

CLIENT ALERT

Federal Government Suspends Microsoft, Adobe, and Six IT Outsourcing Firms From PERM Labor Certification: A Warning for All Green Card Sponsors

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On October 8, 2026, at a White House press conference on anti-fraud initiatives, Vice President JD Vance, joined by Attorney General Todd Blanche and Labor Secretary Keith Sonderling, announced that the United States Department of Labor (“DOL”) is suspending Microsoft, Adobe, and six of the world’s largest IT outsourcing firms from the Program Electronic Review Management (“PERM”) labor certification program.¹ Labor Secretary Sonderling characterized the action as “cutting off the head of the snake,”² a stark signal of the federal government’s increasingly aggressive posture toward employment-based immigration. Notably, the announcement identified no sustained findings of legal wrongdoing by any of the suspended companies. Instead, the government justified this

¹ Vice President JD Vance Holds Press Conference on Fighting Visa Fraud, The White House (Oct. 8, 2026), <https://www.whitehouse.gov/videos/vice-president-jd-vance-holds-press-conference-on-fighting-visa-fraud/>.

² *Id.*

extraordinary remedy—and its decision to publicly name each affected company—by pointing to “**ongoing** criminal investigations” and “multiple **active** federal investigations.”³

Only days later, the government showed the potential outcome of these suspensions. On October 16, 2026, the DOL and the U.S. Department of Justice (“DOJ”) announced a settlement with Cloudera Inc., a data management company.⁴ The settlement resolves allegations that Cloudera discriminated against qualified U.S. workers while recruiting through PERM.⁵ According to the government, the PERM positions did not appear on Cloudera’s public careers website, and applicants were sent to an email account that could not receive messages from outside the company.⁶ Under the settlement, Cloudera will fund a \$1.4 million back-pay pool for affected U.S. workers, pay \$600,000 in civil penalties, and withdraw affected PERM applications.⁷ It is also barred from PERM for two years, and it will be subject to monitoring and reporting obligations for a three-year term.⁸ The debarment followed the DOL’s earlier suspension of Cloudera’s PERM processing,⁹ suggesting that a suspension like those announced on October 8 can lead to a formal, yearslong exclusion from the program. Cloudera denied any discriminatory intent and stated the email problem was inadvertent,¹⁰ illustrating that even an unintentional recruitment process flaw can lead to serious consequences.

These announcements follow several enforcement actions and settlements, including the recent settlement with OpenAI, targeting companies’ PERM application practices and policies.¹¹

The message is clear: employers that sponsor foreign national employees for permanent residence should reassess their PERM processes to ensure compliance with existing law and DOJ enforcement activity. They should also consider aligning PERM recruitment with their standard recruitment process for comparable positions, including where positions are posted and how applications are received.

Background

PERM labor certification is ordinarily the first step an employer must complete before sponsoring a foreign worker to work permanently in the U.S.¹² Through PERM, the employer must demonstrate to DOL, after testing the U.S. labor market, that there is no able, willing, qualified, and available U.S. worker for the position and that employing

³ *Id.*

⁴ U.S. Departments of Justice and Labor Secure Settlement with Cloudera, Enforce Two-Year PERM Debarment & Back Pay Following Discrimination Against U.S. Workers, Office of Public Affairs U.S. Department of Justice (Oct. 16, 2026), <https://www.justice.gov/opa/pr/us-departments-justice-and-labor-secure-settlement-cloudera-enforce-two-year-perm-debarment>.

⁵ Settlement Agreement, https://www.justice.gov/crt/media/1465571/dl?utm_medium=email&utm_source=govdelivery (last visited Oct. 19, 2026).

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ See, e.g., Civil Rights Division Secures Settlement with OpenAI for Discriminating Against U.S. Workers, Office of Public Affairs U.S. Department of Justice (Aug. 4, 2026), <https://www.justice.gov/opa/pr/civil-rights-division-secures-settlement-openai-discriminating-against-us-workers>.

¹² Permanent Labor Certification (PERM), U.S. Department of Labor, <https://flag.dol.gov/programs/perm> (last visited Oct. 16, 2026).

the foreign national will not adversely affect the wages and working conditions of similarly employed U.S. workers.¹³ The governing regulations prescribe exacting requirements¹⁴ with which every sponsoring employer must strictly comply, including obtaining a prevailing wage determination from the DOL,¹⁵ advertising the sponsored position for enumerated periods and through specified media,¹⁶ and satisfying rigid notice and timing requirements.¹⁷ Even minor deviations can result in denial, and the DOL affords employers little opportunity to cure errors after filing.¹⁸ Because the DOL relies on attestations, it may audit any application and require the employer to produce its recruitment documentation, which must be retained for five years after filing.¹⁹ The DOL may also order supervised recruitment, revoke an approved certification, and—where it finds fraud, willful misrepresentation, or a pattern of noncompliance—debar the employer from the program for up to three years.²⁰ False attestations may additionally expose the employer and individual signatories to criminal liability.²¹

Critically, the government's announcement did not allege that Microsoft, Adobe, Cognizant, Infosys, Tata, Wipro, HCL, or Capgemini violated any PERM regulation. Rather, it focused on the sheer volume of these companies' PERM filings, branding the practice "foreign labor favoritism."²² Vice President Vance asserted that, since 2009, these companies had requested nearly 3 million foreign workers and secured more than 230,000 H-1B approvals and more than 100,000 permanent labor certifications.²³ He singled out Microsoft in particular, stating that the company laid off 6,000 American workers last year while obtaining 6,300 H-1B visas and nearly 3,000 green cards.²⁴ He further indicated that the suspensions will remain in effect as long as necessary, that the administration has the tools to extend them indefinitely, and that it expects the companies to overhaul their hiring practices.²⁵ He also signaled that the government's efforts in this enforcement area are just beginning.

