

USCIS Expands Worksite Inspection Program to L-1 Employers



Cuevas & Associates, P.A.



Andrew Cuevas, Esq. - President
e-mail: acuevas@cuevaslaw.com

Tel: (305) 461-9500
Fax: (305) 448-7300

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Intro:

Mr. Andrew Cuevas, Esq., is the President of Cuevas & Associates, P.A., and Vantage Property Title Company. Mr. Cuevas has been practicing law since 1993 in the area of Business Immigration Law and Commercial transactions, including commercial and residential real estate transactions and business acquisitions for foreign investors. If you have any questions regarding this article or any other questions, you can contact Mr. Cuevas at (305) 461-9500 or at acuevas@cuevaslaw.com. If you are interested in reading previous newsletters, please visit www.cuevaslaw.com, select the icon for **Newsletters**, and then choose the area of law you are interested in.

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The Fraud Detection and National Security Directorate created and implemented the Administrative Site Visit and Verification Program in July 2009 as part of its ongoing enhancement to the integrity of the immigration benefit process. Under the Verification Program, Inspectors conduct unannounced pre- and post-adjudication site visits to verify information contained in certain visa petitions.

The L-1 is a frequently used business visa to enter the United States by many foreign persons. A brief description of the L-1 is when the shareholders of an existing and operating foreign business decide to open a U.S. based company which results in the generation of employment in the United States. The U.S. based business does not necessarily have to be the same as the foreign based business. Managers who have worked for the foreign based company can transfer to the United States Company in the L-1 status, their immediate family members enter with L-2 status, the spouse has the right to work, and the children are allowed to study in private or public schools. A main advantage of the L-1 visa is that once it is shown that the U.S. based company is operating well and creating employment, the L-1 visa can be extended and the foreign family can apply for the United States Permanent Residency. This is a very brief description of the L-1 visa.

Recently, there has been increasing talk about USCIS Inspectors performing unannounced workplace visits to L-1 employer worksites. It is expected that unannounced workplace visits will increase in number and frequency this year.

- Inspectors may perform any of the following tasks at worksite visits:
- 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
- Speak with organizational representatives to confirm the beneficiary's work location, employment workspace, hours, salary and duties

When an Inspector appears unannounced, the receptionist should notify the designated company representative and lead him to an unoccupied conference room. The designated company representative should request for identification and a business card. Before providing any information or answering any questions, the designated company representative should notify the Inspector that his/her credentials will be verified and that the company requests counsel to be present during the investigation. Once the Employer has verified the credentials, the Employer should immediately call its attorney. Often if an attorney cannot attend in person, he or she can attend over the phone, or ask the Inspector to reschedule the visit.

USCIS provides Employers and their representatives of record (if any) an opportunity to review and address the information before denying or revoking an approved petition based on information obtained during a site inspection. However, as is always the case when dealing with USCIS, an ounce of prevention is worth a pound of cure.

Employers should speak to their attorney to make sure that your L-1 worksite is in compliance before receiving a workplace visit. Employers that have not already done so should take the time to develop a response plan in the event of a U.S. government agency audit or investigation. Additionally, Employers should contact their attorney as soon as they are notified that an inspector will be or is conducting a site visit.

This article is solely a partial explanation of all the issues related to the topic of this newsletter, and is not to be considered legal advice. Persons interested in obtaining more information should consult with their legal counsel to obtain explanations of all issues addressed herein.