



# GMS Flash Alert

Immigration Edition

2020-343 | August 7, 2020



## United States - Move Aimed at Prioritizing U.S. Workers for Federal Contracts

On August 3, 2020, U.S. President Donald Trump signed an Executive Order directing federal agencies to review their federal contracting practices with the objective to prioritize the hiring of U.S. workers. The Executive Order, titled "Aligning Federal Contracting and Hiring Practices with the Interests of American Workers" directs federal agencies to thoroughly review their contractors' use of foreign workers and offshoring labor to fulfill contracts with the U.S. government, and to assess for negative impacts of these practices on U.S. workers, the economy, and national security.<sup>1</sup>

---

### WHY THIS MATTERS

The U.S. government awards hundreds of billions of dollars in federal contracts each year to businesses to meet the needs of its federal agencies.<sup>2</sup> Businesses competing for federal contracts are required to meet specific conditions and are often vetted through rigorous review processes.

Under the new Executive Order, federal agencies are instructed to further review their contractors' (as well as subcontractors') use of foreign workers and offshore labor in the provision of products and services to the U.S. government. Specifically, businesses that employ foreign workers or use offshore labor to perform services may experience additional scrutiny when competing for federal contracts.

Employers who contract with the U.S. government should be prepared to provide additional information about their workforce and offshoring labor practices.

---

### Directives in New Executive Order

Pursuant to the August 3 Executive Order, federal agencies are directed to review the type of work performed by foreign workers and assess whether U.S. workers and U.S. national security interests are jeopardized by the hiring of nonimmigrant workers or by the practice of offshoring labor. Where there are possible negative impacts to U.S. workers

and U.S. national security through a federal contractors' use of temporary foreign labor or offshoring, the federal agencies are directed to recommend corrective action. Federal agencies have 120 days to report the results of their review to the Office of Management and Budget (OMB).

The Executive Order also directs the Department of Labor (DOL) and the Department of Homeland Security (DHS) to take actions by September 17, 2020 "to protect United States workers from any adverse effects on wages and working conditions caused by the employment of H-1B visa holders at job sites (including third-party job sites)."

---

## KPMG NOTE

### **Possible Impact on Employers and Their Employees**

This mandate leaves open the possibility that employers could be subject to additional scrutiny and requirements in the foreseeable future such as increased site inspections and the implementation of new policies holding H-1B employers and their end-clients jointly liable for compliance with the H-1B program rules on wages and working conditions.

### **We Are Monitoring the Situation**

KPMG LLP Law in Canada is tracking this matter closely. We are monitoring the implementation of the Executive Order and any upcoming regulations affecting the H-1B and other employment-based immigration programs. We will endeavor to keep readers of *GMS Flash Alert* posted on any important developments as and when they occur.

---

## FOOTNOTES:

- 1 See President Trump's Executive Order: <https://www.whitehouse.gov/presidential-actions/executive-order-aligning-federal-contracting-hiring-practices-interests-american-workers/> .
- 2 See "How to Become a Federal Government Contractor" at: <https://www.usa.gov/become-government-contractor> .

\* \* \* \*

## Contact us

For additional information or assistance, please contact your local GMS or People Services professional\* or one of the following professionals with the KPMG International member firm in Canada:



**Chelsea Hsieh**  
**Attorney, U.S. Immigration**

KPMG Law LLP – Tax + Immigration, Canada

Tel. +1-416-943-7874

[chelseahsieh@kpmg.ca](mailto:chelseahsieh@kpmg.ca)



**Mira Khalid**  
**Associate/Attorney,**  
**U.S. Immigration**

KPMG Law LLP – Tax + Immigration, Canada

Tel. +1-416-943-7830

[mirakhalid@kpmglaw.ca](mailto:mirakhalid@kpmglaw.ca)

*\* Please note that KPMG LLP (U.S.) does not provide any immigration or labor law services. However, KPMG Law LLP in Canada can assist clients with U.S. immigration and labor matters.*

**The information contained in this newsletter was submitted by the KPMG International member firm in Canada.**

© 2020 KPMG Law LLP, a tax and immigration law firm affiliated with KPMG LLP, each of which is a Canadian limited liability partnership. KPMG LLP is a Canadian limited liability partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative (“KPMG International”), a Swiss entity. All rights reserved.

[www.kpmg.com](http://www.kpmg.com)

[kpmg.com/socialmedia](http://kpmg.com/socialmedia)



© 2020 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative (“KPMG International”), a Swiss entity. All rights reserved. Printed in the U.S.A. NDPPS 530159

The KPMG name and logo are registered trademarks or trademarks of KPMG International.

The KPMG logo and name are trademarks of KPMG International. KPMG International is a Swiss cooperative that serves as a coordinating entity for a network of independent member firms. KPMG International provides no audit or other client services. Such services are provided solely by member firms in their respective geographic areas. KPMG International and its member firms are legally distinct and separate entities. They are not and nothing contained herein shall be construed to place these entities in the relationship of parents, subsidiaries, agents, partners, or joint ventures. No member firm has any authority (actual, apparent, implied or otherwise) to obligate or bind KPMG International or any member firm in any manner whatsoever. The information contained in herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

Flash Alert is a GMS publication of KPMG LLP’s Washington National Tax practice. To view this publication or recent prior issues online, please click [here](#). To learn more about our GMS practice, please visit us on the Internet: click [here](#) or go to <http://www.kpmg.com>.