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SEARCH THE SITE

Search

SEARCH

HOME

DISTRICT

NEWS

U.S. ATTORNEY

DIVISIONS

PROGRAMS

FAQ

CAREERS

CONTACT US

Home » News Room » Press Release

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Indian Corporation Pays Record Amount To Settle Allegations Of Systemic Visa Fraud And Abuse Of Immigration Processes

PLANO, Texas – Infosys Corporation, an Indian company involved in consulting, technology, and outsourcing, has agreed to a civil settlement of allegations of systemic visa fraud and abuse of immigration processes by paying a record settlement amount and agreeing to enhanced corporate compliance measures, announced U.S. Attorney John M. Bales. The \$34 million payment made by Infosys as a result of these allegations represents the largest payment ever levied in an immigration case.

Infosys is located in thirty countries including the United States, and in 17 cities in the United States, including a location in Plano, Texas. The Plano location is responsible for handling the immigration practices and procedures for the United States operations of Infosys. Infosys brings foreign nationals into the United States in order to perform work and fulfill contracts with its customers under two visa classification programs relevant to this matter, H-1B and B-1.

According to court documents, the government alleged instances of Infosys circumventing the requirements, limitations, and governmental oversight of the H-1B visa program by knowingly and unlawfully using B-1 visa holders to perform skilled labor in order to fill positions in the United States for employment that would otherwise be performed by United States citizens or require legitimate H-1B visa holders. The government also alleges that Infosys did so in order to increase profits, minimize costs of securing visas, increase flexibility of employee movement, obtain an unfair advantage over competitors, and avoid tax liabilities. Specific allegations include the following:

- Infosys used B-1 visa holders to perform jobs that involved skilled labor that were instead required to be performed by United States citizens or required legitimate H-1B visa holders.

- Infosys submitted "invitation letters" to U.S. Consular Officials that contained false statements regarding the true purpose of a B-1 visa holder's travel in order to deceive U.S. Consular Officials and secure entry of the visa holder into the United States. These letters often stated that the purpose of travel was for "meetings" or "discussions" when the true purpose was to engage in activities not authorized under a B-1 visa.

- Infosys directed B-1 visa holders to deceive U.S. Consular Officials, including specific instructions to avoid certain terminology, to secure entry of the visa holder into the United States. Infosys created a "Do's and Don'ts" memorandum that it provided to foreign nationals entering the United States on a B-1 visa that included the following directions: "Do not mention activities like implementation, design & testing, consulting, etc., which sound like work"; "Also do not use words like, work, activity, etc., in the invitation letter"; and "Please do not mention anything about contract rates."

- Infosys told its foreign nationals to inform U.S. Consular Officials that their destination in the United States was the same as that provided in the Labor Condition Application, notwithstanding the fact that Infosys knew that the destinations had changed.

- Infosys wrote and revised contracts with clients in order to conceal the fact that Infosys was providing B-1 visa holders to perform jobs that involved skilled or unskilled labor that were otherwise required to be performed by United States citizens or required legitimate H-1B visa holders.

- Infosys concealed the fact that B-1 visa holders were performing jobs that involved skilled or unskilled labor that were otherwise required to be performed by United States citizens or required legitimate H-1B visa holders by billing clients for the use of off-shore resources when, in fact, work was being performed by B-1 visa holders in the United States.

- Infosys failed to maintain I-9 records for many of its foreign nationals in the United States in 2010 and 2011 as required by law, including a widespread failure to update and re-verify the employment authorization status of a large percentage of its foreign national employees.

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The settlement agreement requires Infosys to make a payment to the United States of \$34 million. The agreement was largely predicated on Infosys's cooperation with the United States during the investigation and on compliance measures taken by Infosys in the areas of B-1 and H-1B visas and I-9 documentation, both prior to and during the course of the investigation. The settlement agreement requires additional auditing for I-9 forms; a reporting requirement for B-1 usage; an agreement to continue to use only detailed invitation letters, and the continued use of corporate disciplinary processes for employees that violate the immigration laws of the United States.

"We will not tolerate actions that mislead the United States and circumvent lawful immigration processes, whether undertaken by a single individual or one of the largest corporations in the world," said U.S. Attorney Bales. "The H-1B and B-1 visa programs are designed and intended to protect the American worker; and we will vigorously enforce the requirements of those programs."

David M. Marwell, Special Agent in Charge of Homeland Security Investigations in Dallas, concurred: "This settlement against Infosys is the largest immigration fine on record. The investigation indicated that Infosys manipulated the visa process and circumvented the requirements, limitations, and governmental oversight of the visa programs. The investigation also showed that more than 80 percent of Infosys's I-9 forms for 2010 and 2011 contained substantive violations. Ultimately, these actions by Infosys cost American jobs and simultaneously financially hurt companies that sought to follow the laws of this nation. Companies that misuse the visa process can expect to be scrutinized and held accountable."

The investigation and settlement also earned the praise of George M. Nutwell III, Special Agent-in-Charge of the Houston Field Office, Diplomatic Security Service, U.S. Department of State, who said that "the Infosys investigation illustrates the unique role that DSS plays in investigating complex visa fraud cases that reach far beyond U.S. borders. DSS collaborates with our law enforcement partners and is committed to investigating and bringing to justice those who violate the law."

This case was investigated and the settlement negotiated by Assistant U.S. Attorneys Shamoil T. Shipchandler, Alan R. Jackson, and J. Kevin McClendon, and special agents and attorneys from the Department of State, Diplomatic Security Service, U.S. Immigration and Customs Enforcement's (ICE) Homeland Security Investigations (HSI), and U.S. Citizenship and Immigration Services.

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[Return to Top](#)



HOME

DISTRICT INFO NEWS

District
Divisions
• Beaumont
Lufkin
Marshall
Sherman
Texarkana
Tyler

Press Releases

MEET THE US ATTORNEY

Find Your
USAO

DIVISIONS

Civil Division
Criminal
Division

PROGRAMS

LECC
PSC
PSN
VWA

FAQ

Links
Safety Links

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Mail
Webmaster
PIO

JUSTICE.GOV/USAO

Site Map

Accessibility

FOIA

Privacy Policy

Legal Policies &
Disclaimers

Justice.gov

USA.gov

Emergency Info

Careers/Law Interns