



FDNS Playbook

The FDNS Basics

Who is FDNS?

USCIS relies on the Fraud Detection and National Security (FDNS) department to maintain the credibility of US immigration laws, safeguard the nation, and protect American workers. FDNS employs a variety of methods to detect and prevent immigration benefit fraud. FDNS collaborates with USCIS adjudication officers and federal law enforcement agencies to investigate and prosecute benefit fraud cases.

Since 2004, FDNS has partnered with U.S. Immigration and Customs Enforcement (ICE) in a strategic alliance to combat immigration fraud. FDNS is responsible for conducting administrative investigations, which may include compliance reviews, interviews, site visits, and requests for evidence. If necessary, FDNS may refer cases to ICE for potential criminal investigation.

What are FDNS site visits?

The funding for the FDNS program is obtained from the H1B and L Petition “fraud fees.” Before the introduction of the H1B assessment program, the FDNS conducted evaluations for R-1, L-1, and EB-1-3 Multi-National Manager and Executive petitions, which included site visits to verify the information presented in pending and approved immigration petitions. The findings from these earlier assessments have been utilized to establish a database that identifies patterns that could indicate fraud.



FDNS Site Visits

- Refer to on-site inspections carried out by officers of the FDNS department of the United States Citizenship and Immigration Services (USCIS).
- These visits are to detect and deter immigration benefit fraud by verifying the information presented in pending and approved immigration petitions.
- During an FDNS site visit, an FDNS officer will typically visit the worksite or business location associated with an immigration petition to verify that the information provided in the petition is accurate and truthful.
- The officer may conduct interviews with the petitioner, the beneficiary, and other relevant parties, and may also review documentation and other evidence to ensure compliance with US immigration laws.

Why do FDNS site visits happen?

As a result of the April 2017 announcement by the USCIS that it would deter and detect H-1B fraud and abuse, companies that did not meet the following criteria were targeted:

- When USCIS cannot validate basic business information through commercially available data likely through its Validation Instrument for Business Enterprises (VIBE)
- When the petitioner is an H-1B dependent employer
- When H-1B employee is working off site at another company's location.
- Consultants seem to be picked by the FDNS officers for some time.

Other reasons include:

- When either a current or former employee, files a complaint with the DOL H-1B employer paying below existing wage levels or of general fraud.
- If you, as a H-1B petitioning company, are not complying with the responsibilities you have attested while filing for the LCA. These attestations concern the employer's responsibilities to the H-1B nonimmigrant employee, including the wages, working conditions, and benefits to be provided to the potential H-1B worker.
- If the H-1B employee for whom this LCA process is filed and approved, is not employed within the designated geographical areas, with prevailing wage applicable to that area, as attested by the petitioner in the LCA, it falls under non-compliance and may attract an FDNS site visit.

When Can an FDNS Occur?

An FDNS site visit can occur at any time during the processing of an immigration petition, as part of the Fraud Detection and National Security (FDNS) program's efforts to verify the information presented in pending and approved petitions. An FDNS site visit may occur:

- During the filing of a petition
- Soon after the petition is filed
- Well after the petition is filed
- After a consular interview
- In response to a tip or complaint about potential fraud related to an immigration petition.
- With H1B extension applications with the same H-1B employer.



Why Did FDNS Choose Us?

Site visits can be random or targeted: USCIS primarily uses the Administrative Site Visit and Verification Program (ASVVP) to assess whether petitioner-employers and petitioned-for employees (“beneficiaries”) are complying with applicable immigration laws and regulations. ASVVP is a program in which FDNS conducts random, administrative site visits to the worksites of petitioner-employers and petitioned-for employees.

Although ASVVP site visits are compliance-based and random, USCIS also uses targeted site visits to respond to indicators of fraud. The Targeted Site Visit and Verification Program (TSVVP) allows USCIS to focus resources where fraud and abuse of employment-based visa types is more likely to occur.

How targeted site visits are generated?

- 1 **Site Inspection and Evaluation of Validation Instrument for Business Enterprises (VIBE) Entities.** VIBE is a tool USCIS uses to verify a petitioner-employer’s business information, and which also identifies potentially fraudulent entities.
- 2 **External Source Site Visit Program.** In this instance, DOS refers fraud concerns for investigation.
- 3 **Administrative Investigations.** USCIS makes referrals for investigation when fraud indicators are found while adjudicating visa petitions. Law enforcement entities, the public, or other government agencies may also provide tip letters and referrals for investigation.