The OpenAI settlement (as well as other recent settlements) illustrates how little it takes to draw the government's scrutiny. On August 4, 2026, the DOJ announced that it had secured a \$3.2 million settlement with OpenAI following an investigation into the company's PERM program.²⁶ The settlement includes \$1.2 million in civil penalties and \$2 million to compensate victims of alleged discrimination.²⁷ According to the government, OpenAI discouraged U.S. workers from applying for PERM positions by failing to post the positions on an external job website, requiring

¹³ *Id.*

¹⁴ 20 C.F.R. § 656.17.

¹⁵ 20 C.F.R. § 656.40(a).

¹⁶ 20 C.F.R. § 656.17(e)(1)(i)–(ii).

¹⁷ 20 C.F.R. § 656.10(d).

¹⁸ 20 C.F.R. § 656.24(g).

¹⁹ 20 C.F.R. § 656.20; 20 C.F.R. § 656.10(f).

²⁰ 20 C.F.R. § 656.31(f).

²¹ 20 C.F.R. § 656.31(g).

²² Vice President JD Vance Holds Press Conference on Fighting Visa Fraud, The White House (Oct. 8, 2026), <https://www.whitehouse.gov/videos/vice-president-jd-vance-holds-press-conference-on-fighting-visa-fraud/>.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ Civil Rights Division Secures Settlement with OpenAI for Discriminating Against U.S. Workers, Office of Public Affairs U.S. Department of Justice (Aug. 4, 2026), <https://www.justice.gov/opa/pr/civil-rights-division-secures-settlement-openai-discriminating-against-us-workers>.

²⁷ *Id.*

applicants to mail paper applications, and advertising positions on the radio late at night.²⁸ None of these practices is, on its face, a dramatic departure from the PERM regulations. Each concerns the manner, timing, or reach of recruitment rather than a failure to recruit. Yet these seemingly minor, technical shortcomings were sufficient to prompt a federal investigation and a multimillion-dollar resolution.

Immediate Significance & Key Takeaways

For the suspended companies, pending PERM applications are frozen, and no new applications will be accepted, effectively halting the green card process for every affected employee whose case depends on labor certification. The implications extend well beyond these eight companies. For every employer that uses PERM:

- **Enforcement has escalated.** The coordinated participation of the Vice President, the Attorney General, and the Labor Secretary signals that PERM compliance is now a whole-of-government enforcement priority carrying potential administrative and criminal consequences.²⁹
- **No employer is immune.** The targeted companies rank among the most sophisticated and well-resourced employers in the world. Indeed, on the same day the government announced the suspensions and singled out Microsoft, President Donald Trump honored Microsoft's CEO Satya Nadella with the National Medal of Technology and Innovation.³⁰ If such prominent employers can be publicly named and suspended while merely under investigation, every sponsor—from multinational enterprises to smaller employers, which often have less mature compliance infrastructure—is at risk.
- **Workforce actions will be scrutinized alongside sponsorship.** The administration expressly tied layoffs of U.S. workers to continued foreign-worker sponsorship. Employers that have conducted reductions in force while maintaining PERM activity should anticipate heightened scrutiny of how their recruitment was conducted and whether laid-off U.S. workers were notified of and considered for sponsored positions.
- **Collateral consequences are far-reaching.** An investigation—let alone a suspension from the PERM program—can jeopardize talent retention, business continuity, and investor and public confidence, and may invite follow-on inquiries from other agencies and private litigants.
- **Even minor deviations can trigger government enforcement.** The administration has shown that it will pursue penalties for minor lapses in PERM compliance. This includes cases in which an employer's recruitment technically complied with DOL regulations but, in the DOJ's view, did not reach enough people to make the positions truly available to U.S. applicants. Examples include running radio ads too late at

²⁸ *Id.*

²⁹ 20 C.F.R. § 656.31.

³⁰ President Trump Presents National Medals of Science and National Medals of Technology and Innovation, The White House (Oct. 8, 2026), <https://www.whitehouse.gov/releases/2026/10/president-trump-presents-national-medals-of-science-and-national-medals-of-technology-and-innovation/>.

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night, advertising in a local newspaper with limited circulation, and leaving PERM positions off the employer’s standard career website.

- **Act now.** Employers should consider promptly reviewing pending and recent PERM filings, confirming that recruitment documentation and audit files are complete and accurate, assessing any interplay between recent reductions in force and sponsorship activity, and ensuring that attestations are fully supported before any new filing.

If you have any questions regarding this client alert, please contact the following attorneys or the Willkie attorney with whom you regularly work.

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