



Labor & Employment ADVISORY ■

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Largest-Ever Settlement in an Immigration Case Is a Warning to Outsourcing Companies to Revisit Policies and Procedures for Securing Immigrant Visas

In the largest civil settlement ever reached in an immigration case, Infosys Corporation has agreed to pay \$34 million and submit to enhanced corporate compliance measures in response to allegations of systemic visa and immigration process abuse. Given that an enormous number of businesses in the United States make use of independent contractor services, this settlement should be on the radar of any company that outsources work that requires securing H-1B or B-1 visas, whether as an end-user or an independent contractor.

Infosys is an Indian company focused on technology and consulting that operates in 30 countries, including 17 cities within the United States. Its office in Plano, Texas, is responsible for managing its immigration procedures to bring foreign workers into the United States under the H-1B and B-1 visa programs. Allegedly, Infosys violated the visa immigration laws in several ways when it brought foreign nationals to the United States to serve U.S. clients. First, the government alleged that workers on H-1B visas did not perform services in the geographic area for which the visas were approved. Second, Infosys allegedly used the B-1 “temporary visitor” visa to bring India-based employees to the United States, not for meetings and consultations, but to fill skilled labor positions that should have gone to either U.S. citizens or legitimate H-1B visa holders. In addition, the government alleged that Infosys issued travel letters and interview instructions for the B-1 visas that were inaccurate, and included instructions to avoid certain terminology in order to deceive the consular and immigration officers about the nature of the work they were planning to do in the United States.

Because the case is settling, fewer facts will become public to let employers know the specific grounds for the government’s position. Regardless of the specifics, however, the Infosys case should raise a cautionary flag for any company whose outsourcing work involves immigration visa programs. Whether one is a contracting company or an end-user, it is wise to consult with counsel to ensure that contracts are properly drafted, and that internal policies and procedures are designed both to prevent abuse or misunderstanding, and to quickly alert contractors and end-users if such issues do arise. An annual review of immigration policies and procedures is thus a healthy and recommended practice, which will help to reduce the likelihood of allegations, bad press or fines.

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Moreover, while in this case, the third-party contractor (Infosys) was the target, in many other cases, it is the end-user of the contractor that is the subject of the government's investigation. Indeed, investigations of high-profile end-users, as well as lesser-profile entities, are occurring throughout the United States. U.S. Department of State staff at nearly all of the U.S. embassies and consulates throughout the world has been trained to ask certain questions of contractors to seek out inconsistencies and/or potential mistakes. Both contractors and end-users must be wary, as this increased level of monitoring and fact-seeking is leading to a concurrent increase in government investigations. As such, over the last two years, Alston & Bird has been working with clients and the visa fraud investigatory teams at a number of U.S. embassies around the world to ensure that clients have the necessary knowledge and understanding to comply fully with U.S. immigration laws.

Finally, even for those employers in the United States that abide by all provisions of the non-immigrant visa rules, it is unfortunately likely that the Infosys case will lead Congress to consider increasing fees or other regulations attached to H-1B visas. Alston & Bird will continue to monitor any reaction by Congress to these developments and be available to provide any guidance that might be needed on this important area of law.

The Department of Justice press release on the settlement can be found [here](#).

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