

UPDATE: FEDERAL LABOR LAW REFORM BILL REGARDING SUBCONTRACTING

As we have been informing, on November 2020 the president of the United Mexican States (“Mexico”) presented before Congress a reform bill to the Federal Labor Law, with the intention of prohibiting personnel subcontracting operations and, instead, allow only the ones regarding specialized services or specialized works.

With regards to the proposal, by the end of 2020 the “Tripartite Agreement between the Business Sector, Working Sector and Government of Mexico regarding Subcontracting” was formalized, through which the parties expressed their intention to initiate the process of workforce regularization, establish a fair and equitable profit-sharing system, and adopt the required measures to reduce bad practices regarding labor subcontracting.

Following up with such agreement, this past April 5, 2021, representatives of the working and business sectors, Mexican government officials, and representatives of the Legislative Power met in order to concur on the following:

1. Personnel subcontracting is prohibited;
2. Regulation regarding subcontracting for specialized services different from the corporate purpose and main economic activity of the hiring company is established;
3. Companies of specialized services and works will be obliged to:
 - 3.1. Register before labor authorities; and
 - 3.2. Register at the corresponding public registry;
4. Joint responsibility of hiring and personnel subcontracting companies is established, in case of non-compliance;
5. A three-month term is granted for subcontracted employees to be hired directly by the corresponding employer;
6. Two modalities for the calculation of the limits for profit sharing are established, provided that the most favorable one for the employee shall be the one considered:
 - 6.1. 3 months of salary; or

- 6.2. Average profit sharing paid in the last 3 years.

It is important to note that, in order for the content of the agreements to be mandatory within national territory, the amended reform bill, which was already approved by Congress, is yet to be approved by the Senate for its publication at the Federal Official Gazette and subsequent entry into force.

We will keep you informed of the development of the legislative process of the reform bill.

For all of the abovementioned, it is highly important to start implementing the required modifications for companies which currently:

- a) Subcontract personnel through a two-entity structure (insourcing);
- b) Subcontract personnel from a third-party (outsourcing); or
- c) Provide outsourcing services.

Please contact us to determine if your business is in any of these cases and, based on that, assist you with the implementation of the corresponding legal strategy.

April 8, 2021.