



Offload Immigration Compliance

Trust Us with Immigration Responsibilities

Introduction

For some US visas like the H-1b and H-3 employment visas, employers are required to fulfil employer obligations as part of having access and using the H-1b program. With increased scrutiny from the USCIS, it is even more important to meet compliance requirements once an H-1B visa is issued.

Make sure you are complying with the following:

- Terms of the underlying Labor Condition Applications (LCAs) that you have filed with the U.S. Department of Labor (DOL)
- Location of employment is the same as mentioned in the LCA
- Prevailing wage rate of similarly employed individuals, mentioned in the LCA
- Wages paid to the visa holder as mentioned in the LCA
- Prepared and maintained the required H-1B public access file for each H-1B visa employee
- Sent notification to DOL and USCIS if you have terminated an H-1B worker or if he/she left employment.
- Maintained I-9 forms for all H-1B employees.
- State of readiness for on-site audit by DOL or USCIS.

Imagility provides access to all elements, as required, for each visa program including LCA filing and posting, public & private access files, maintaining I-9 Forms and more.

I-9 Compliance

Employers must maintain I-9 documentation correctly, else the Immigration and Customs Enforcement (ICE) will slap a hefty fine for non-compliance. Some common I-9 processing errors that Employers must avoid:

1. Incorrect or Missing Forms

Incorrect dates, missing signatures, transposed information, incomplete forms, incorrect document codes and incomplete check boxes are some common I-9 documentation mistakes. A completed form can also be completely misplaced while filing.

2. Out of Compliance with the Three-Day Rule

The employee must complete section one of the form, provide identification documents, and have those documents verified by the employer, all within three business days. If an employer fails to meet the three-day deadline, it could result in hefty fines.

3. Failure to Re-verify

It is the employers' responsibility to track and update the employee's supporting I-9 documentation, especially for employees with citizenship status. It is extremely time-consuming to manually track the expiration dates for supporting documentation and remind workers to provide updated documents on time and is prone to errors.

4. Invalid Identifying Documents

Hiring managers may slip on checking all necessary documents that are presented and valid. If an employer fails to obtain the right combination of identifying documents from lists A or lists B and C, then the I-9 documentation will be considered incomplete, and the employer is subject to fines.

5. Improper Document Maintenance

Employers need not maintain I-9 forms one year after the date of termination or 3 years after the date of hire, whichever is greater. Removing outdated I-9 forms within the stipulated time frame is mandatory, else the employer will be subject to fines.

6. Lack of Supporting Documentation for E-verify Photo Matching

For passports, passport cards, permanent resident cards and employee authorization cards the E-verify system requires employers to compare the document photo with an onscreen photo as an additional security measure. Employers are required to maintain a copy of the employee's photo identification as a supporting I-9 document.

I-9 Compliance through Imagility

Imagility I-9, an intuitive Form I-9 compliance solution that can be directly accessed online or through an integration with your existing HR or payroll system. Imagility I-9 helps to ensure actual compliance with current employment eligibility legal requirements and helps to streamline your entire I-9 process for both onsite and remote employees.

