



Samantha Wolfe

Partner
303.295.8479
Denver
sdwolfe@hollandhart.com

Navigating Immigration Changes in 2025: What Businesses Need to Know Following the 2024 Election

Insight — November 6, 2024

As the dust settles from the 2024 US presidential election, businesses with a significant international workforce are bracing for potential shifts in immigration policy. Former President Donald J. Trump's return to office signals a likely shift towards more restrictive immigration measures, similar to his first administration's policies and perhaps more expansive. With immigration playing a central role in his campaign, organizations with foreign national employees, global mobility programs, and compliance needs are advised to prepare for a potentially transformed immigration landscape.

Here are some key areas where we anticipate changes and what businesses should be aware of as we move into 2025.

1. Heightened Enforcement and Security-Based Policies

A renewed focus on immigration enforcement is expected, with a security-driven approach that may involve stricter compliance requirements and enhanced scrutiny of visa applications. Trump's campaign promises suggest increased workplace inspections, audits, and enforcement actions from agencies such as US Immigration and Customs Enforcement (ICE) and the Department of Homeland Security (DHS).

For companies, this could mean heightened audits and the need for robust compliance protocols. Businesses should consider proactively reviewing their I-9 and E-Verify processes, conducting internal audits, and ensuring that their immigration practices align with federal regulations to mitigate any potential risks.

2. Increased Processing Times, Filing Requirements, and Costs

Under the anticipated policies, processing times for visa applications and employment authorization may slow as agencies apply more stringent review standards. We may also see an increase in the issuance of Requests for Evidence (RFEs) and denials. Additionally, proposed fee hikes could further increase the costs of securing immigration benefits for employees.

Companies should plan for potential delays and budget for increased immigration costs, including possible premium processing fees. Adding resources to manage foreign national employee support and preparing for more detailed application submissions can help navigate these changes

effectively.

3. **Restricted Access to Immigration Pathways**

Trump's campaign highlighted potential restrictions on both legal and illegal immigration, with a focus on limiting access to certain visa categories, scaling back humanitarian programs, and reconsidering programs such as DACA (Deferred Action for Childhood Arrivals) and STEM OPT (Optional Practical Training for STEM graduates). Proposed changes may also affect programs that expanded pathways for high-skilled immigrants, including National Interest Waivers (NIW) and other Biden-era initiatives.

Companies relying on these pathways should be prepared for potential restrictions or increased requirements. Engaging with immigration counsel to explore alternative visa options and contingency plans for affected employees will be critical.

4. **Increased Support and Communication for Foreign National Employees**

As these changes unfold, many foreign national employees may feel uncertainty and anxiety about their immigration status. In response, companies may need to develop robust support and communication strategies. This could include offering informational sessions, providing resources for consular interview preparation, and setting up support lines for employees traveling internationally.

Employers may also consider holding Town Halls or regular updates for foreign national employees to keep them informed and provide reassurance as policies evolve. Clear, consistent communication can help mitigate anxiety and build trust within the workforce.

5. **Monitoring Litigation Risks and Opportunities**

Given the anticipated policy changes, litigation may become a strategic tool for challenging restrictive immigration practices. We anticipate that some of the expected policies may face legal challenges, and there may be opportunities to support employees through litigation or advocacy efforts.

For businesses, this means staying informed about legal developments and potentially aligning with industry groups or coalitions that advocate for business-friendly immigration policies. This proactive approach could offer a voice in the conversation and provide support for immigration mechanisms crucial to the company's operations.

Planning Ahead: Proactive Steps to Prepare for Potential Changes

In light of the anticipated shifts, here are some proactive steps companies can take to prepare:

- **Audit and Bolster Compliance Practices:** Reviewing and enhancing compliance with I-9, E-Verify, and other documentation processes can help mitigate potential enforcement risks.

- **Budget for Increased Costs:** Plan for possible fee increases and additional costs associated with more detailed immigration filings and premium processing.
- **Update Communication Plans:** Prepare to support foreign national employees through frequent updates, town halls, and one-on-one sessions with immigration specialists.
- **Monitor Legal Developments:** Stay informed about potential litigation that could impact immigration policies, and consider partnering with industry groups advocating for business-friendly policies.
- **Work with Immigration Counsel:** Engaging experienced immigration counsel can help navigate the evolving landscape, anticipate potential obstacles, and ensure compliance with new regulations.

Looking Forward

With one party potentially holding significant influence across the executive, legislative, and judicial branches, we could see a more aggressive push for policy changes through Executive Orders and other unilateral actions. For now, it's essential for businesses to stay informed, prepare for a possible wave of changes, and consider how these policies could impact their workforce and compliance needs.

Immigration remains a complex and evolving issue in the United States, and with the recent election results, 2025 is likely to bring renewed challenges. By taking proactive steps now, companies can position themselves to navigate this dynamic environment and continue to support their foreign national employees through potential changes.

This publication is designed to provide general information on pertinent legal topics. The statements made are provided for educational purposes only. They do not constitute legal or financial advice nor do they necessarily reflect the views of Holland & Hart LLP or any of its attorneys other than the author(s). This publication is not intended to create an attorney-client relationship between you and Holland & Hart LLP. Substantive changes in the law subsequent to the date of this publication might affect the analysis or commentary. Similarly, the analysis may differ depending on the jurisdiction or circumstances. If you have specific questions as to the application of the law to your activities, you should seek the advice of your legal counsel.