



Thursday, June 5, 2008

U.S. DEPARTMENT OF LABOR (DOL) JOINS THE IMMIGRATION ENFORCEMENT ARENA;

Employers Are Encouraged to Review Compliance Policies and Procedures

On Monday, June 2, 2008, the U.S. Department of Labor issued a [Press Release](#) in which the Department stated that it will be auditing all PERM Applications for Permanent Employment Certification filed by a large multi-office immigration law firm. These audits will be conducted on all applications without regard to the office that filed them, the location of the worksite, the job opening, or the industry. This highly unusual and perhaps overly aggressive move by the Department underscores the importance of documenting compliance with all regulatory requirements and follows the general trend toward increased government enforcement and investigative activity in all areas of immigration and workforce compliance.

Over the past two years, Tindall & Foster attorneys have observed a nationwide trend toward greater immigration-related enforcement activity, primarily led by Immigration & Customs Enforcement (ICE). With the unusual Press Release on Monday, a distinct government agency, the DOL, has demonstrated its willingness to take steps into large-scale enforcement as well. This unprecedented DOL audit reminds employers that they must document compliance and be able to stand behind all assertions made on any government forms, and are advised to engage qualified legal counsel to help ensure that a company's internal policies are policies of uniform and full compliance.

DOL Finally Staffed and Prepared for Enforcement of Immigration-Related Responsibilities

The DOL announcement regarding such a large-scale audit can be viewed in the context of greater immigration-related enforcement efforts by the federal government generally. During the past two years, there have been hundreds of ICE raids on businesses of all sizes and in diverse industries. More than 80 of these raids have been widely publicized and have been the subject of ICE-initiated media campaigns.

While in years past the likelihood of a raid could be determined in large part by the type of industry, we now see that ICE is staffed, funded, and prepared for enforcement action against any employer with a pattern or practice of apparent regulatory violations. This recent DOL audit reflects the broader nationwide emphasis on compliance using all available regulatory authority and resources.

Other Agencies that Could Become Involved in Immigration-Related Enforcement

In these enforcement actions, ICE works closely with local law enforcement as well as such agencies as U.S. Customs & Border Protection, the U.S. Department of Labor, the Social Security Administration, the Internal Revenue Service, the Federal Trade Commission, and the U.S. Attorney's Office.

In light of this spreading wave of aggressive immigration enforcement, in order to ensure uniform and full compliance, employers are advised to contact their Tindall & Foster attorneys to review all immigration compliance policies and procedures. Your Tindall & Foster Immigration Attorney will be able to assist you in a review of all immigration-related compliance policies and procedures, and with compliance policy recommendations and internal audits aimed at remediation, including such critical enforcement target areas as Form I-9 Employment Eligibility Verification compliance, H-1B Public Access File compliance, PERM Labor Certification compliance and document retention, and H-2B Temporary Worker Program compliance.

As always, Tindall & Foster will continue to monitor the government enforcement activities and trends and will make future updates available in Email Bulletins and on the [Tindall & Foster P.C. website](#).