In 2017, more items got added to the scope of targeted site visits:

- More focus on cases in which the petitioner-employer's basic business information cannot be verified through commercially available data.
- H-1B dependent petitioner-employers who have a high ratio of H-1B workers compared to U.S. workers; and
- Petitioned-for employees who work offsite at another company or organization's location.

During a ASVVP or targeted site visit, FDNS may perform one, or a combination of the following:

- Research in government and commercial databases and public records
- Internet searches of open-source information (e.g., records of tax liens, court documents)
- Searches of social media sites
- File reviews, telephone calls, and site visits
- Interviews of petitioners, beneficiaries, and others; and
- Administrative subpoenas, requests for assistance (from other agencies), and overseas verifications



Information collected through commercial data, public records, social media websites, and publicly available data is used to validate information provided in the filed petition. Although USCIS will not deny or revoke benefits solely based on publicly available information, FDNS provides USCIS with information found through these methods in the compliance report. This in turn is used in formulating Requests for Evidence (RFE), Notices of Intent to Deny (NOID), and Notices of Intent to Revoke (NOIR).

What Happens in an FDNS Visit?

The FDNS program may conduct unannounced visits to an H1B employer's primary place of business or client site, as indicated on Form I-129. These visits typically last for an hour or less, on average.

During H1B site visits, FDNS officers usually verify the information provided in a particular immigration petition, even if the employer has filed multiple H1B petitions. While H1B site visits usually occur after petition adjudication, it is not uncommon for them to take place before the adjudication. This is particularly true for H1B extension applications filed with the same H1B employer.

Line of Enquiry

Officers typically have a set line of enquiry but can go way beyond it if they suspect non-compliance. It mainly focuses on three general areas: scope of work, compensation, and control. The officers need to document what the employee does, how much they are paid, and to whom they report.

Before a site visit

All documentation related to scope of work, compensation and control should be in place, along with additional information about the petition. Organize public and private access files of the petitioned employees. In most cases there is no advance notice, so stay prepared.

During the site visit FDNS officers will:

- Verify information submitted with the petition, including supporting documentation
- Submitted by the petitioner-employer
- Verify the existence of the petitioning entity
- Review public records and information on the petitioning organization
- Take digital photos
- Review documents
- Speak with organizational representatives to confirm the petitioned-for employee's work location, employment workspace, hours, salary, duties, and overall employer-employee relationship
- Speak with the petitioned-for employee.



FDNS officers could also demand additional documentation about employer and beneficiary:

- Petitioned-for employee's pay stubs and W-2 forms
- Pay stubs for employees supervised by the petitioned-for employee, if any
- Organizational chart for the related foreign organization (L-1 site visits);
- Company wage and tax documentation; or
- Contracts, statements of work and/or agreements between the petitioner-employer and an end-client, if the petitioned-for employee is placed offsite.

After the site visit

The officer will submit a **Compliance Review Report** to the corresponding supervisor with all the documented information. USCIS reviews this report for any indicators of fraud or noncompliance. FDNS could refer the case to U.S. ICE for criminal investigation. A NOIR (Notice of Intent to Revoke) may be issued to the employer if USCIS comes across any discrepancies in the data submitted.



Preparing for a FDNS Site Visit

Companies could follow these best practices to stay prepared for such visits:

- Follow compliance guidelines closely and organize paperwork appropriately.
- Have a response plan in place for site visits.
- Provide a copy of the petition to the beneficiary so he/she know all details.
- If the petitioned-for employee has been placed at an end client location, the end client should be notified about the possibility of a site visit and how to respond to it.
- Provide accurate information to the FDNS officer. Ask for additional time if you need to collate information, but do not give false information.
- Conduct internal audits periodically to check preparedness
- Participate voluntarily during FDNS visits and respond to queries
- Stay prepared with details about the tasks and assignments the employee will carry out during training and how those tasks relate to the employee's STEM degree.
- Keep all petition related documentation organized and easily accessible.

Petitioners can prepare their employees by getting them to be ready with answers for all the above questions. It would also be a good practice to share all petition related information with beneficiaries, so they know how to respond to related questions.

FDNS officers can directly interrogate the employee to corroborate petition information by asking any or all the following questions:

- What are your Job duties?
- What are your qualifications?
- What are your terms of employment? Since when you were employed?
- What is your job title?
- How many hours do you work per week / month?
- Where do you exactly work in terms of locations?
- What is manager's name?
- Who do you work with on a day-to-day basis for getting work?
- Who does your performance appraisals?
- When were you hired by the company?
- What is your Salary? Show recent paystubs.
- Provide copy of LCA
- Are you paid on time and every month?
- Request to meet HR or current manager and verify all the details that you have said are same.
- Have you paid for the H1B Petition? If so, how much?

