



GMS Flash Alert

Immigration Edition

2019-142 | September 11, 2019



United States - Inspections Relating to STEM OPT Workers

It has come to our attention that U.S. employers are reporting site visits by U.S. Immigration and Customs Enforcement (ICE) agents to assess compliance with STEM Optional Practical Training (OPT) regulations as they pertain to F-1 trainee employees. These visits are unprecedented, as ICE has not previously conducted on-site inspections relating to STEM OPT employment.

Employers of F-1 student trainees working pursuant to STEM OPT need to be aware of possible site visits from ICE and take steps now regarding how to prepare in the event of a site visit.

WHY THIS MATTERS

Since site visits on STEM OPT employment is a new government initiative, this action by ICE could catch many U.S. employers off-guard. ICE inspections may occur at the employer's offices and any other locations where F-1 STEM OPT trainees are assigned to work, including third-party client sites.

If ICE finds that an employer is out of compliance with STEM OPT requirements, the agency may terminate STEM OPT employment authorization. Also, ICE may take action on any other immigration-related infractions that come to light during a site visit relating to STEM OPT. This could create employment interruption and hardship for employers and these trainees.

Further Details on Site Visits

Site inspections by ICE generally involve a review of a STEM OPT trainee's work schedule, work-space, assigned duties, salary, skills in relation to her/his STEM degree, and progress against her/his training plan. If the F-1 STEM OPT trainee is

working off-site, then ICE will likely wish to confirm that the employer is still complying with STEM OPT requirements related to supervision and control over the F-1 trainee’s day-to-day work.

ICE normally provides an employer with 48 hours’ notice via email prior to a site inspection; however, the agency is not required to provide any notice when initiating a site visit in response to a complaint or evidence of failure to adhere to STEM OPT requirements.

KPMG NOTE

Preparations

It is advisable for employers to have a plan in place to handle a site visit. Reception staff should be instructed to request identification of any persons claiming to be acting on behalf of the government, including ICE agents. In addition, reception staff should contact the employer representative(s) scheduled to meet with ICE. The employer representative(s) may ask ICE for permission to have immigration counsel participate in the site visit, either in person or by phone.

KPMG Law LLP Monitoring This Situation

KPMG Law LLP in Canada will continue to monitor updates related to STEM OPT site inspections and will endeavor to keep GMS *Flash Alert* readers informed as developments occur.

FOOTNOTE:

1 For government information on STEM OPT and F-1 students, see the USCIS webpage “[Optional Practical Training \(OPT\) for F-1 Students](#)”.

* * * *

Contact us

For additional information or assistance, please contact your local GMS or People Services professional* or the following professional with the KPMG International member firm in Canada:



Beth Nanton
U.S. Immigration Practice Leader
KPMG Law LLP – Tax + Immigration, Canada
Tel. +1-604-691-3316
bnanton@kpmg.ca



Chelsea Hsieh
Senior Manager/Attorney, U.S. Immigration
KPMG Law LLP – Tax + Immigration, Canada
Tel. +1-416-943-7874
chelseahsiehkpmg.ca

** Please note that KPMG LLP (U.S.) does not provide any immigration services or legal services. However, KPMG Law LLP in Canada can assist clients with U.S. immigration matters.*

The information contained in this newsletter was submitted by the KPMG International member firm in Canada.

© 2019 KPMG Law LLP, a tax and immigration law firm affiliated with KPMG LLP, each of which is a Canadian limited liability partnership. KPMG LLP is a Canadian limited liability partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative (“KPMG International”), a Swiss entity. All rights reserved.

www.kpmg.com

kpmg.com/socialmedia



© 2019 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative (“KPMG International”), a Swiss entity. All rights reserved. Printed in the U.S.A. NDPPS 530159

The KPMG name and logo are registered trademarks or trademarks of KPMG International.

The KPMG logo and name are trademarks of KPMG International. KPMG International is a Swiss cooperative that serves as a coordinating entity for a network of independent member firms. KPMG International provides no audit or other client services. Such services are provided solely by member firms in their respective geographic areas. KPMG International and its member firms are legally distinct and separate entities. They are not and nothing contained herein shall be construed to place these entities in the relationship of parents, subsidiaries, agents, partners, or joint venturers. No member firm has any authority (actual, apparent, implied or otherwise) to obligate or bind KPMG International or any member firm in any manner whatsoever. The information contained in herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

Flash Alert is a GMS publication of KPMG LLP’s Washington National Tax practice. To view this publication or recent prior issues online, please click [here](#). To learn more about our GMS practice, please visit us on the Internet: click [here](#) or go to <http://www.kpmg.com>.