Top Features

Accessibility & Ease-of-Use

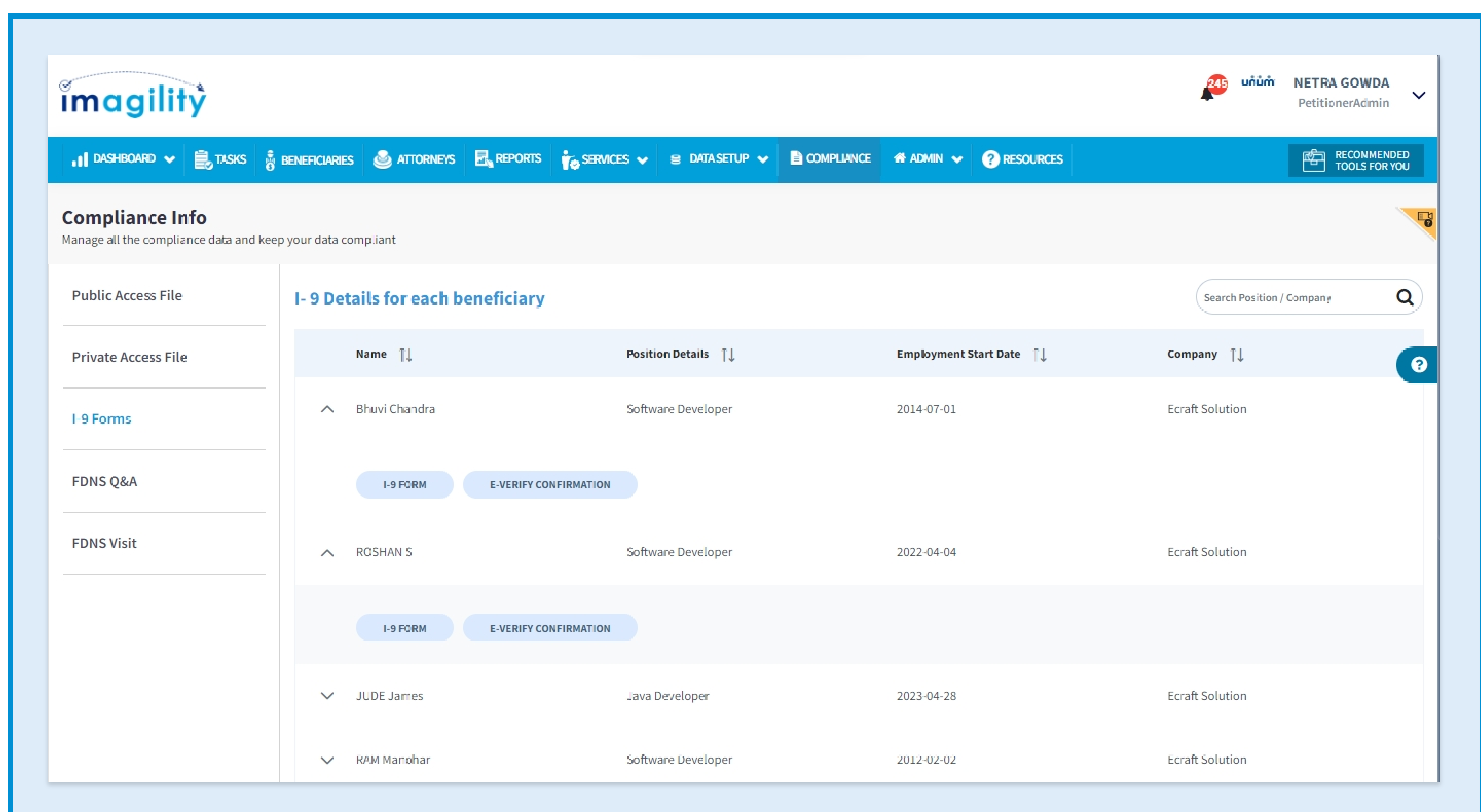
Easy-to-use workflows and reporting, efficient tracking from anywhere, being cloud-based. For organizations operating across multiple locations, it's a great advantage.

Automated Workflows

Includes easy employee onboarding, tracking expiration dates of I-9 forms with automatic notifications and enablement of digital signatures for I-9 forms.

Document Uploading

Employers can upload scanned documents directly into their databases. This ensures that all necessary documentation is always readily available without any risk of paper documents being misplaced or lost.





Secure Storage

Employers can store their documents securely under the Public Access Files menu. Folders with relevant documents for each beneficiary will be available for easy access.

Remote I-9 Agents

Access a national network of I-9 agents or build your own network of agents who can be onboarded to the platform to verify I-9 documents (upcoming).

Mobile Friendly

Imagility I-9 is mobile-friendly and responsive for use on virtually any device. Employers can track and manage I-9 forms on the go easily.

