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Department of Homeland Security
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Submitted via www.regulations.gov

Re: Regulatory Proposal for Modernizing H–1B Requirements, Providing Flexibility in the F–1 Program, and Program Improvements Affecting Other Nonimmigrant Workers - Initial Comment on Proposed Changes to H-1B Registration Process at 8 CFR 214.2(h)(8)(iii).

DHS Docket Number: USCIS-2023-005

Dear Mr. Nimick,

As immigration lawyers with decades of experience in matters involving the H-1B visa classification, including its related statutory, regulatory, policy, and case law underpinnings, we submit the following in response to the Department of Homeland Security's ("DHS") notice of proposed rulemaking entitled "Modernizing H-1B Requirements, Providing Flexibility in the F-1 Program, and Program Improvements Affecting Other Nonimmigrant Workers" ("the NPRM" or "Proposed Rule") published on October 23, 2023. We support DHS's initiative to modernize the H-1B classification and appreciate the proposed enhancements that offer increased flexibility for both petitioners and beneficiaries, as well as the measures aimed at reinforcing the program's integrity.

At the same time, we are deeply concerned by the NPRM's provisions that seek to codify and expand the scope of U.S. Citizenship and Immigration Services' ("USCIS") site visit program, and accordingly focus this comment specifically on those concerns.

The Final H-1B Rule Should Contain No Site Visit Provision

The NPRM proposes a codification and dramatic expansion of its site visit program as part of its H-1B modernization rule. We maintain, however, that whether USCIS assigns its Fraud Detection and National Security (FDNS) Directorate to conduct site visits or tasks other officials within the agency,[1] any on-site inspections of physical facilities maintained by H-1B petitioners or third

[1] The NPRM does not expressly state in the proposed rule that FDNS will be the unit within USCIS to conduct site visits, yet it refers to the historic role of this directorate to engage in on-site physical inspections of businesses and

parties, or visits to the residences of H-1B beneficiaries, are and remain clearly unlawful under the Homeland Security Act (HSA).[2] Moreover, as will be shown, we believe that DHS did not properly comply with Executive Order (EO) 12988, Civil Justice Reform (February 5, 1996), in promulgating the proposed rule because the site visit program will undoubtedly trigger costly litigation and foreseeably lead to the issuance of a judicial order prohibiting on-site physical inspections.

The proposal to codify USCIS's authority to conduct site visits is *ultra vires* because, as will be shown, USCIS lacks the authority to conduct immigration-related investigative and intelligence-gathering activities. DHS and USCIS should instead narrowly circumscribe and limit the scope of FDNS's activities to lawful intra-agency review of government databases, public records, and evidence accompanying the petition as a means to verify the information provided in a petition. Accordingly, we urge DHS and USCIS to propose a new rule that correctly identifies the role and responsibilities of FDNS, thereby avoiding needless litigation, providing a clear legal standard, and promoting simplification and burden reduction consistent with EO 12988.

While USCIS deserves to be commended, *inter alia*, for one of its avowed purposes in publishing the NPRM, namely, to improve "program integrity," the proper remedy for combatting fraud and noncompliance is for investigations and law enforcement activities to be performed by DHS component agencies with the statutory mandate for performing enforcement and investigative actions. Program integrity, we submit, must include the requirement that USCIS will itself engage solely in activities that comply with applicable law, including the HSA.

A. Under the HSA the role of USCIS is limited to solely adjudicative functions.

In the aftermath of the tragic attacks of September 11, 2001, President George W. Bush signed the HSA, abolishing the legacy Immigration and Naturalization Service (INS).[3] HSA tasked the Secretary of the newly created DHS with broad responsibilities, including immigration-related investigation, intelligence-gathering, law enforcement, immigration-benefits adjudication, and policy formulation.[4] The HSA thus created distinct component agencies under DHS to perform these separate functions.[5] Specifically, HSA § 451 transferred from the legacy INS to the newly created Bureau of the Citizenship and Immigration Services (now USCIS) the following functions:

> (1) **Adjudications** of immigrant visa petitions.
> (2) **Adjudications** of naturalization petitions.
> (3) **Adjudications** of asylum and refugee applications.
> (4) **Adjudications** performed at service centers.
> (5) All other **adjudications** performed by the Immigration and Naturalization Service immediately before the effective date specified in [the HSA]. (Emphasis added.)

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residences. For this reason, we will refer to FDNS in this comment as the presumed agency unit tasked with site visits.

