



# WORMSER, KIELY, GALEF & JACOBS LLP

## IMMIGRATION HIGHLIGHTS - August 2011



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### Surprise Site Visits to H-1B & L-1 Employers Continue

Government inspectors continue to conduct surprise visits to the offices and worksites of businesses sponsoring H-1B (specialty occupation) and L-1 (intracompany transferee) workers to ensure that the information contained in their immigration applications is accurate. Thousands of companies in a variety of industries have been randomly selected for a visit following the recent filing of a petition (both new ones and extensions) for an H-1B or L worker.

During a site visit, which will typically target one specified H-1B or L visa employee, the inspector normally will ask to meet with the company's representative who signed the visa petition documents. Your reception desk should be aware of the possibility of a visit so that the appropriate person can located to speak with the officer. During the meeting, the officer will ask questions about the company's business activities, as well as the individual's job title, job requirements, work location, salary and more. It is likely that the officer will request corroborating documentation such as payroll records for the specified employee and take photos of the workspace. If the inspector is satisfied, the visit normally ends and the investigation is closed. If the officer is concerned about discrepancies or inconsistencies in the responses or documents provided, the government may continue (and possibly expand) the investigation, and can ultimately pursue penalties. Please contact your WKGJ attorney if you have any questions or concerns about your H-1B or L employees or documentation.

### Helping the Economy By Helping Foreign National Entrepreneurs & High Skilled Workers

Recognizing the benefits of foreign national entrepreneurs and high skilled workers to the US economy, and in an effort to spur job growth and development, the USCIS recently announced that it will soon expand the [premium processing service](#) to include immigrant (green card) petitions for multinational managers and executives. The USCIS also confirmed that immigrant entrepreneurs may qualify for an employment-based second preference ([EB-2](#)) immigrant visa, as well as for a National Interest Waiver. Finally, USCIS has [clarified](#) when a sole employee-entrepreneur can establish a valid employer-employee relationship in order to qualify for an H-1B visa.

### Updated I-9 Resources

The USCIS is continually updating its I-9 resources. Employers can sign up to receive e-updates through the [I-9 Central website](#). In addition, the newly updated M-274, Handbook for Employers is available [online](#).

### H-1B Cap Update

As of August 12, 2011, the USCIS had received only 25,300 H-1B cap-subject

petitions (out of 65,000 available), and 14,700 petitions for individuals with advanced degrees (out of 20,000 available). Based on the small number of filings since the application period began on April 1, it is expected that H-1B visa numbers will continue to be available during the upcoming months.

As a reminder, the annual quota of H-1B visa numbers available does not apply to individuals currently working in H-1B status in the U.S., who are seeking to extend their current employment or seeking to change employers. In addition, individuals seeking employment with institutions of higher education, nonprofit research organizations, government research organizations and certain related entities are also exempt from the annual H-1B "Cap."

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