Responding to an FDNS Site Visit

It is advisable for companies that have an attorney firm filing their H-1B petitions to have their legal counsel present during FDNS visits. An attorney can better address any inquiries made by the officer regarding the job position, duties, salary, work location, and other pertinent details. Moreover, all filed Labor Condition Applications (LCAs), supporting documents, and other relevant information will be well-organized and easily accessible, as attorney firms typically prepare for such visits.

If the officer requests information that is not immediately available, the employer can collaborate with their attorney to provide the necessary details quickly. Additionally, the attorney can offer guidance to the petitioner on observations made in the **Compliance Review Report**, particularly if it identifies any fraud or noncompliance indicators and potential solutions. If the employer receives a **Notice of Intent to Revoke (NOIR)**, seeking legal counsel may be the only recourse.



Limiting your Chances of an FDNS Site Visit

Companies can limit chances of an FDNS visit by adopting a technology solution that takes care of onboarding employees and in the process covers all compliance requirements.

Imagility Compliance module helps HR teams record and track all compliance data in one place, ensuring smooth operations and a stress-free experience during audits. This helps HR teams maintain global talent without any immigration or compliance anxiety.

Imagility provides comprehensive compliance support and helps you be in a state of preparedness.

- 1 **Private and public access files** of employees available under a single menu
- 2 **All supporting documentation** submitted with the petition available anytime
- 3 **Any additional documents** or information needed can be collated from petitioner or beneficiary profiles
- 4 **FAQs** that provide support to prepare for an FDNS visit



Support for Tracking Visits

- 1 **In-person visit:** Beneficiary and petitioner can record visit details through Imagility
- 2 **Email:** All additional information requested in any follow-up communication from USCIS can be easily pulled from profile information.
- 3 **Recording FDNS visits on Imagility:** and bring them to closure, in case of any pending actions.

Appendix

List of questions for Beneficiary

Q Does the Beneficiary work in the work site mentioned as per LCA or not?

A Beneficiary needs to provide the work location address details.

- Sometimes FDNS visits the work location to verify
- If beneficiary is not available, FDNS will call petitioner asking work location address.

Q Will FDNS ask for LCA?

A Beneficiary shows LCA if available, else, beneficiary can email LCA at a later point of time.

Q What is the pay salary the beneficiary gets?

A Beneficiary will provide the pay stub, FDNS will verify wage claimed in LCA

Q Is beneficiary getting salary on time?

A Beneficiary will provide the pay stub.

Q Can you show additional document like below:

- Approval Notice
- Offer Letter
- W2

Q Has the beneficiary paid any amount to petitioner? (for sponsoring visa)

A No

Q How long have you been working for this employer?

A Work Experience

Q How may hrs. does the beneficiary work?

A 40hrs/week

Q Any extra hours the beneficiary works?

A As per the pay stub if it contains any extra working hrs. \$ salary

Q Who is beneficiary's reporting manager or supervisor at petitioner?

A Supervisor Name

Q Who is beneficiary's reporting manager at 3rd party client company?

A 3rd party reporting manager

Q What is the current designation?

A Job title

Q What are the skills you work with?

A Tool & Technologies

Q What are the job duties?

A List Duties

Q How many members are in your team / project?

A Project staffing

Q If client project, what is the project period?

A Position details

Appendix

List of questions for Petitioner

After talking to the beneficiary, the FDNS officer can contact the Petitioner, to verify Beneficiary details with the Petitioner. The FDNS officer will cross-verify answers or evidence the beneficiary has provided with the petitioner and may additionally ask specific questions.

- 1 Is this beneficiary an employee of the Petitioner?
- 2 What is the beneficiary's joining date with the petitioner?
- 3 What is the beneficiary job title?
- 4 What are the beneficiary's job duties?
- 5 Can you provide beneficiary project details?
- 6 Can you show beneficiary paystubs?
- 7 What is the frequency of pay?
- 8 Who is the reporting POC?
 - Petitioner supervisor
 - Client reporting manager
- 9 Provide work location address details.
- 10 Provide beneficiary contact details.
- 11 Show approved LCA document.
- 12 Can you show additional documents?
 - Contract Document / Agreements b/w middle vendor until end client
 - 3rd party Client/ Middle vendor/ Petitioner
 - Purchase order
 - SOW

Sales:
Phone: 617-865-8444
Email: sales@imagility.co

Support:
Phone: 617-865-8444
Email: support@imagility.co

Address:
125 Cambridge Park Drive
Cambridge, MA 02140, USA