Minding Your Hs and Ls

43rd Annual Conference on Immigration and Nationality Law

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Department of Legal Affairs, Office of International Affairs

RFEs: The Smell of Burning Popcorn

The sharp escalation of RFE rates in H-1B adjudications requires a different approach from the outset of a case to get the best results.

- Setting client expectations appropriately
- Extra attention to what is or is not included in an initial filing
- Preparing the filing with potential litigation in mind

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Whose Form Is It Anyway?

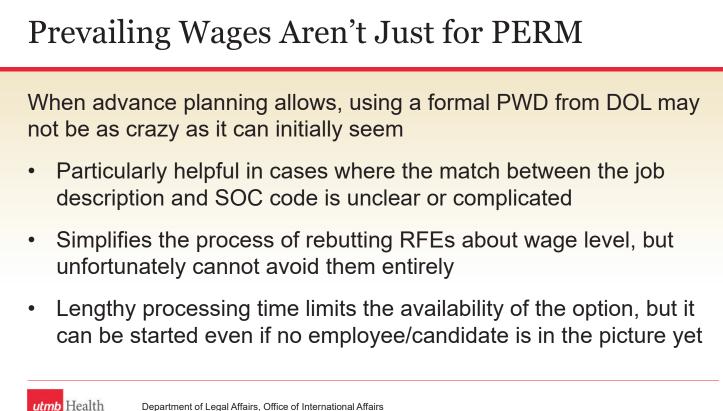
DOL may be responsible for creating and processing the Labor Condition Application forms, but USCIS isn't overly concerned about respecting the DOL's turf

- RFEs targeting LCA-centric issues like appropriateness of wage levels are encouraged
- Some adjudicators don't appear to understand the LCA form layout and instructions
- USCIS also tends to cherry-pick DOL reference materials even when their plain meaning is unhelpful to them

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