

USCIS Letter to Senator: More H-1B Oversight and New Guidance Forthcoming

November 19, 2009 - A November 10 letter from United States Citizenship and Immigration Services ("USCIS") Director Mayorkas to Senator Grassley (R - Iowa) indicates that USCIS will conduct additional oversight of the H-1B program and issue new guidance and forms. The actions come in response to a study undertaken by USCIS last year, which concluded that fraud and other violations are common in H-1B petitions.

Director Mayorkas specifies in his letter that USCIS plans to initiate 25,000 worksite visits and inspections in Fiscal Year 2010. The agency has already conducted 5,191 site visits since July 2009. Director Mayorkas also indicates in his letter that, in addition to increased oversight, USCIS intends to do the following:

- Issue further guidance to H-1B adjudicators that will clarify what evidence must be submitted when beneficiaries work at third-party worksites. The letter suggests that the guidance may specify when employers must file amended H-1B petitions.

- Revise Form I-129, Petition for a Nonimmigrant Worker, to include additional attestations related to third-party placement and compliance for offsite employment.

- Launch a new program, Verification Initiative for Business Enterprises (VIBE), in Spring 2010, that will allow adjudicators to access Dunn & Bradstreet data to validate submitted information.

Comment: The USCIS letter demonstrates sustained commitment on the part of the agency to address fraud in the H-1B program, but the new measures also introduce changes that will have implications for companies now in compliance with current procedures. We will continue to monitor progress in the execution of these USCIS proposals and provide updates.