

INSIGHTS

USCIS Announces New Measures to Detect H-1B Visa Fraud and Abuse

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By: [Victoria M. Garcia](#)

On April 3, 2017, the United States Citizenship and Immigration Services (“USCIS”) announced heightened measures to deter and detect H-1B visa fraud and abuse. In its site visits to H-1B petitioners and the worksites of H-1B employees, USCIS will implement a more targeted approach, focusing on:

- Cases where USCIS cannot validate the employer’s basic business information through commercially available data;
- H-1B-dependent employers (those who have a high ratio of H-1B workers as compared to U.S. workers); and
- Employers petitioning for H-1B workers who work off-site at another company or organization’s location.

The USCIS states that these targeted site visits are designed to allow USCIS to focus resources in situations in which fraud and abuse of the H-1B program may be more likely to occur, and to determine whether H-1B dependent employers are evading their obligation to make a good faith effort to recruit U.S. workers. In addition, USCIS states that it will continue random and unannounced visits nationwide, in an effort to identify employers who are abusing the system, and thus decreasing wages and job opportunities for U.S. workers.

To further deter and detect abuse, USCIS has established an [email address](#) for receiving tips, information about alleged violations, and other relevant information about potential H-1B fraud or abuse information from individuals (including both American workers and H-1B workers who suspect they or others may be the victim of H-1B fraud or abuse). USCIS will use information submitted to the email address for investigations and referrals to law enforcement agencies for potential prosecution. Individuals can also report allegations of employer fraud or abuse by submitting [Form WH-4](#) to the Department of Labor’s (DOL) Wage and Hour Division or by completing ICE’s [HSI Tip Form](#).

USCIS’ new measures against H-1B visa fraud may explain the USCIS’ recent suspension of 15-day, premium processing. While USCIS has stated that the suspension of premium processing would allow more resources to be dedicated to the adjudication of pending H-1B extension of status petitions, some have suggested that it would also give the USCIS additional time to uncover potential fraud or abuse. Employers will now have to rely on regular processing of H-1B petitions, with wait times that are currently from six to eight months and are continuing to

increase. Whatever the reason for the USCIS' actions, its new measures strongly suggest that employers can expect an additional level of scrutiny of their practices regarding employees with H-1B visas going forward.