[2] Pub. L. No. 107–296, 116 Stat. 2135, enacted November 25, 2002, accessible at https://www.dhs.gov/xlibrary/assets/hr_5005_enr.pdf (last visited November 9, 2023).

[3] 6 U.S.C. § 291(a).

[4] 6 U.S.C. § 202.

[5] 6 U.S.C. § 271.

In addition, HSA § 441(b) transferred from INS to two new DHS component agencies, now known as U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP), the following immigration enforcement responsibilities:

> (1) The Border Patrol program.
> (2) The detention and removal program.
> (3) The **intelligence** program.
> (4) The **investigations** program.
> (5) The **inspections** program. (Emphasis added.)

While HSA § 1502 extended broad authority to the President to reorganize the new DHS, HSA § 471(b) nevertheless expressly prohibited the President from recombining the DHS components or functions into a single agency. HSA § 471(b), in relevant part, states:

> The authority provided by [HSA] section 1502 [6 U.S.C. § 542] may be used to reorganize functions or organizational units within the Bureau of Border Security or the Bureau of Citizenship and Immigration Services, **but may not be used to recombine the two bureaus into a single agency or otherwise to combine, join, or consolidate functions or organizational units of the two bureaus with each other**. (Emphasis added.)

Correspondingly, HSA § 476, codified at 6 U.S. Code § 296, established separate accounts for each of the component immigration agencies to be used for respective appropriated funds, and also proscribed in subsection (d) the transfer of fees between the DHS component agencies. Thus, the HSA requires immigration-related adjudications to be performed by USCIS, and for intelligence gathering, investigations, and inspections to be conducted by ICE and CBP. This act of Congress separating the responsibilities of adjudication from investigation, intelligence gathering, and inspections was a response to the prevailing criticisms that legacy INS was inherently flawed and tasked with conflicting missions, namely, engaging in investigations and deportations on the one hand, and immigration-benefits adjudication responsibilities on the other.[6]

[6] *See*, *e.g.*, contemporary critiques of INS before HSA's enactment, Demetrios G. Papademetriou, T. Alexander Aleinikoff, and Deborah Waller Meyers, *Reorganizing the U.S. Immigration Function: Toward a New Framework for Accountability* (1998) (describing the need for a demarcation between immigration enforcement and immigration services) (accessible at: https://www.brookings.edu/book/reorganizing-the-u-s-immigration-function/)(last visited November 9, 2023); Demetrios G. Papademetriou and Deborah Waller Meyers, *Reconcilable Differences? An Evaluation of Current INS Restructuring Proposals*, Policy Brief, Migration Policy Institute (June 2002) (analyzing two legislative and two Executive Branch INS-restructuring proposals proposals) (accessible at: https://www.migrationpolicy.org/sites/default/files/publications/200206_PB.pdf)(last visited December 21, 2023). *See* Angelo A. Paparelli, "USCIS's Fraud Detection and National Security Directorate Less Legitimate Than Inspector Clouseau, But Without the Savoir Faire," 1 *AILA Law Journal* 57 (April 2019), AILA Doc. No. 19042441.

In evaluating the meaning of the functions tasked to DHS component agencies, the plain language definition of "adjudicate,"[7] "intelligence,"[8] "investigations,"[9] and "inspections"[10] make clear that "adjudicate" cannot be used interchangeably with the remaining three.

In this respect, "adjudication" for the purposes of HSA § 451(b) should be interpreted to mean the impartial decision-making based on facts presented as evidence before a tribunal and the application of law to the facts.[11] "Investigate," the gathering of "intelligence," and "inspection" as used in HSA § 441(b) should be read as the proactive, affirmative pursuit of intelligence, regardless of source, not constrained to the adjudicative tribunal.[12] Thus, "adjudication" should be based on the evidence submitted to the tribunal (in this case, USCIS), and extrinsic evidence should be limited to publicly available information, such as current events, contents of official documents outside the record, acts that can be accurately and readily determined from official government sources and whose accuracy is not disputed, or undisputed facts contained in the record.[13] While there may be a limited consultative role for FDNS, no statute overrides HSA § 471(b) prohibition on the separation of adjudication from inspection, investigation, and enforcement.[14]

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[7] "Meaning of adjudicate in English," The Cambridge Dictionary, (2023), Cambridge University Press, accessible at https://dictionary.cambridge.org/us/dictionary/english/adjudicate (last visited December 21, 2023)("to act as judge in a competition or argument, or to make a formal decision about something:

A panel of expert judges has been appointed to adjudicate the community service awards.").