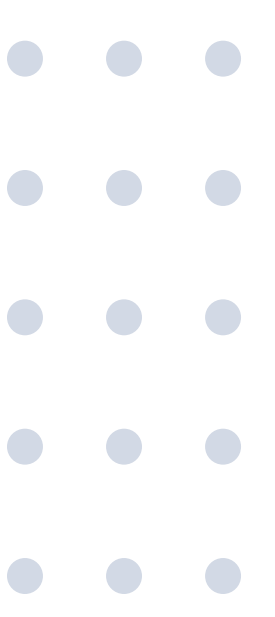
API Integrations

API integrations play a crucial role in enabling seamless communication and data exchange between different software systems. Imagility does this through single sign-on (SSO) and upcoming integration with HR or Payroll systems.

Reports

Employers can generate comprehensive reports that consolidate relevant data and present it in a structured format with details such as employee verification statuses, document expiration dates, compliance metrics, and audit trail information.

Through automation, Imagility I-9 solution offers increased security and reduced risk for employers for efficient I-9 Compliance management.



H-1B Compliance

H-1B compliance includes complying to H-1B duration rules, extension rules, maintaining public and private access files, post LCA at worksite, maintain wage level, update government agencies of material changes and notify in case of termination.

Filing and Posting LCAs

- Before filing for an LCA, the employer is required to post a notice to all employees at worksites identified in the LCA.
- This notice needs to be physically posted or sent electronically. Not following this will be considered as a level one violation and could attract a fine of a thousand dollars for each violation.
- The LCA lists the location where the H-1B employee will work. The employee is allowed to work only at the location mentioned in the LCA. If there is a change of work location, the employer needs to file for a new LCA and comply with the notice and other documentation.

Public Access Files

Maintaining a public access file is an integral part of complying with H-1B laws. This is meant to be a public inspection file that can be audited, along with payroll records to make sure the foreign worker is being paid the wage stated in the application. Public access files must be maintained for a period of one year beyond the last date on which any H-1B nonimmigrant was employed under the labor condition application.

The screenshot displays the Imagility H-1B compliance dashboard. The top navigation bar includes 'DASHBOARD', 'TASKS', 'BENEFICIARIES', 'ATTORNEYS', 'REPORTS', 'SERVICES', 'DATASETUP', 'COMPLIANCE', 'ADMIN', and 'RESOURCES'. The user is logged in as 'NETRA GOWDA, PetitionerAdmin'. The main content area is titled 'Compliance Info' and contains a 'List of LCA' table. A search bar is present above the table. Below the table is a summary table for 'LCA' with the following data:

Category	Count
New Employment	1
Continuation of Employment	0
Change In Employment	0
New Concurrent Employment	0
Change In Employer	0
Amended Petition	0

