Emerging Immigration Compliance and Trends
• Introduction
• What Comes After “Approved”
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• Green Card (PERM) Processing
• It’s Over – Terminations/Layoffs for Non-Immigrant Workers – In-House Recruitment Issues
• Which Questions to Ask and Who Should Be Involved in the Conversation from the Beginning -In-house Recruitment Procedures
• Conclusion – Q&A
What comes after “Approved!”
What comes after “Approved!”
Preparing for USCIS or DOS site visit

- USCIS expanding worksite inspections for H-1B and L employers
- Most site inspections are random, unannounced, and serve the purpose to detect fraud
- Not always an indication that there is a problem
So... Are you ready?
What can you do to prepare?

1. Have a plan in place
2. Speak to personnel about possibility of site visit – what to do and to whom to direct the inspector
3. Ask inspector for identification – make copy or write down name and credentials
4. Advise personnel not to guess at responses
5. If personnel interviewed, ask designated company contact to be present during any interview
6. Have your foreign worker’s immigration files easily accessible and up to date
7. Advise your attorney of any changes to the foreign workers employment – title, job duties, job location, and salary
8. Advise your attorney when and if a worksite inspection has occurred and provide all the facts
What to expect?
Site Visit Hot Topics

- Employee works at worksite listed in petition
- Employee paid equal or greater salary than listed in petition
- Employee employed by employer listed in petition
- H-1B Context vs. L Context
Social Security Number
You’re not done...Driver’s License
Tax Considerations
• Travelers are directed to [www.cbp.gov/I94](http://www.cbp.gov/I94) to print a copy of an I-94 based on the electronically submitted date, including the I-94 number from the form, to provide as necessary to benefits providers or as evidence of lawful admission and work authorization.
Completing and Updating Form I-9

• F-1 to H-1B Cap Gap
• H-1B extension of status with same employer
• H-1B transfer and extension of status
• All extensions
ICE “Best Employment Practices”

- Use **E-Verify** for all hiring.

- Establish a written hiring and **I-9 policy**.

- Establish an **internal training program** on how to complete I-9s and how to identify fraudulent use of documents in the I-9 process.

- Permit the **I-9 process to be conducted only by individuals who have received this training**—and include a secondary review as part of each employee’s verification, to minimize the potential for a single individual to subvert the process.
ICE “Best Employment Practices”

- Establish a **protocol for responding to no-match letters** received from a government agency.

- **Ensure that contractors and/or subcontractors establish procedures to comply with I-9 requirements.** Encourage contractors and/or subcontractors to incorporate ICE Best Practices and when practicable incorporate the use of E-Verify in subcontractor agreements.

- **ARRANGE FOR ANNUAL I-9 AUDITS BY AN EXTERNAL AUDITING FIRM.**
Alternative Visa Options
Alternatives to H-1B

H-1B

E-3

TN
More on the TN

- Allows a U.S. employer to petition for the temporary employment of Canadian and Mexican nationals to perform professional-level activities in the U.S.

- Quick processing – Canadian TN applications are processed at the Border immediately, while Mexican TN applications can be processed in approximately 2 weeks to 2 months.

- Option to Processing In US or Abroad.

- Low Filing Fees

- Unlimited renewal of TN status – Though the initial stay for a TN professional is one year, his or her period of stay may be extended in one-year increments every year, with no limit on the total period of stay.
More on the TN

- Professional - The TN route is available for professional occupations.
  - Examples:
    - Engineers – Bachelors degree (Mechanical, Civil, Structural),
    - Architects,
    - Industrial Designers,
    - Computer Systems Analysts, or
    - Accountants.
  - Degree Not Required
    - Management Consultant – Degree Not Required 5 years progressive professional experience
Alternatives to H-1B – Options at the Top and Bottom

J-1 & H-3

O-1

TRAINEE
H-1B Alternatives – Students

F-1  E-Verify

J-1

STEM

SCIENCE  TECHNOLOGY  ENGINEERING  MATH

WANTED INTERNS!
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