

NEWS UPDATE

October 16, 2009

Subject: Audit of H-1B Program

USCIS' Office of Fraud Detection and National Security ("FDNS") has begun conducting **unannounced** employer site visits to assess employer compliance with the H-1B Program. Site visits can take the form of an actual site visitation or contact via written correspondence, the internet, fax, or telephone. Site visits occur at the employer's principal place of business or at the H-1B employee's place of work. **FDNS does not need a subpoena to complete the site visit.** Site Investigators may interview the responsible employer representative, tour the place of employment, inspect H-1B documents, and interview the employee and/or the employee's supervisor and co-workers.

Employers are entitled to have an attorney present either physically or via telephone during the Site Visitation. However, FDNS will not typically reschedule a site visit to permit an attorney to be present. FDNS has stated that it will allow counsel to be present by phone, if requested.

Steps to take if you are visited:

- (1) Request the name, title, and contact information for the Site Investigator;
- (2) Call immigration counsel immediately;**
- (3) Have another employee serve as a witness to all interactions with the Site Investigator;
- (4) Keep PAC (public access file) and H-1B related documents in a separate file apart from employee personnel file.

FDNS has announced its intention to conduct approximately 40,000 site visits. We strongly recommend that you take the time to review all H-1B files. Please let us know if you have any questions or if we can assist you in auditing your H-1B records.

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