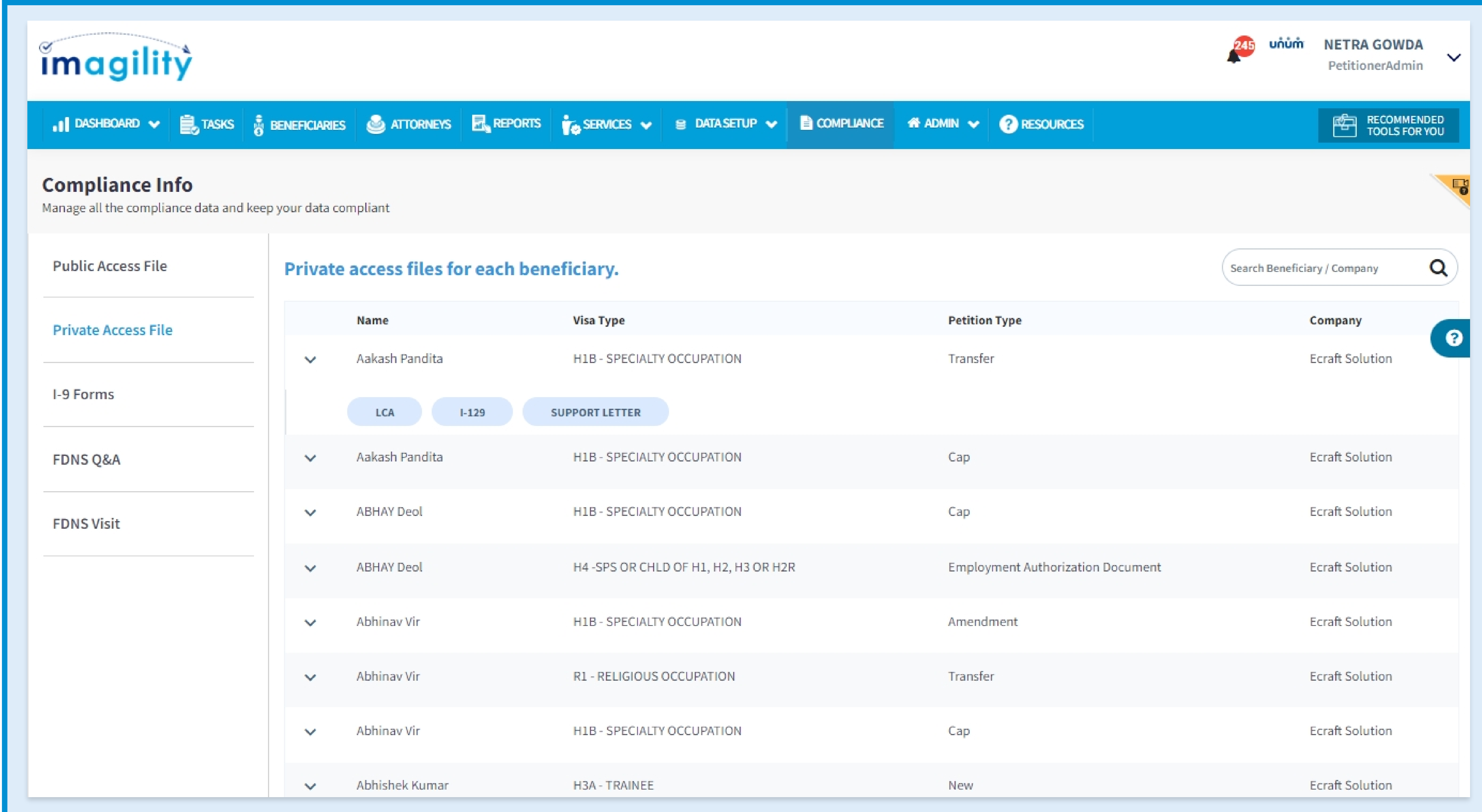
The 'List of LCA' table has the following columns: ID, Case No., SOC Job Title, SOC Code, Visa Type, Company Name, Start, End, Status, and Withdrawn. The table contains three rows of data:

ID	Case No.	SOC Job Title	SOC Code	Visa Type	Company Name	Start	End	Status	Withdrawn
465	G-100-12345-123465	Software Developer	15-1252.00	H1-B	Ecraft Solution	22-Jun-2023	11-Jun-2024	Assign	
314	I-200-00000-000000	Software Developer	15-1132.00	E3	Ecraft Solution	01-Oct-2022	31-Mar-2024	Assign	

The Private Access File

The H-1B employer needs to maintain a private file containing documents for every H-1B worker. It needs to submit this file to the Department of Labor or USCIS in case of an audit. The private access file should contain:

- Proof of the employer posting the labor condition application for ten business days in two locations at the worksite.
- Written acknowledgement or other proof that the beneficiary received a copy of the labor condition application no later than the first day of work.
- The specific salary data the employer used to calculate the actual wages.



