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Ten Rules For Hiring Foreign Nationals

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1. Make all job offers to foreign nationals contingent — in writing — on their ability to secure appropriate work visa.
2. Choose the correct and easiest visa type to obtain. Many visa categories overlap — several may apply to a given case — and choosing the wrong one can require additional unnecessary work and documentation.
3. Carefully document all requirements for the visa requested. A notice from INS requesting additional information or documentation will only delay getting the visa.
4. Never let the alien control the visa petitioning process or paperwork preparation. It is the company that must sign every petition under penalties of perjury.
5. Evaluate every representation in the petition from the point of view of protecting the company.
6. When questions or problems arise, get legal advice from either in-house counsel or outside counsel before filing with INS. Five year felony sanctions and jeopardy to company's immigration profile with INS make this advisable.
7. Avoid superlatives in the company letter of support in describing the alien's credentials and qualifications - "fully qualified" is adequate.
8. Include "employee at will" language in every petition. Never state that the alien has been offered a job for a three-year period. If the employee proves unsatisfactory his lawyer will argue he had a three-year contract of employment.
9. Make sure 1-9s are done properly. INS is less likely to audit the company's visa petition filings through the back door of shoddy 1-9 maintenance.
10. Notify INS promptly if the alien is terminated early or changes jobs or job location - to protect the company track record with INS.

Editor's Note: Mr. Lataif provided this checklist of suggestions in handling your company's immigration matters. Mr. Lataif has more than 20 years of employment-related immigration experience in Washington, D.C., Boston, Virginia and South Florida, including heading up the business immigration practice of two national law firms, Jones Day and McDermott Will & Emery. Mr. Lataif regularly lectures to employers on topical immigration issues and has written several related articles for the Wall Street Journal. His clients range from health care providers and financial institutions to computer and electronic corporations. Currently, Mr. Lataif represents Tenacre Christian Science Foundation in its lawsuit against the INS to clarify agency regulations on R-1 trainees. (See IA, October 1995, p.1.)

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