signed in January.

What do employers need to know about the immigration aspects of the proposed budget for Fiscal Year 2018?

IMMIGRATION BUDGET PROPOSALS

Among the specific immigration proposals put forth by the president, the following would impact employers if approved by Congress and included in the finalized FY 2018 budget:

- **Mandatory E-Verify** – E-Verify is a government web-based system that compares information on the Form I-9 to data from U.S. government databases to confirm the eligibility to work in the U.S. Currently, the use of E-Verify is voluntary unless you are a federal contractor obligated to use it through a federal contract or operate in a state that mandates the use of E-Verify. That will all change if the administration gets its wish. The proposed budget requests funds not only to continue making improvements to the E-Verify system, but also to begin implementation of mandatory nationwide E-Verify use by the year 2018.

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Service Focus

Immigration

- **Merit-Based Immigration System and Reduction in Refugees** – The budget proposes continuing to research the budgetary effects of our immigration programs and policies, with the end goal of completely reforming the immigration system. Among the two biggest changes sought: the administration wants a merit-based admissions system, and a substantial reduction in the number of refugees allowed to enter the U.S.
- **Charging Employers a Fee for Using Foreign Labor Certification Programs** – The budget proposes the establishment of legislation requiring the U.S. Department of Labor (USDOL) to obtain fees to cover the costs for operating the foreign labor certification programs. Employers use these programs to sponsor foreign nationals for permanent residence, H-2A visas, H-2B visas and H-1B visas. Presently, employers are not required to pay a fee when filing an application under these programs. The budget calls for legislation requiring USDOL to charge employers for prevailing wage determinations, the permanent labor certification program, and H-2B visas for non-agricultural workers. It also calls for USDOL to retain and adjust the H-2A agricultural worker application fees. It is unclear how the fees would be assessed for each program, but this could lead to employers being charged a fee for the filing of each application.
- **Increased Border Security Infrastructure and Technology** – The requested funds would be used for border infrastructure and security technology, which would include the planning, designing, and construction of a physical wall along the southern border.
- **Increased Law Enforcement** – The requested funds would allow the U.S. Department of Justice to enhance enforcement, including the hiring of 75 additional immigration judges. These new hires would bring the total number of immigration judges to 449.
- **Expanding ICE's Enforcement Operations** – The budgeted funds would support Immigration and Customs Enforcement (ICE) in expanding its enforcement operations at the U.S. border and inside the U.S. through the hiring of 1,000 law enforcement officers and 606 operations support staff, while also expanding detention and removal operations.

- **Increased Immigration Enforcement** – The budget would provide funds for expanded detention, transportation, and removal of undocumented immigrants, ensuring that the government has enough detention capacity to hold foreign nationals awaiting removal from the U.S.

WHAT DOES THIS MEAN FOR EMPLOYERS?

This proposed budget should be considered further evidence to all employers that the Trump administration is serious about aggressively enforcing current immigration laws and expanding them if necessary, especially in relation to security and protecting U.S. jobs.

Whether these aspects of the proposed budget pass in their current form, employers should be prepared for increased worksite immigration enforcement, including I-9 audits, raids, Department of Justice investigations, and criminal investigations and prosecutions. In order to be prepared, employers should review their immigration compliance policies and practices, conduct a Form I-9 audit, and provide training to their employees on immigration compliance issues.

We will continue to monitor the status of this proposed budget and will provide further updates as events warrant. Please be sure to regularly review our [Cross Border Employer Blog](#) for updates about these and other developments. If you have any questions about how this proposed budget might affect your business, please contact any member of our [Global Immigration Practice Group](#), or your regular Fisher Phillips attorney.

This Legal Alert provides an overview of a recent budgetary proposal. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.