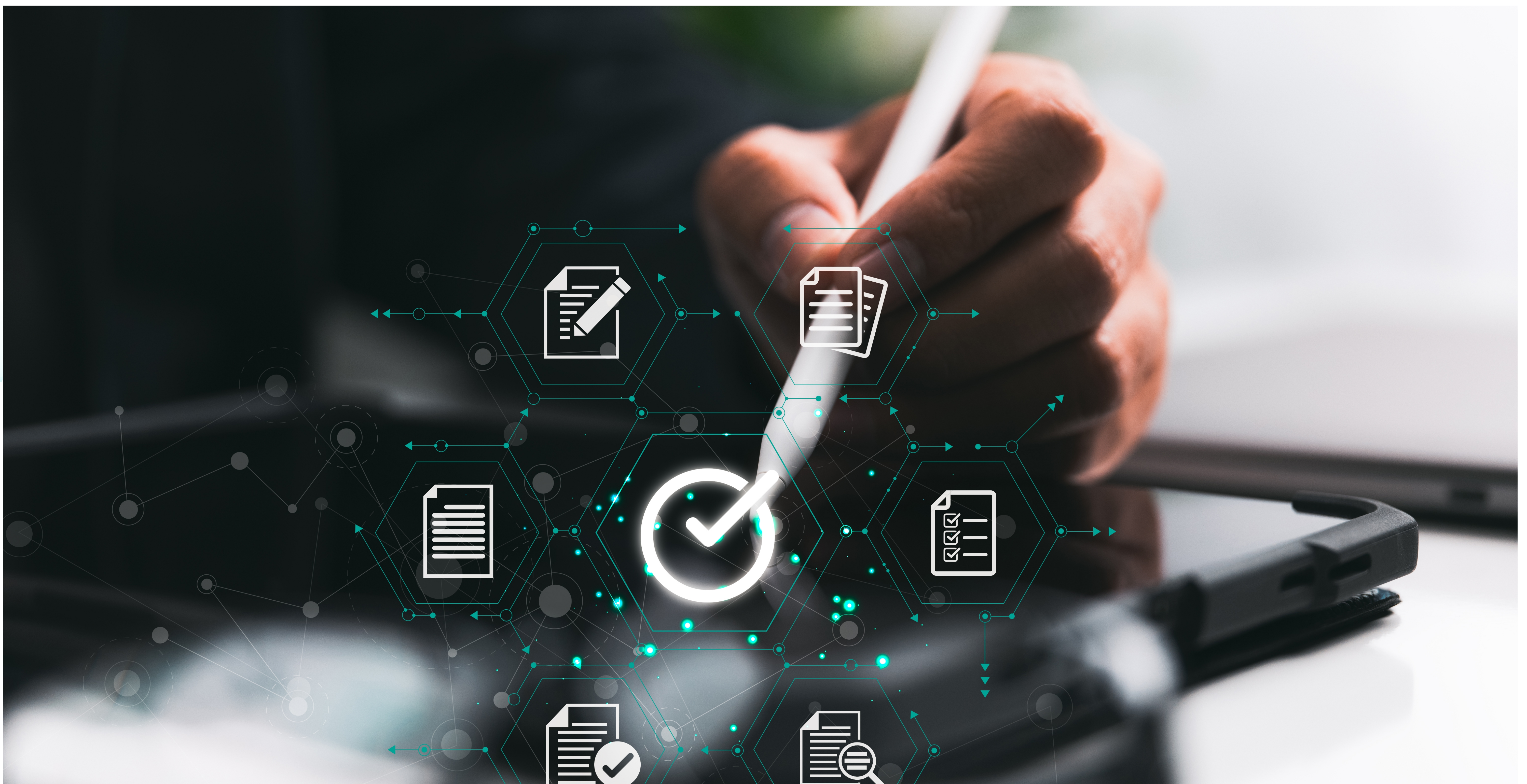
The screenshot displays the Imagility web application interface. The top navigation bar includes the Imagility logo, a user profile for 'NETRA GOWDA' (PetitionerAdmin), and a menu with options like DASHBOARD, TASKS, BENEFICIARIES, ATTORNEYS, REPORTS, SERVICES, DATA SETUP, COMPLIANCE, ADMIN, and RESOURCES. The main content area is titled 'Compliance Info' and contains a sidebar with links for 'Public Access File', 'Private Access File', 'I-9 Forms', 'FDNS Q&A', and 'FDNS Visit'. The main panel shows 'Private access files for each beneficiary.' with a search bar and a table of beneficiary data.

