

More I-9 Audits and H-1B Visas Going Fast

November 2011

DHS Unleashes Another Wave of I-9 Employment Verification Audits

The US Department of Homeland Security (DHS), Immigration Customs and Enforcement (ICE) bureau has just issued several Notices of Inspection (NOI) to employers throughout the US requiring the production of Forms I-9, payroll records and related information for inspection. This action comes during what has been a record year in immigration enforcement with DHS initiated audits up 300 percent since 2009.

A NOI typically gives the employer only three days to turn over the requested material. The inspection determines whether or not a company is in compliance with employment verification laws including maintaining complete and accurate I-9s for each employee. It is important to remember that penalties for failure to comply with Form I-9 paperwork requirements range from US\$110 to US\$1,100 for each violation. Penalties for hiring or continuing to employ an unauthorized person range from US\$375 to US\$11,000 for each unauthorized person. In 2010 DHS levied US\$36.6 million in related fines against employers.

H-1B Visas for FY 2012 Are Close to Exhaustion

US Citizenship and Immigration Services has updated its count of FY 2012 cap-subject H-1B petitions and advanced degree cap-exempt petitions. As of November 2, 2011, approximately 50,800 H-1B cap-subject petitions were received and 20,000 H-1B petitions were received for aliens with advanced degrees.

Congress has mandated an annual cap of 65,000 H-1B visas, with an additional 20,000 visas available for beneficiaries with advanced degrees from US colleges or universities. It should be noted that H-1B visa petitions filed on behalf of current workers who have been counted previously against the H-1B visa cap will not be included



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toward the annual cap set by Congress. Furthermore, pursuant to the free trade agreements with Chile and Singapore, 6,800 H-1B visas are available exclusively to Chile and Singapore nationals. This effectively reduces the total allotment of available H-1B visas to 58,200.

At the current rate, we expect this year's allotment of new H-1B visas to be exhausted within the next few weeks. Thereafter, filings for new H-1B visas will resume on April 1, 2012 for employment commencing no earlier than October 1, 2012.

Squire Sanders will keep you updated on these compliance and immigration topics. For more information regarding any topic in this publication or immigration compliance practices in general, please contact your principal Squire Sanders lawyer or one of the individuals listed in this publication.

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