

North Carolina Law Life

When USCIS Comes A-Knockin’

By: Oliver Branch. *This was posted Monday, November 23rd, 2009*

On November 19, 2009, at a program titled “2009 Government and Employers: Working Together to Ensure a Legal Workforce,” [USCIS’ Fraud Detection and National Security \(FDNS\) office](#)’s Chief of Staff, Ronald Atkinson, clarified the three types of employer site visits/inspection programs currently being conducted. The following types of employer site visits/inspections programs are funded through the mandatory \$500 “Anti-Fraud” Fee, one of the government fees that employers pay when sponsoring an [H-1B specialty occupation worker nonimmigrant visa](#):

1. **Risk Assessment Fraud Study** – Part of a joint program between USCIS and [Immigration and Customs Enforcement \(ICE\)](#), this study will be applicable to all family and employment-based petitions. Post-approval Applications/petitions will be chosen at random. The purpose of the study is to assist USCIS in designing profiles of potential fraud. No advance notice is required to be given to either the employer or counsel.
2. **Targeted Site Visits** – When fraud by an employer is expected, the targeted site visits are being utilized to ask questions of the employer. Advance notice to both the employer and counsel is supposed to be provided.
3. **Administrative Site Visits** – These site visits are conducted by contractors (usually with no knowledge of immigration law) who ask a set of specific questions provided by USCIS. The questions should be aimed at ascertaining whether the employment exists, the employer is aware that the petition/application exists, whether the employee is performing the job indicated at the salary specified on the application/petition. No advance notice is required to be given to either the employer or counsel.

So, how can employers be prepared for a visit from USCIS? In light of these latest efforts by USCIS/DHS, in addition to escalated [I-9 employment eligibility](#) enforcement measures being taken by ICE, it is imperative that employers seek adequate immigration counsel. Many of the requirements for both immigration applications/petitions and I-9 compliance are highly technical and carry tremendous liability for both employers and HR executives and staff. ♦

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