CLIENT ALERTS & INSIGHTS

# How to Prepare for Unannounced Administrative Site Visits

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As part of ongoing efforts to ensure the integrity of the immigration benefit process, the Fraud Detection and National Security Directorate (FDNS) operates an Administrative Site Visit and Verification Program (ASVVP). Under this program, U.S. Citizenship and Immigration Services (USCIS) carries out both random and targeted Administrative Site Visits (ASVs) to verify the existence of sponsor-employers, confirm the employment of sponsored foreign workers, assess compliance with salary requirements, ensure consistency between the information provided to USCIS and actual conditions of employment, and to otherwise assess compliance with regulatory requirements. Some visa categories are not subject to this program, such as Os, TNs, and employment-based permanent residency filings.

An ASV may be conducted without prior notice at the employer's principal place of business or a third-party worksite listed in the Petition for a Nonimmigrant Worker (Form I-129) or the accompanying Labor Condition Application (ETA Form 9035). This means that an FDNS agent can come unannounced to ask questions about an H-1B worker at any address identified on an LCA, including a headquarters office, human resources office, client site, or a remote place of employment. Most ASVs are unannounced and generally last an hour or less. Employers do have the option of requesting that an attorney be present during the visit. Officers/agents may also request documents like federal or state income tax returns, quarterly wage reports, and payroll information on other employees.

The FDNS officer will also seek to interview the foreign worker directly, most likely outside the presence of the employer's representative. The employee can expect questions about job title, duties, start dates, work location, salary, education, prior experience, and personal details like address and dependents.

**Tips for Administrative Site Visits - What to Keep in Mind**

- Always ask for the name, title, and contact information of the officer/agent. Bear in mind that, while these visits are typically conducted by USCIS, other agencies like U.S. Immigration and Customs Enforcement (ICE) or the U.S. Department of Labor (DOL) may also be involved.
- Never speak with the officer/agent without a witness present.
- Take notes. Call your attorney. If your attorney is not available at the time of the interview, pass along those notes as soon as possible afterward.

- Keep a secure, confidential file with copies of all USCIS petitions so that, if they are requested as part of the ASV, they can be readily produced.
- Consider providing a copy of the petition to the foreign worker so that they are aware of its contents-i.e., job title, job duties, and job requirements-if questioned.
- If your H-1B employee is working at a client site, notify the client about the ongoing H-1B inspection. Should an officer/agent arrive there, have the client contact you immediately before responding to any questions.
- If an officer/agent requests access to a confidential area, try to direct them to less sensitive sections. If they insist, remind them that photography is not allowed in restricted areas.
- If you are unsure about any information, say so. It's better to state that you must verify the details before answering.
- Always accompany the agent/officer during the tour and be present when they speak with the H-1B employee.
- Keep responses focused-don't volunteer extra information. Remember, any negative details may be used to deny or revoke petitions, so answer truthfully and succinctly.

An employer's best practice is to develop a plan of action in response to an ASV and contact outside counsel immediately.

For additional suggestions on how to develop and execute a plan of action in preparation for FDNS site visits, see the link here.

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