

COMMUNITY

JOURNAL

YOUR IMMIGRATION SOLUTION



ATTY. ROBERT REEVES & JOSEPH I. ELIAS

Immigration Service inspecting H-1B employers

visits. The designated HR representative should have a clear and thorough understanding of the H-1B worker's duties and responsibilities. The HR rep should not guess any answers, but, have the information readily available, including the start date, work hours, and wages paid. These should be consistent with those listed on the petition, and if not, immediately brought to the attention of the company's immigration attorney to advise on the corrective measures that need to be taken.

It was extremely revealing that these inspections are not

what the Immigration Service calls "marginal companies". A marginal company is defined by the Immigration Service as lacking the organizational complexity required to support the position on a full-time basis. Examples provided to adjudicators are liquor stores, dry cleaners, gas stations, residential care facilities, convenience stores, donut shops, fast food restaurants, dental offices, 99 cent stores and parking lots.

The Immigration Service has created a profile of what it deems to be a suspect H-1B petition. There are many legitimate H-1B petitions that fit squarely within the suspect profile. H-1B employers and employees in this position should understand that they can be subjected to additional scrutiny from the Immigration Service. Consequently, they should be properly prepared by thoroughly and accurately documenting the H-1B position. They should clearly understand the

“ It is important that H-1B employers and employees be prepared for these unannounced visits. The designated HR representative should have a clear and thorough understanding of the H-1B worker's duties and responsibilities. The HR rep should not guess any answers, but, have the information readily available, including the start date, work hours, and wages paid. ”

random. From a previous release by the immigration service, we know that certain factors trigger referrals to the H-1B fraud unit. These are employers with gross annual income of less than \$10 million, less than 25 employees, companies engaged in consulting or staffing showing no end-client/work description or itinerary, job location on the LCA differing from the place of employment, no website for IT companies, excessive blanks in the petition and for certain H-1B occupations. The suspect occupations are Accountants, Market Research Analysts, Business Analysts, Financial Analysts, Advertising Managers, Public Relations and Sales positions with

scope and terms of employment. Then, even if they receive a surprise visit from an investigator, they will be able to demonstrate the H-1B position is a legitimate and valid position.

Atty. Reeves has represented clients in numerous landmark immigration cases that have set new policies regarding INS action and immigrants' rights. His offices are located in Pasadena, San Francisco, Las Vegas and Makati City.
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The analysis and suggestions offered in this column do not create a lawyer-client relationship and are not a substitute for the personalized representation that is essential to every case.

(Advertising Supplement)

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