Name	Visa Type	Petition Type	Company
▼ Aakash Pandita	H1B - SPECIALTY OCCUPATION	Transfer	Ecraft Solution
LCA I-129 SUPPORT LETTER			
▼ Aakash Pandita	H1B - SPECIALTY OCCUPATION	Cap	Ecraft Solution
▼ ABHAY Deol	H1B - SPECIALTY OCCUPATION	Cap	Ecraft Solution
▼ ABHAY Deol	H4 - SPS OR CHLD OF H1, H2, H3 OR H2R	Employment Authorization Document	Ecraft Solution
▼ Abhinav Vir	H1B - SPECIALTY OCCUPATION	Amendment	Ecraft Solution
▼ Abhinav Vir	R1 - RELIGIOUS OCCUPATION	Transfer	Ecraft Solution
▼ Abhinav Vir	H1B - SPECIALTY OCCUPATION	Cap	Ecraft Solution
▼ Abhishek Kumar	H3A - TRAINEE	New	Ecraft Solution

The employer need not allow any member of the public to view these documents or reveal their existence if they demand to see the private access files.

Checklist of documents to be included in the PAF

- 1 **A copy of the completed labor condition application** with instructions (Form ETA-9035 with Form ETA 9035CP) – if filed electronically, the employer should retain the original signed LCA in the public access file.
- 2 **Documentation showing the wage rate paid to the H 1B worker** – meaning the precise wage paid to the H-1B worker in actual salary and not an estimate.
- 3 A full, clear explanation of the system the employer used to set the “actual wage.”
- 4 A full, clear explanation of the system the employer used to set the “prevailing wage.”
- 5 Proof of satisfying union/employee notification requirements – for non-union positions this means the posting notice.
- 6 A summary statement of benefits offered to US workers and H-1B workers.



LCA Compliance through Imagility

Imagility lets you easily post electronic LCAs for your H-1B, H-1B1 and E-3 hires, create corresponding electronic PAFs, and comply with U.S. Department of Labour regulations all in one place.

- Create and manage LCAs on the platform.
- Track availability of LCAs and posting acknowledgement.

Public and Private Access Files on Imagility

Imagility takes care of storing public access files (PAFs) and private access files securely in one place, with appropriate access controls, helping you always stay audit ready.

- **Public Access Files** includes all LCA details with related documents like wage determination, US Workforce notification etc.
- **Private Access Files** include lists of all Beneficiaries, Company, Visa, and Petition type details.