[8] "Meaning of intelligence in English," The Cambridge Dictionary, (2023), Cambridge University Press, accessible at https://dictionary.cambridge.org/us/dictionary/english/intelligence (last visited December 21, 2023)("secret information about the governments of other countries, especially enemy governments, or a group of people who collect and deal with this information:

the Central Intelligence Agency
military intelligence
intelligence that They received intelligence (reports) that the factory was a target for the bombing.").

[9] "Meaning of investigate in English," The Cambridge Dictionary, (2023), Cambridge University Press, accessible at https://dictionary.cambridge.org/us/dictionary/english/investigate (last visited December 21, 2023)("to examine a crime, problem, statement, etc. carefully, especially to discover the truth:

Police are investigating allegations of corruption involving senior executives. We are of course investigating how an error like this could have occurred.").

[10] "Meaning of inspection in English," The Cambridge Dictionary, (2023), Cambridge University Press, accessible at https://dictionary.cambridge.org/us/dictionary/english/inspection (last visited December 21, 2023)("the act of looking at something carefully, or an official visit to a building or organization to check that everything is correct and legal:

on closer inspection:
Her passport seemed legitimate, but on closer inspection, it was found to have been altered.

carry out/make an inspection:

She arrived to carry out/make a health and safety inspection of the building.").

[11] Brief for the Alliance of Business Immigration Lawyers, Inc., as Amicus Curiae, p. 10, Immigrant Legal Resource Center, *et al.* v. Chad F. Wolf, *et al.*, Case No. 4:30-cv-05883-JSW (2020).

[12] *Id.*

[13] *See Id.*; *see also* 8 C.F.R. § 1003.1(d)(3)(iv).

[14] EB-5 Reform and Integrity Act, P.L. 117-103, Div. BB. (providing for consultative role whether to waive an interview in the adjudication of a petition to remove conditions on residency). *See* 8 U.S.C. § 1186b(d)(3)(B).

Nevertheless, the first DHS Secretary Thomas Ridge disregarded this statutory separation of functions in delegating from DHS to USCIS the "[a]uthority to *investigate* alleged civil and criminal violations of the immigration laws, including but not limited to alleged fraud with respect to applications or determinations within the BCIS [USCIS] and make recommendations for prosecutions . . .." (emphasis added.)[15] Thus, Secretary Ridge's directive, insofar as the transfer of the authority to investigate immigration violations, lacks statutory authority and contradicts the plain language of the HSA. Furthermore, the NPRM's reliance on INA § 235(d)(3)[16] and INA § 287(b)[17] is equally misplaced because the statutory authority set forth relevant to enforcement by the legacy INS, identified as "Service" in the relevant statute, has been transferred to ICE, not USCIS, from DHS.

Regrettably, DHS's misconstruing of its authority to delegate investigative responsibilities to USCIS continues to this day, and FDNS continued investigative activities represent USCIS's misguided and unlawful enforcement efforts. In relevant part, FDNS publicly identifies four mission functions:[18]

1. Detect, deter, and administratively **investigate** immigration-related fraud.
2. Establish guidance and oversee processes for identifying, reviewing, vetting, and adjudicating cases involving national security concerns.
3. **Develop and implement efficient screening policies, programs, and procedures**.
4. Serve as USCIS' primary conduit for information **sharing and collaboration with law enforcement and the Intelligence Community**. (Emphasis added.)

Thus, FDNS immigration *investigative* and *enforcement* activities are *ultra vires*, and its continued investigative and enforcement activities funded through USCIS filing fees violates HSA § 476 by unlawfully diverting USCIS funds earmarked for *adjudication*.

B. NPRM's codification of site visits is unlawful because the proposed rule comprises investigative activities reserved for DHS component agencies other than USCIS.

While USCIS (and FDNS) may engage in lawful compliance review, "including, for example, by researching information in government databases or by reviewing public records and evidence accompanying the petition,"[19] the proposed codification of FDNS site-visit activities unlawfully exceeds that narrowly defined boundary.

