

Alert | Immigration & Compliance



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Potential Immigration Policies in a Second Trump Administration

In anticipation of a second Trump administration, employers should prepare for changes in immigration policies. Based on previous actions and campaign statements, there may be a renewed focus on immigration compliance and limiting both legal and humanitarian immigration. This GT Alert summarizes possible Trump administration immigration initiatives and their implications for businesses and foreign workers.

The previous Trump administration’s “Buy American, Hire American” policies may be reinstated with the goal of protecting and preferring U.S. workers over foreign workers.

Key Areas of Focus

1. Legal Immigration and Employment-Based Visas

- **H-1B and L-1 Visas:** Expect increased scrutiny and higher denial rates, similar to the previous Trump administration’s approach. Companies may face more stringent requirements for proving the necessity of foreign workers and adherence to wage standards.
- **Merit-Based Immigration:** Merit-based immigration, a legislative plan to focus on immigrants who contribute to the economy as opposed to family or humanitarian based immigration, will likely be reintroduced.

2. *Humanitarian and Family-Based Immigration*

- **Curtailment of Programs**: Proposals to end Deferred Action for Childhood Arrivals (DACA) and Temporary Protected Status (TPS) programs will likely be introduced. Humanitarian parole programs and policies allowing large numbers of migrants from specific countries could be rolled back or ended. We also expect a notable change in asylum policies for those inside and outside the United States.
- **Family-Based “Chain Migration” and Immigrant Diversity Lottery**: Previous attempts to eliminate these avenues of immigration may resurface, thus reducing family-based immigration options.

3. *Enforcement and Compliance*

- **Increased Audits and Site Visits**: Heightened enforcement of I-9 Employment Eligibility Verification programs, non-immigrant and immigrant visa compliance, and worksite audits are anticipated, necessitating meticulous documentation by employers.
- **Mandatory E-Verify**: A push for mandatory E-Verify for all employers could be expected, aimed at ensuring employment eligibility verification.

4. *Regulatory and Judicial Challenges*

- **Executive Orders and Regulations**: Immediate policy changes could come through executive orders, though as with previous attempts, they may face judicial challenges.

5. *Impact on Specific Visa Categories*

- **EB-2 and EB-3 Visa Programs**: Past actions included increased requests for evidence (RFEs), delays, and increased scrutiny on labor market testing. A renewed focus on these programs may lead to additional compliance requirements and extended processing times.
- **H-4 EAD and OPT Programs**: Policies affecting work authorization for spouses of H-1B holders and international students could be revisited, potentially limiting employment opportunities for these groups.

6. *Border and Security Measures*

- **Travel Bans and Entry Restrictions**: Similar to previous travel bans, entry restrictions based on nationality or ideological grounds may be reinstated or expanded, impacting business and work travel and international recruitment.
- **Border Security and Detention**: Increased funding and resources for border security and detention facilities could result in stricter enforcement and deportation measures.

Key Considerations for Employers

- **Audit Compliance**: Review and update I-9 forms and public inspection files.
- **Visas**: Review nonimmigrant and immigrant visa practices to enhance compliance with laws, regulations, and anti-discriminatory mandates.
- **Employer Preparedness**: Businesses should prepare by auditing compliance measures, engaging with immigration counsel, and staying informed on potential policy changes.

Conclusion

A second Trump administration will likely bring significant changes to U.S. immigration policy, with a focus on restricting and reducing legal pathways and increasing enforcement. Businesses can prepare for these changes by proactively reviewing their foreign national population to assess their immigration strategies, enhance compliance, and plan for potential disruptions in workforce planning. Staying informed and engaged with legal and industry experts may help navigate the evolving immigration landscape.

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