FDNS Visits

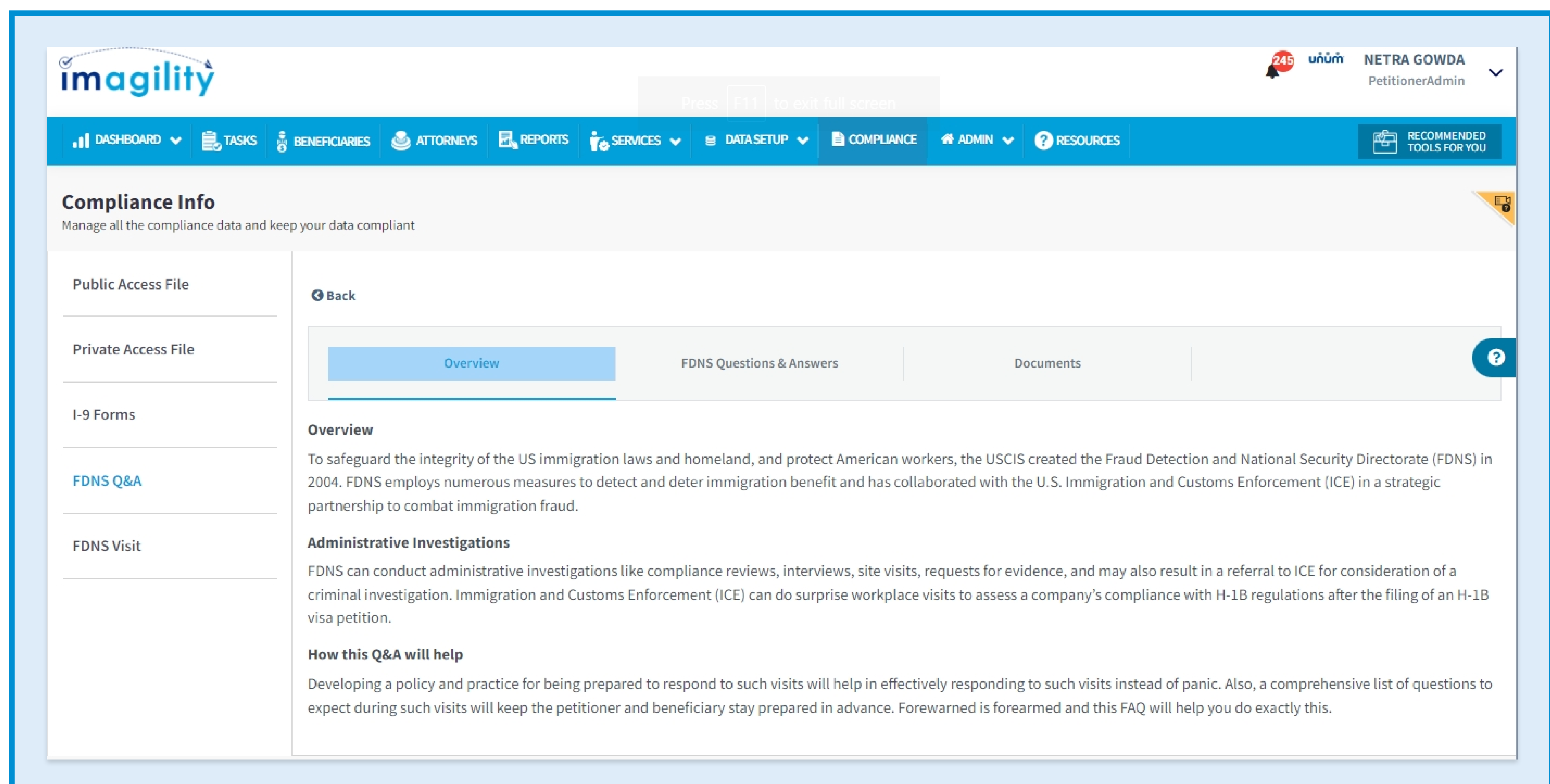
FDNS conducts site visits to verify information and documentation submitted with certain visa petitions (compliance review).

Types of petitions subject to site visits

- H-1B petitions (after adjudication)
- L-1 petitions (after adjudication)
- EB-5 immigrant investor program visas (before adjudication)
- Religious worker petitions (before and after adjudication)
- F-1 STEM OPT Trainees

Site visits are voluntary, but cooperation is strongly recommended. FDNS conducts both random and targeted site visits:

- to verify information provided in the petitions filed with USCIS was valid,
- to ensure the employer has not misrepresented any information, and
- to verify if the employee is performing services in a manner that is consistent with what was represented in the petition.








