

Immigration Reform

Immigration reform must consider the impact on small businesses

Immigration reform continues to be a top priority for the Obama administration and members of Congress. With illegal immigrants in the U.S. reaching approximately 12 million, immigration reform is likely to remain center stage until Congress provides a legislative solution. All components of broad immigration reform policies necessitate careful consideration. However, small businesses are most concerned with the issues having a direct impact on their business: employee verification requirements and guest worker programs.

Employment Verification Requirements:

Current legislative initiatives include provisions that place the onus of conducting employee eligibility verification solely on the employer. The provisions, including the Department of Homeland Security's Everify program or recently proposed biometric Social Security cards, require small-business owners to verify all their workers. While the Everify system has made improvements over the years, the requirements are typically associated with additional burdensome paperwork, follow-up, fines, or other repercussions for noncompliance.

NSBA strongly supports language that would provide flexibility under any employer verification requirements through the inclusion of "safe harbor" and "good-faith" provisions. Safe harbors for good-faith compliance would ensure no financial penalties for small businesses that follow employer verification requirements. These provisions would also provide the following: pre-penalty notices to employers; reduced first-time penalties; safe harbors for employers when the verification system is faulty; and, more reasonable penalty increases than what has been considered in the past.

It is common knowledge that small businesses face a greater overall regulatory burden than large businesses—a 45 percent higher cost per-employee. As Congress proceeds forth in considering immigration reform, it is of utmost importance that the existing small-business burden be taken into account in the drafting of any new employee eligibility verification requirements.

Guest Worker Programs:

With the number of guest worker program visas (e.g., H-1B and H-2B visas) capped annually, access to guest workers is limited and sometimes difficult for small businesses to obtain. Often, small businesses are forced to compete for these visas with larger, more sophisticated companies, putting small businesses at a competitive disadvantage in the search of quality guest workers.

Along these lines, NSBA endorsed legislation in the 111th Congress – the *Startup Visa Act* – introduced by Sens. John Kerry (D-Mass.) and Dick Lugar (R-Ind.), which would create a new type of two-year visa, called an EB-6, available to any immigrant entrepreneur who has secured at least \$100,000 per founder and \$250,000 per company in capital from accredited venture capitalists or angel investors.

Employment verification requirements must be appropriately addressed in any comprehensive immigration reform policy to protect small businesses from added regulatory burdens and misplaced fines. Additionally, reforming the nation's immigration system should provide greater incentives for small businesses to hire through fair and equitable guest worker programs.