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New USCIS Enforcement Powers Take Effect - Critical Changes Every Employer Must Know

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USCIS officers will now possess full law enforcement powers, including authority to carry firearms, execute warrants, make arrests, and investigate civil and criminal violations of immigration law within USCIS jurisdiction. See https://www.federalregister.gov/public-inspection/2025-16978/codification-of-certain-us-citizenship-and-immigration-services-law-enforcement-authorities.

This marks a departure from USCIS's longstanding role as a nonenforcement adjudicatory agency, which had been handled by Homeland Security Investigations (HSI) and Immigration and Customs Enforcement (ICE); it can now operate more like other DHS law enforcement entities, such as ICE and CBP, opening a new universe of potential exposure for employers (and their lawyers) who fail to comply with federal immigration law.

The Director of USCIS and any designated officer in that agency will now have authority to investigate and pursue criminal charges against employers (e.g., fraudulent or misleading petitions, situations in which workers were improperly brought into the US under false pretenses, scenarios in which workers were coached on how to mislead immigration officials to secure entry into the country, etc.). They also have the authority to arrest people for *any* felony if the special agent is performing immigration enforcement duties at the time of the arrest.

Going back to guidance earlier this year, such an enforcement environment will place federal prosecutors in a position in which they "shall" accept criminal cases that are referred to them and treat immigration-related offenses as the "investigative and charging priorities of the United States." See https://www.justice.gov/ag/media/1388541/dl.

Risk Implications for Employers

- Onsite inspections and fraud investigations may increase, potentially leading to more intrusions into workplace operations.
- Employee arrests or detainment could occur at the workplace, which for some could potentially be in their homes where remote work is permitted, or during employer-facilitated immigration processes.
- Employers who encourage individuals to enter the United States for unauthorized reasons (e.g., submitting documentation that does not accurately reflect the intended purposes of the foreign national's



- visit, including fraud and misrepresentation) will be especially vulnerable.
- Fraud Detection & National Security (FDNS) is likely to expand onsite visits to assess concerns of adjudicators reviewing problematic petitions.
- Liability and reputational exposure in scenarios involving noncompliance or perceived document fraud.

Recommended Employer Actions

- Revisit Internal Global Mobility Policies
 Ensure information is carefully vetted, particularly with regard to
 USCIS filings, including Public Access Files, PERM audit files, etc.,
 to ensure only accurate information is submitted.
- Preparation for FDNS Visits
 While it may take some time as USCIS develops appropriate
 training plans, recruits, etc., the Employer should take immediate
 action to implement protocols for handling potential on-site USCIS
 interactions, such as:
 - a. Identify a designated escort for any visiting agents.
 - b. Reconfirm documentation without coercing employees.
 - c. Have legal counsel on standby for urgent advice.
- Enhance Employee Communication
 Educate employees who have obtained or are pursuing
 immigration-related benefits about potential USCIS interactions.
 Town halls, weekly updates on adjudication trends, and other
 resources will help educate employees and prepare them for
 possible high-stakes encounters.
- Monitor Consulting Services Companies
 Ensure that onsite contractors (e.g., onsite tech support workers in H-1B status) are in strict compliance with applicable law and under the exclusive control of the consulting services entity.
- Engage Legal Counsel Early
 If notified of any USCIS visit or investigation, consult counsel immediately to minimize disruptions and shield operational and legal exposure.

Why It Matters Now

- Increase in Enforcement: National media confirms the recruitment of USCIS special agents with full authority, including arrests, firearms, and warrants, effective September 4, 2025. See https://www.wsj.com/politics/policy/agency-that-issues-visas-andgreen-cards-is-hiring-armed-agents-c71c89a6?mod=mhp.
- Historic shift: This changes the dynamic between employers, immigrant employees, and federal immigration authorities by raising both compliance stakes and employee-employer tensions. In the past, employers worried about USCIS adjudicators denying borderline petitions. Now, they may need to worry about allegations of potential fraud, placement of beneficiaries in removal



proceedings, etc.

Conclusion

- USCIS is transitioning into a dual-role agency with the benefits of adjudication and enforcement powers.
- Employers may see more direct enforcement activity in workplaces.
- Proactive document protocols, employee-informed policies, and legal preparedness will be critical.

The attorneys in Holland & Hart's immigration practice stand ready to help employers navigate these significant developments. The old "visa factory" approach to processing employment-based petitions, which was never a great idea when it came to such a politically charged and legally complicated area, will no longer be an acceptable practice in this enforcement-heavy environment.

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