



## L-1 Employers Now Facing Unannounced Worksite Inspections by USCIS

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U.S. Citizenship and Immigration Services (USCIS) has recently started conducting unannounced worksite inspections of employers of L-1 nonimmigrants.

### **Background:**

In July 2009, the USCIS Fraud Detection and National Security (FDNS) Directorate implemented an Administrative Site Visit and Verification Program (ASVVP) to conduct unannounced pre- and post-adjudication worksite inspections to verify information contained in certain visa petitions. To date, such worksite inspections have focused largely on employers of foreign nationals on H-1B nonimmigrant visas.

USCIS has become increasingly concerned about the potential for fraud and abuse by employers of foreign nationals on L-1 nonimmigrant visas. As such, the agency is now conducting unannounced ASVVP worksite inspections of L-1 employers.

### **L-1 Intracompany Transferee Visas:**

L-1 nonimmigrant visas are for “intracompany transferees.” L-1 nonimmigrant visas facilitate the U.S. transfer of individuals employed by a company abroad (for at least one of the three years immediately prior to transfer) in an executive, managerial, or “specialized knowledge” capacity. Such individuals must be coming to the U.S. to engage in employment with a U.S. parent, subsidiary, affiliate, or branch of the company abroad in an executive, managerial, or specialized knowledge capacity. Executive and managerial intracompany transferees are admitted to the U.S. on L-1A nonimmigrant visas, ultimately for periods of stay of up to seven years. Specialized knowledge transferees are admitted to the U.S. on L-1B nonimmigrant visas, ultimately for periods of stay of up to five years.

### **About USCIS Worksite Inspections:**

As a general rule, USCIS performs ASVVP worksite inspections on randomly-selected applications and petitions, both pre- and post-adjudication. ASVVP site inspections are not performed in cases where fraud is suspected and are generally performed without notice. ASVVP site inspectors do not make decisions on immigration benefit petitions or applications. ASVVP site inspectors:

- Verify the information submitted with the petition, including supporting documentation submitted by the petitioner, based on a checklist prepared by USCIS;
- Verify the existence of a petitioning entity;
- Take digital photographs;
- Review documents; and
- Speak with organizational representatives to confirm the L-1 employee’s work location, employment workspace, hours, salary, and duties.

Worksite inspectors will report the results of their site inspections to the USCIS FDNS Directorate, which will review the information to determine whether the L-1 employer and employee have met or continue to meet eligibility requirements. When indicators of fraud are identified, the USCIS

FDNS Directorate may conduct additional administrative inquiries or refer the case to U.S. Immigration and Customs Enforcement (ICE) for criminal investigation.

## **Preparing for USCIS Worksite Inspections:**

Given these developments, it is of critical importance that L-1 employers prepare for unannounced USCIS worksite inspections.

L-1 employers should have a detailed procedure in place for responding to such inspections. Such procedure should consider:

- Educating the receptionist (or other first point of contact at the worksite) as to how to respond to a USCIS inspector that arrives at the worksite.
  - The receptionist should make no comments to the inspector about the matter being investigated.
  - The receptionist should invite the investigator to a private conference room.
  - The receptionist should collect the inspector's credentials.
  - The receptionist should immediately contact the individual charged with signing U.S. immigration petitions at the employer.
  - That employer representative should be the sole internal point of communication with the inspector.
  - The employer representative should immediately contact the employer's U.S. immigration attorney for guidance.
  - The employer representative should immediately seek to verify the inspector's credentials. Until those credentials are verified, potentially sensitive and confidential company records and information should not be provided to the inspector.
  - As appropriate, the USCIS inspector should be asked to re-schedule his / her visit until the employer's immigration attorney can be present (either in-person or by phone).
  - If the inspector requires any company records or information, he / she should be asked to provide a list of such content. The employer representative should request several days to collect and supply those items.
  - If a meeting is requested with the L-1 employee, such meeting should be postponed until the employer's immigration attorney can be contacted and be provided the opportunity to be present for such meeting (either in-person or by phone).
- Educating the employer representative and the L-1 employee about: the general requirements for L-1 visa classification; the manner in which the employee's qualifying experience abroad was described on the L-1 petition; and the manner in which the U.S. assignment was described on the L-1 petition.
- Verifying that corporate records are accurate and up-to-date, consistently reflecting content contained on the L-1 visa petition. Substantive changes in the terms and conditions of L-1 employment could necessitate the filing of an amended L-1 visa petition with USCIS.

AGG is prepared to assist employers facing L-1 worksite inspections. With decades of experience, our Immigration Team can work with you on developing a detailed plan for responding to unannounced worksite inspections, on educating your employees regarding how to respond to such inspections, and on guiding you through such inspections should they occur.

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