

Virginia Local Government Law

Immigration Issues for Local Governments

By: Andrew McRoberts. *This was posted Monday, January 18th, 2010*

There are three areas of immigration law where local governments are likely to need help or run into trouble: (1) sponsoring nonimmigrant visas, (2) sponsoring immigrant petitions and (3) verifying eligibility to work in the U.S.

I. Employment-based Nonimmigrant Visas

Employers, including local governments, may sponsor nonimmigrant visas issued to foreign nationals seeking to enter the United States on a temporary basis for various purposes, including employment. Local governments often seek to hire foreign nationals in areas including engineering, accounting, information systems, teaching, social work and other areas.

Sands Anderson works with employers to develop effective immigration strategies for prospective foreign national employees; prepares and files the appropriate visa petitions with United States Customs and Immigration Services (USCIS); tracks and files visa extension petitions as necessary; and prepares the employee for all required interviews.

II. Permanent Residency Petitions/Applications

Often, employers who have invested the time and money to sponsor the nonimmigrant visa for and train a foreign national employee will also sponsor an immigrant petition for permanent residency (i.e. green card) and continue their employment.

Sands Anderson works with employers to develop effective permanent residency strategies for those employees on nonimmigrant visas; develops and implements recruitment measures required by the Department of Labor; prepares and files the appropriate applications and petitions; and prepares the employee for all required interviews.

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III. Verifying Employment Eligibility

A. Form I-9

All U.S. employers are responsible for the completion and retention of Form I-9 for each individual hired for employment in the United States, including both citizens and non-citizens. In recent years, Immigration and Customs Enforcement (“ICE”), the enforcement arm of USCIS, has greatly increased audit and raids resulting in civil and criminal penalties for employers and those completing I-9 Forms on behalf of employers. Local governments and their employees are not immune to audits, raids, or penalties.

B. E-Verify/Mandatory Use by Federal Contractors/Subcontractors

The E-Verify program, a partnership of the Department of Homeland Security (“DHS”) and the Social Security Administration (SSA), is an internet-based system that allows employers to electronically verify the employment eligibility of newly hired employees, regardless of citizenship.

Since September 8, 2009, DHS mandates E-Verify use by federal contractors and subcontractors awarded a contract which contains the Federal Acquisition Regulation (FAR) E-verify clause.

Local governments with federal contracts, including contracts funded under the American Recovery and Reinvestment Act (“ARRA”), should be enrolled and participating in the E-Verify Program.

Sands Anderson works with employers to design and implement effective I-9 Compliance Programs, as well as providing I-9 training, I-9 audits, and E-Verify training. Sands Anderson also represents employers who have been raided or audited to mitigate or avoid penalties and fines.

Sands Anderson Marks & Miller’s [immigration lawyers](#) and [local government team](#) have experience in these areas. For more information, please contact [R. Oliver Branch](#) or [Andrew R. McRoberts](#).

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