

Immigration Advisory

Recent Changes in US Immigration Processes and Technology

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BY [SUSAN COHEN](#) AND [CASSIE M. RAMOS](#)

The Department of Homeland Security (DHS) has implemented changes recently that affect many individuals seeking to travel to the United States, US employers of H-1B and L-1 workers, and users of some USCIS services. This advisory reviews these recent developments, including changes to the Electronic System for Travel Authorization (ESTA), an uptick in US Citizenship and Immigration Services (USCIS) administrative site visits, and system maintenance issues that have caused disruptions to USCIS services, including the online case status system.

ESTA: Additional Information Required for New and Renewal Applications

US Department of Homeland Secretary Jeh Johnson [announced](#) changes to the ESTA application for individuals wishing to participate in the Visa Waiver Program. Effective November 3, 2014,

“those seeking to travel to the United States from countries in our Visa Waiver Program (VWP) will be required to provide additional data fields of information in the travel application submitted via the Electronic System for Travel Authorization (ESTA). The new information sought includes additional passport data, contact information, and other potential names or aliases. We are taking this step to enhance the security of the Visa Waiver Program, to learn more about travelers from countries from whom we do not require a visa.”

In addition to this data, parents' names, national identification number, employment information, and city of birth will be requested in the revised online application.

These changes do not affect individuals who are already approved for visa-free travel via the ESTA program.

FDNS: An Uptick in Unannounced H-1B and L-1 Visa Site Visits

Multiple reports have confirmed an uptick in unannounced administrative site visits by Fraud Detection and National Security (FDNS) officers pursuant to the Administrative Site Visit and Verification Program (ASVVP). Under this program, created and implemented in July 2009, FDNS conducts pre- and post-adjudication site inspections to verify information contained in randomly selected H-1B and L-1 visa petitions and in all religious worker visa petitions.

Site inspectors are supposed to:

- Verify the information submitted with the petition or application, including supporting documentation submitted by the petitioner or applicant, based on a checklist prepared by USCIS
- Verify the existence of a petitioning entity
- Take digital photographs
- Review documents
- Speak with an organizational representative to confirm the beneficiary's work locations, employment workspace, hours, salary, and duties
- Report their findings to FDNS



Susan Cohen, Member



Cassie M. Ramos, Associate

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While site inspectors do not make decisions on immigration petitions, their findings can influence USCIS to seek to revoke an approved petition. For example, if a site inspector visits an H-1B employer and learns from the company representative that the beneficiary of the visa petition does not work at the location indicated on the visa petition form or the underlying labor condition application (LCA), following the site visit, USCIS may seek to revoke the approved H-1B visa petition. After the site visit, USCIS must provide petitioners an opportunity to review and address the inconsistent information before revoking an approved petition based on information obtained during a site inspection.

Since a site visit is always a possibility when submitting an L-1 or H-1B visa petition to USCIS, it is essential for employers of H-1B and L-1 workers to be prepared. Be sure that your immigration records and files are in order at all times and that your staff is trained on the procedure to follow when an FDNS officers visits your office unexpectedly. You should have a defined protocol to be followed by all of your offices in the event of a site visit, and all receptionists or others with responsibility for greeting visitors should be trained on the protocol. Only persons with knowledge of the information contained in the visa petition should be designated to interface with the inspector. Typically this will be the person at your business or institution who is responsible for managing employees' immigration matters.

Inspectors are particularly concerned with whether the visa beneficiary is performing the specific job as described in the visa petition at the specific geographic location described in the petition, and at the salary described in the petition.

We suggest clients take the following actions during and after a site visit:

1. Be sure to get the name, photo I.D. and business card of the site inspector and make a photocopy of his or her information for future reference;
2. Arrange for the inspector to be taken to a secure conference room;
3. Request permission to contact your Mintz Levin immigration attorney and if possible, have the attorney on the phone while the site visit is being conducted;
4. If the site inspector wishes to interview the visa holder, request permission to be present during the interview of the employee;
5. Politely try to limit the inquiries to the visa petition and employee in question;
6. Only answer questions to which you know the answer and if you don't know the answer, explain that you will get back to the officer at a later date with the requested information;
7. Take as many notes as possible during the site visit;
8. If unable to contact your Mintz Levin attorney during the site visit, immediately after the visit has concluded, contact your attorney to inform him or her of the site visit.

We urge clients to be attentive to record-keeping, in particular regarding the worksite location, hours and salary of the visa beneficiary. For further instructions on how to be prepared for an unexpected site visit, [see our August 11, 2009 Alert here](#).

USCIS e-Services: Case Status Portal Outages and Additional Disruptions

USCIS began a system maintenance procedure on November 7 that caused continuing intermittent outages for the following online services:

- Check My Case Status
- e-Request
- Change of Address Online
- Check Processing Times
- Civil Surgeon Locator
- FOIA Status Check
- Forms by Mail
- Office Locator

Some of these, most notably the case status portal, continue to have intermittent difficulties. USCIS has also not been accepting any telephone service requests for updating online case statuses. The most recent status update from USCIS was on November 10, stating that they are aware of the technical issues, but no notice has been posted indicating the problems are resolved.

If you have questions about what to do in the event of an administrative site visit or would like assistance with other immigration matters, please [contact a member of the Mintz Levin Immigration Practice](#).

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