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[15] Thomas Ridge, *Department of Homeland Security Delegation Number: 0150.1 Delegation to The Bureau of Citizenship and Immigration Services,* June 5, 2003, (accessible at: https://www.hsdl.org/?view&did=234775)(last visited December 21, 2023).
[16] 8 U.S.C. § 1225(d)(3).
[17] 8 U.S.C. § 1357(b).
[18] USCIS, "Fraud Detection and National Security Directorate" https://www.uscis.gov/about-us/organization/directorates-and-program-offices/fraud-detection-and-national-security-directorate (last visited December 21, 2023).
[19] *See* NPRM at 72907 Footnote 146.

The proposed rule codifies FDNS activities as "verifications," "evaluations," and "compliance reviews," but these hair-splitting euphemisms run afoul of the statutory mandate for investigative functions which may be performed only by ICE and CBP.[20] Specifically, the proposed USCIS rule reflects a non-exhaustive list of law enforcement rather than adjudicative activities (i.e., intelligence gathering, investigations, and inspections):[21]

> electronic **validation** of a petitioner's or third party's basic business information; **visits** to the petitioner's or third party's facilities; **interviews** with the petitioner's or third party's officials; **reviews** of the petitioner's or third party's records related to compliance with immigration laws and regulations; and **interviews** with any other individuals possessing pertinent information, as determined by USCIS [. . .]; and **reviews** of any other records that USCIS may lawfully obtain and that it considers pertinent to verify facts related to the adjudication of the H- 1B petition, such as facts relating to the petitioner's and beneficiary's H-1B eligibility and compliance. (Emphasis added.)

Thus, while USCIS may engage in lawful actions to *adjudicate* immigration-benefits requests, its continued performance of *investigations, intelligence gathering,* and *inspections*, whether under FDNS's current unlawful practice, or under the proposed rule, exceeds the scope of the USCIS's legal authority.

Furthermore, the proposed regulation grants FDNS broad authority concerning the manner in which site visits are conducted, a characteristic of an investigative and enforcement action, as opposed to a measured impartial adjudication. Specifically, according to the proposed site visit regulation, an inspection, evaluation, verification, and compliance review may be "verified by USCIS through lawful means *as determined by USCIS*, including telephonic and electronic verifications and onsite inspections."[22] (Italics added.) Given that the proposed rule is a codification of current FDNS practice, we voice our concern that historically FDNS site inspection questions have gone far beyond the scope of information provided in the H-1B petition filing or basic publicly available information.

C. The NPRM lacks elementary procedural-due-process safeguards to assure USCIS's adjudication of H-1B petitions is fair and just.

We observe that immigration-related investigations and enforcement in the context of Labor Condition Applications (LCAs), I-9s, and immigration-related employment discrimination establish a clear procedural framework involving the issuance of formal notice preceding any investigations, save for limited exceptions.[23] Yet, and perhaps an indication that USCIS intends to

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[20] *See* NPRM at 72943 ("Using its general authority, USCIS may conduct audits, on-site inspections, reviews, or **investigations** to ensure that a beneficiary is entitled to the benefits sought and that all laws have been complied with before and after approval of such benefits.") (Emphasis added; footnote omitted.)

[21] Proposed 8 C.F.R. §214.2(h)(4)(i)(B)(2)(i).

[22] *Id*.

[23] *Cf.* 20 C.F.R. § 655.800 (involving DOL's Wage and Hour Division notice preceding investigation in the context of LCA enforcement); 8 C.F.R. § 274a.9 (involving ICE notice preceding investigation in the context of Form I-9 investigation); and 28 C.F.R. § 44 (involving Immigrant and Employee Rights Section [IER] notice preceding investigation of alleged unfair or discriminatory immigration-related employment practice).

mask this rule as an *adjudication*, NPRM offers no procedural safeguard involving the provision of formal notice before a site visit takes place.

By comparison, for site visits associated with F-1 students in a 24-month extension of post-completion OPT for a science, technology, engineering, or mathematics (STEM) degree, the regulation establishes a 48-hour advance notice to be issued by ICE.[24] Regrettably, the present NPRM provides no advance notice. Furthermore, our extensive experience reflects inconsistent FDNS-issued deadlines associated with site visits, not to mention unrealistic and burdensome impromptu immediate deadlines imposed by FDNS that ignore business realities and are patently unfair.

The proposed rule also contravenes procedural due process by authorizing site inspections to take place "in the absence of the employer or the employer's representatives." The NPRM identifies a supposed "chilling effect on the ability of the interviewed worker to speak freely and, in turn, impede the Government's ability to ensure compliance."[25] The NPRM overlooks the interviewed worker's interest in having counsel who may represent both the interviewed worker as well as the employer during the inspection. It also disregards the fact that the H-1B petition contains evidence, including financial data and corporate policy statements presented by the employer, under the employer's signature – matters about which the H-1B beneficiary may have no knowledge.

