

## [Employment Law Daily Wrap Up, WHITE HOUSE NEWS—Immigration EOs, released and pending, will have business impact, \(Jan. 26, 2017\)](#)

Employment Law Daily Wrap Up

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By [Joy P. Waltemath, J.D.](#)

Employment law practitioners, whether or not they include immigration law as a focus, are watching the Trump Administration's executive actions on immigration with care.

**Border wall.** Issued January 25, the [Border Security and Immigration Enforcement Improvements](#) order, which directs the Department of Homeland Security to immediately start the process of constructing the border wall between the United States and Mexico, fulfills "President Trump's signature campaign promise," noted Jackson Lewis attorneys [Michael H. Neifach](#) and [Amy L. Peck](#), Principals and Co-Leaders of the firm's [Immigration Practice Group](#),

Among other things, the executive order:

- Ends the "catch and release" policy.
- Creates more detention space at the border to facilitate the return of detainees to their home countries.
- Hires 5,000 more Border Patrol agents.
- Promotes agreements with state and local law enforcement to enforce immigration laws.
- Puts a high priority on criminal prosecutions with a nexus to the southern border.

**Funding.** Initial funding for the wall will come from the existing Secure Fence Act, "but Congress will need to make further appropriations to start the construction," the Jackson Lewis attorneys pointed out. The President has said that Mexico will reimburse the United States at a later date. Issued in advance of Mexican President Enrique Peña Nieto's upcoming visit to the United States, which the Mexican president cancelled on January 26, apparently in response to the Trump Administration's actions as to the wall, the Border Security and Immigration Enforcement Improvements order also directs the Department of Homeland Security "to detail how much foreign aid has gone to Mexico over the past five years—possibly hinting at reducing aid to Mexico to fund the wall," Neifach and Peck suggested.

**Impact.** In a press [release](#) January 25, Texas Representative Will Hurd (a Republican), whose district would be directly impacted by a border wall, wrote this response to the Trump wall: "The facts have not changed. Building a wall is the most expensive and least effective way to secure the border. Each section of the border faces unique geographical, cultural, and technological challenges that would be best addressed with a flexible, sector-by-sector approach that empowers the agents on the ground with the resources they need. ... The 23rd District of Texas, which I represent, has over 800 miles of the border, more than any other Member of Congress, and it is impossible to build a physical wall in much of its terrain."

Neifach and Peck told *Employment Law Daily* that President Trump has also indicated that he will consider renegotiating or ending NAFTA. They noted: "While it would take some time to wind down that treaty, the ability of Canadian and Mexican professionals to have a work visa category independent of the H-1B lottery has been useful to U.S. businesses, not to mention the fact that U.S. companies will have more trouble sending U.S. citizens to Canada if NAFTA is eliminated."

**Increased enforcement.** The second executive order, also released on January 25, [Enhancing Public Safety in the Interior of the United States](#), focuses on enforcement. According to the Jackson Lewis attorneys, it:

- Directs the withholding of federal funds from "sanctuary cities."
- Adds 10,000 immigration officers to perform law enforcement functions.

- Makes public on a quarterly basis a comprehensive list of criminal actions committed by aliens “to better inform the public.”
- Makes the acceptance of foreign nationals who are subject to removal from the United States a condition precedent to diplomatic negotiations with their countries of origin.
- Establishes an “Office for Victims of Crimes Committed by Removable Aliens” to provide support for family members.
- Reinstates the Secure Communities Program that focuses on deportation of those who pose threats to public safety. This replaces the Obama Administration’s Priority Enforcement Program that focused on deporting certain criminal offenders, criminal gang members, and those who pose a danger to national security.

**Other executive action anticipated.** Jackson Lewis said it expects more orders reducing the refugee program that had been expanded by the Obama Administration and restricting visas for countries potentially including Syria, Yemen, Sudan, Somalia, and Libya.

In a statement to *Employment Law Daily*, Neifach and Peck said: “We are expecting the administration to issue an executive order this week that will temporarily suspend the issuance of visas to certain countries and regions designated as high risk, such as Syria, Iraq, and Libya. Even individuals who have travelled in those countries may face delays in obtaining visas to the United States.”

“We have already seen an increase in the numbers of visa applicant who are subjected to administrative processing,” the Jackson Lewis attorneys continued. “The President’s emphasis on eliminating any perceived abuse and extreme vetting is only apt to increase those numbers. Basically, global mobility is going to be affected if the U.S. restricts or delays business visas, and this will result in reciprocal treatment of those U.S. companies that wish to conduct business abroad.”

Attorneys: [Michael H. Neifach](#) and [Amy L. Peck](#) (Jackson Lewis)

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