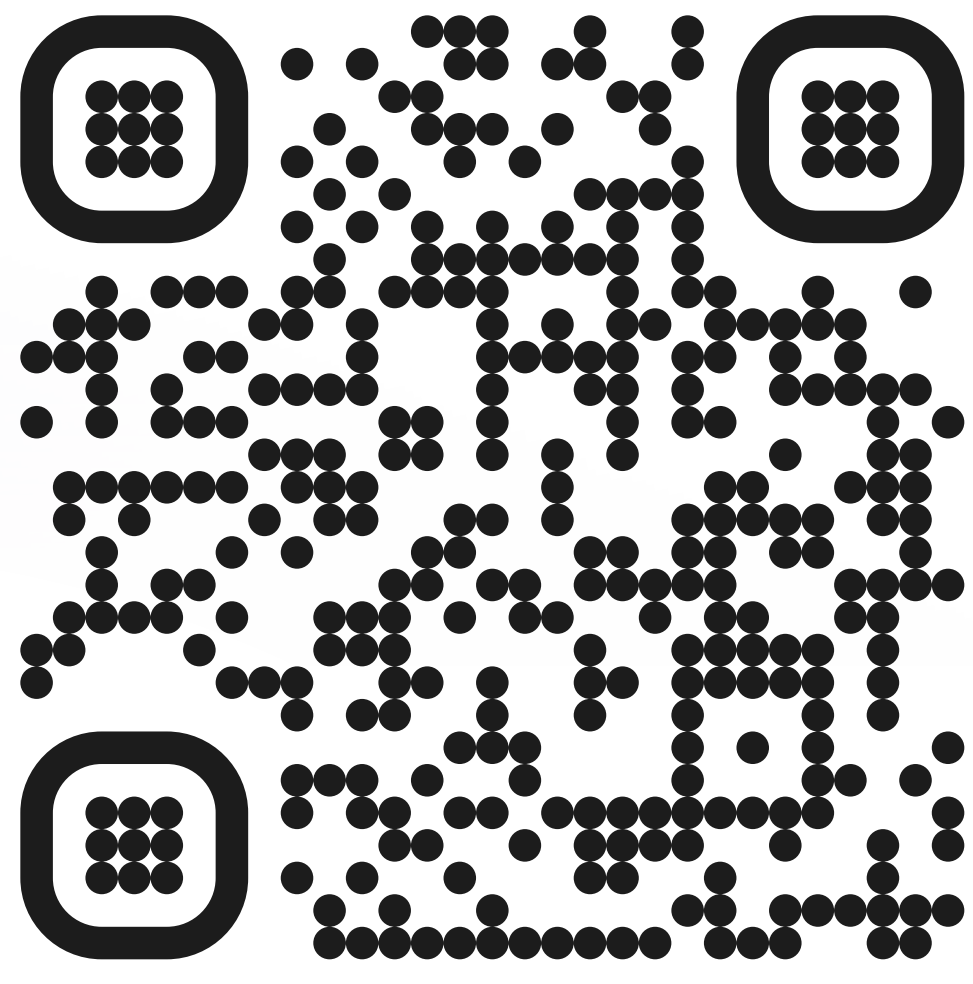
Best practices to stay prepared

- 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.

Imagility covers FDNS Visits

Imagility covers FDNS information along with keeping track of FDNS visits, with any pending action items to be completed.

-  **Private and public access files** of employees available under a single menu
-  **All supporting documentation** submitted with the petition available anytime
-  **Any additional documents** or information needed can be collated from petitioner or beneficiary profiles
-  **FAQs** that provide support to prepare for a FDNS visit
-  **Visit details** can be entered by Beneficiary and petitioner. All pending items can be brought to closure.



www.imagility.co

About **Imagility**

Imagility is a cloud-based immigration platform which is enabled for many visa types. It is a comprehensive software, bundling all immigration, case, and practice management features, that any attorney might need. It directly impacts the bottom line of the practice, freeing up more time to cater to a larger number of clients and improving operational efficiency. We believe that one size fits one and therefore offer the Imagility Operating System – the ability to evolve with USCIS policy changes, going beyond immigration, with additional automation and intelligence.

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