D. USCIS has no authority in conducting a site visit to force the H-1B petitioner, a customer or client of the petitioner, the H-1B beneficiary, or other third party, by threatening the denial or revocation of an H-1B petition.

In an effort to establish a clear disincentive for a refusal or failure to fully cooperate with site inspections through the perceived threat of an H-1B petition denial or revocation, the NPRM dispenses with fundamental due process and unfairly penalizes law-abiding employers and H-1B workers. Such failure or refusal to cooperate may be well beyond the control of the petitioning organization or the H-1B beneficiary, especially in the context of site visits involving the third-party placement of the H-1B worker.

We maintain that the NPRM's reliance on INA § 235(d)(3) as purported authority to conduct site visits involving H-1B petitioners, beneficiaries and third parties is misplaced. While this statute authorizes any immigration officer to "administer oaths and to take and consider evidence of or from any person . . . concerning any matter which is material and relevant to the enforcement of this Act [the INA] and the administration of the Service," the provision is not self-executing. The very next section, INA § 235(d)(4)(A) and (B), makes clear that an administrative subpoena is necessary, and that "in the event of neglect or refusal to respond to a subpoena," or "testify," then the proper remedy is to "invoke the aid of any court of the United States."

Thus, the proper remedy if an H-1B petitioner or beneficiary, or a third party refuses to cooperate with an FDNS officer during a site visit is assuredly not the denial or revocation of an H-1B

[24] *See* 8 C.F.R. § 214.2(f)(10)(ii)(C)(11)(establishing 48-hour advance notice unless visit is triggered by complaint or other evidence of noncompliance). *Cf.* 8 C.F.R. § 214.2(r)(16); and 8 C.F.R. § 204.5(m)(12)("The inspection may include a tour of the organization's facilities, an interview with the organization's officials, a review of selected organization records relating to compliance with immigration laws and regulations, and an interview with any other individuals or review of any other records that the USCIS considers pertinent to the integrity of the organization") with proposed 8 C.F.R. § 214.2(h)(4)(i)(B)(2)(ii).

[25] *See* NPRM at 72908.

petition. Rather, USCIS must seek the aid of a federal court to enforce the demand for cooperation in a formal judicial proceeding where the third party might lawfully request that the subpoena be quashed. Clearly, therefore, we maintain that USCIS does not in the course of a site visit possess the unfettered authority to interrogate or demand evidence of anyone, and particularly, a third party that did not sign the H-1B petition.

Even so, the NPRM's bias of suspected fraud leads to unnecessary penalties against otherwise law-abiding but helpless H-1B employers and beneficiaries. In fact, site visit interviewees report the alarm caused by unannounced FDNS in-person inspections. In our view, the sudden government intrusion may cause a greater chilling effect than the presence of a petitioning organization's representative. This NPRM bias ignores the potential "chilling effect" of a government-initiated site visit that is in fact an investigative action.

While the inspection, according to the NPRM, may be conducted "at a neutral location agreed to by the interviewee and USCIS away from the employer's property" for the purpose of encouraging the interviewee to speak more freely, the "agreement" under duress may not afford any meaningful choice for the interviewee when the threat of an H-1B petition denial or revocation exists.[26]

Accordingly, DHS should address due process concerns and bar FDNS from engaging in site visits which are in essence nothing less than investigative and enforcement actions.

E. NPRM's public burden estimate is unreliable because it is based upon inconclusive assumptions drawn from flawed and/or unpublished data.

The NPRM wrongly assumes that a site visit will only involve the H-1B beneficiary and his/her on-site supervisor or manager.[27] In the NPRM's economic burden estimate, USCIS offers the sweeping conclusion that the total spent time with these two individuals would be limited to 1.08 hours for each site visit – split evenly between an H-1B beneficiary and supervisor. Yet, this assumption is flawed because a site visit often involves – in addition to the beneficiary's and his/her manager – coordination with the petitioning organization's Human Resources (HR) personnel, its Immigration Department, and its internal legal department, and not merely the beneficiary's functional manager. Furthermore, these corporate officials quite properly might seek assistance from the organization's external immigration counsel in responding to a site visit. Moreover, in the context of a third-party placement of an H-1B beneficiary, a site visit may also involve the third-party's very same types of corporate officials as well as the third-party's point of contact with the H-1B beneficiary.

