

Remarks – US Chamber, Labor Relations Committee – May 4, 2018

Introduction:

- Thank you to the U.S. Chamber and members of your Labor Relations Committee for the invitation to speak with you today.
- I am happy to be here to share USCIS' goals and priorities as they relate to employment-based immigration issues, as well as listen to your concerns.
- I have served as Director of USCIS since October 2017, but I have served USCIS and DHS for years, as both an attorney and as a policy advisor.
- As Director, I believe that USCIS answers to the American people who look to us to ensure that we carry out our mission in a legal, fair, and transparent manner.
- The American people, through Congress, have entrusted USCIS with the stewardship of our legal immigration programs that allow foreign nationals to visit, work, live, and seek refuge in the United States.
- When I began as Director, I made it very clear that USCIS would make policy through a very thoughtful and deliberative regulatory process. From time to time, we do have to update policies via memorandum and provide guidance to the field on what the law and regulations allow or not allow.
- But, I am committed to making sure the policies we make are done in a fair and transparent manner, and they are consistent with the law.
- We are working to update regulations and we're undertaking a thoughtful review of all employment-based immigration programs.
- I understand you have asked a number of specific questions about H-1B petitions involving third party worksites. I intended to come and provide clarity and answers to your questions. That said, pending litigation prevents me from elaborating on the "contracts and itineraries" memo. I cannot get

into details of that memo with you today, but I hope to be able to generally shed light on the agency's work and the issues you raised.

- I also thought I would offer a general overview of the agenda at USCIS, particularly as it applies to employment based immigration issues.
- And I want to leave some time at the end to hear from you.

Unified Agenda and BAHA:

- As you know, President Trump was elected with a promise to focus on the economy, to promote opportunities for American workers and to reform many of our immigration policies.
- On April 18, 2017, President Trump signed the Buy American and Hire American Executive Order which, among other things, seeks to:
 - Create higher wages and employment rates for U.S. workers and to protect their economic interests by rigorously enforcing and administering our immigration laws; and
 - Directs the Department of Homeland Security, in coordination with other agencies, to advance policies to help ensure that H-1B visas (temporary nonimmigrant specialty occupation visas) are awarded to the most-skilled or highest-paid beneficiaries.
- To implement the Buy American, Hire American Order, U.S. Citizenship and Immigration Services is presently working on a combination of regulations, policy memoranda, operational changes, and enhanced fraud detection efforts.
- Regarding regulations, USCIS, like every agency, publishes their agenda on reginfo.gov for the public to see.
- New regulatory actions related to employment based immigration announced in the Office of Information and Regulatory Affairs Unified Agenda include the following:

- Registration Requirement for Petitioners Seeking To File H-1B Petitions on Behalf of Cap-Subject Aliens
 - Rescission of International Entrepreneur Rule
 - Strengthening the H-1B Nonimmigrant Visa Classification Program
 - Removing H-4 Dependent Spouses from the Class of Aliens Eligible for Employment Authorization.
- As I said, USCIS is evaluating all employment-based immigration categories – including the E, H-1B, H-2B, and L-1 visa programs. We’re working with our sister agencies on possible reforms to the B-1 visitor, STEM-OPT, and J-1 exchange visitor programs where employment authorization is available.
 - USCIS created a website devoted to the Buy American and Hire American Executive Order. This webpage contains information on USCIS’ efforts to implement the initiatives.

Fraud and Abuse Prevention and Detection:

- We now have email addresses listed on our agency’s web page which provide easy ways for the public to report fraud and/or abuse:
 - H-1B to ReportH1BAbuse@uscis.dhs.gov
 - H-2B to ReportH2BAbuse@uscis.dhs.gov
 - We are also actively working to enhance our information sharing with the Departments of State, Labor, and Justice. This inter-agency information sharing network will help to combat and prevent immigration fraud and abuse, as well as streamline and improve existing and new processes in our immigration system, including how visas are issued.
- USCIS is also working to enhance our current site visit program to further ensure the integrity of the immigration system.
 - The Fraud Detection and National Security (FDNS) Directorate completed an average of 7,200 compliance site visits annually based on FY14-16 data.

- In April 2017, USCIS announced that FDNS would begin targeted site visits.
- USCIS is also expanding its site visit program to include L-1B petitions. USCIS is initially focusing on employers petitioning for L-1B workers who will primarily work offsite at another company or organization's location to ensure that they are complying with the requirements from the L-1 Visa Reform Act of 2004. These requirements were meant to help prevent United States workers from being displaced by foreign workers.

Questions Regarding H-1B Contracts and Itineraries Memo:

- We have received feedback and questions about the H-1B “Contracts and Itineraries Memo.”
- Because I cannot comment on specifics related to that memo due to litigation, I would like to offer an over-arching response to the questions you have raised.
- Generally, in order to establish that a beneficiary is eligible for H-1B classification for the validity period sought, petitioners must provide USCIS adjudicators with sufficient documentation to make this determination.
- Petitioners are required to file an itinerary in support of a petition that requires services to be performed in more than one location. The itinerary must include the dates and locations of the services to be provided. This isn't a new policy or a new requirement. It's in our regulations and has been for some time.
- So if *the question* is how much or what type of corroborating evidence is needed to demonstrate eligibility for the period sought, the *answer* is: enough information for an adjudicator to make a determination based on the evidence provided.
- I don't mean to avoid a specific answer but each case is unique and, in any event, due to the litigation, I cannot comment on the questions provided.

- I expect most of your members do an excellent job submitting complete petitions and providing the needed information.

Conclusion:

- Whether it's new guidance or new regulations, we are guided by the notion that we must serve the American people and do more to protect U.S. workers' jobs and wages.
- The goal of our agency's work is really to protect the integrity of our immigration system.
- We can do that by protecting workers and preventing possible fraud or abuse.
- Ultimately, these reforms aim at modernizing our employment-based immigration programs, and making sure they operate appropriately for generations to come.
- So, again, I appreciate the invitation to be here today.
- I am happy to take your questions.