

## USCIS Fraud Unit Site Visits What Employers Need to Know and How to Prepare

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Over the past few months employers have continued to experience unannounced site visits by U.S. Citizenship and Immigration Services' Office of Fraud Detection and National Security (FDNS), and it is expected that site visits will increase in 2012. Administrative site visits of U.S. employers in connection with [H-1B petitions](#) are becoming increasingly common as USCIS is trying to preserve the integrity of H-1B program.

USCIS advised that petitioners should be prepared for administrative site inspectors to ask questions that pertain to any aspect related to the terms and conditions of employment, including job responsibilities, salary, work location, and work hours. In addition, inspectors regularly would ask whether the employee has paid any fees in association with the filing of the H-1B petition.

Site inspections typically occur at the work location listed on the Form I-129 petition. If an employee will be working anywhere else, the employer should include an itinerary for all worksites and ensure the Labor Condition Application (LCA) corresponds to all locations as necessary.

How to be prepared in case of an FDNS site visit:

1. Become familiar with all information material to the employer's sponsorship eligibility, the beneficiary's eligibility for the status benefit, the nature of the job offer, and the terms and conditions of employment specified in the petition and any supporting documents.
2. Employers should request the name, title, and contact information for the site investigator. There are multiple government agencies that may audit in the H-1B program, including ICE, the USCIS Department of Labor's Wage and Hour Division, and/or the USCIS' National Threat Assessment Unit. Therefore, it is critical that the employer determine which agency it is providing information to in the event follow up is needed. If the investigator identifies himself as a USCIS FDNS contractor, request a business card with a toll free number to obtain confirmation of his credentials prior to providing any information.
3. Employers should not speak with government agents or contractors without a witness present. both the witness and the interview subject should be debriefed as soon as possible by counsel following the interview. If this is not possible, both the witness and the subject should prepare notes of what transpired at the interview, label them "Privileged and Confidential/Prepared at the Direction of Counsel," and submit them to counsel for review and retention.
4. Employers should retain complete copies of their I-129 petitions and supporting documents in a confidential file maintained by the designated company official. Should the company elect to submit to interview by an FDNS officer, the designated official should retrieve this documentation and review it prior to meeting with the officer.

5. If an FDNS officer requests information from the employer and the employer cannot provide accurate information without further research, the employer should indicate this to the FDNS officer. The employer should not "guess" about any information provided during the site visit. If the employer is unsure about some requested information, the employer may want to indicate that he/she will follow up with the FDNS officer to provide accurate information after such information is obtained. This is especially important for representatives who do not have access to information being requested by the FDNS officer and there are no other company representatives available to answer the questions during the unannounced visit.

Site inspections are made on a random basis and may occur more than once. Employers should prepare in advance by having on hand relevant information, such as where the employee works, where the petition documents are located and, of course, how to get in touch with counsel, if necessary.

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