The modern-day business reality is that different stakeholders are involved with the employment of an H-1B employee – with each stakeholder having access to a portion of the information necessary to address the predictable demands of an FDNS officer during a site visit. The NPRM's estimate of the burden associated with a site visit is likely to be the low-end and far smaller than the aggregate time spent by these collective immigration stakeholders. Furthermore, the assumption that the 1.08 hours should be evenly split between the beneficiary and his/her manager is also without a persuasive factual basis. For these reasons, we urge USCIS to make a more accurate burden estimate of its proposed site visit program and allow further public comment on the revised calculation before a site visit regulation is finalized.

[26] *Id*.
[27] *See* NPRM at 72945.

F. The NPRM omits and conflates key data relied on by USCIS to support its site visit program.

The NPRM fails to provide adequate data to support its claim regarding noncompliance and/or fraud. Specifically, discussions in the NPRM relating to alleged historical noncompliance uncovered through FDNS's site visits is replete with references to "Summary of H-1B Site Visit Data,"[28] and yet, the NPRMs fails to provide any raw data/statistics (redacted for personally identifiable information) relating to the specific cause that resulted in a finding of noncompliance or fraud or cite to published data. The public cannot meaningfully comment on findings of fraud and noncompliance claimed in the NPRM when that very data upon which NPRM relies upon remain hidden from the public.

The NPRM also conflates asserted instances of "noncompliance" with legal requirements, on the one hand, and "fraud," on the other, by lumping the two into one category even though the two presumably involve different liability triggers.[29] Moreover, there is no explanation offered in the NPRM as to the number of petitions which actually resulted in denial or revocation following the noncompliance/fraud finding. (For example, a comparison of H-1B petition denials/revocations during a comparable period between those petitions subject to a site visit that received a "compliant" determination versus those also subject to a site visit but instead received a "noncompliant/fraudulent" determination will provide a meaningful comparison.) As such, we have serious concern that the NPRM's seemingly flawed and unpublished data analysis may have unjustifiably contributed to this misguided site visit proposal.

G. The NPRM violates Executive Order 12988 for failure to provide a rule that would minimize litigation, provide a clear legal standard, and promote simplification and burden reduction.

E.O. 12988 requires the agency promulgating any new proposed regulation to endeavor to minimize litigation, provide a clear legal standard for affected conduct rather than a general standard, and promote simplification and burden reduction.[30] Yet, the NPRM unlawfully proposes to task USCIS with investigative authority reserved to ICE and misappropriate funds reserved for USCIS adjudication instead of immigration-related investigations, intelligence gathering and law enforcement. As a result, the proposed rule will likely result in litigation.[31] The proposed rule also contradicts E.O. 12988 by unnecessarily delaying the USCIS H-1B petition adjudication timeframe by adding a site visit component.[32] As set forth above, enforcement should be reserved for other DHS component agencies, not USCIS, and the proposed codification is far from the just and efficient administrative adjudication process contemplated by E.O. 12988.

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[28] *See* NPRM at 72944 Footnote 203-205; and 72945-72946, passim.
[29] *See* NPRM Tables 42 and 43 at 72945.
[30] Executive Order 12988 at Sec. 3(a).
[31] Indeed, litigation has already occurred challenging the legality of FDNS site visits. *See*, Brief for the Alliance of Business Immigration Lawyers, Inc., as Amicus Curiae, Immigrant Legal Resource Center, *et al.* v. Chad F. Wolf, *et al.*, Case No. 4:30-cv-05883-JSW (2020) – a case in which a federal district court enjoined a prior US EIS filing fee rule on other grounds.
[32] *See Id*. at Sec. 4(b).

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For the foregoing reasons, we recommend that USCIS revise the proposed regulation by eliminating the on-site inspection provisions of the NPRM, and circumscribing and limiting the scope of FDNS activities to intra-agency review of governmental and public records and evidence accompanying the H-1B petition in a manner that fully complies with the HSA.

In closing, we trust that the insights and viewpoints shared in our comment will be beneficial to your continued endeavors to enhance and modernize the H-1B visa classification. We appreciate the dedication and effort put into drafting this Proposed Rule, as well as your attention to our feedback and suggestions. We look forward to the further development and ultimate issuance of this rule in its final form.

Sincerely,

Vic Goel

Angelo Paparelli

Youngwook (Christian) Park