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H-1B Employee, telecommuting/working from home

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Submitted by Chief Editor on Aug 5th 2015

I entered US on Jan 2011 on F-1 Visa, completed my Masters and am now working for a reputed US organization since May 2012(OPT start date: May 2012, H-1B start date:Oct 2012. H-1B till: Oct 2017). My work does not require me to go to office, so I work from Home. Now I am planning to visit India next year and get my Visa stamped.

My Questions are

1. Can telecommuting job cause any issue during Visa stamping? I heard someone was asked "if you can work from home, why can't you work from India?? The organization I am working for has offices in India.
2. Do I need any extra evidence to prove that I am telecommuting, therefore not within commuting distance from my office?
3. I am married. Would you suggest going alone to India for Visa stamping and in case of rejection comeback on H-4 or will it be good to go as a family. My husband is also on H-1B

ANSWER:

See clip from Attorney Rajiv S. Khanna's conference call video that addresses this question.

<https://youtu.be/tSRYmjhoEzA?t=437> ^[2]

FAQ Transcript:

1. The answer is it can. When you have a telecommuting job in most cases what we do is we actually get an LCA for that location. I think that is the proper method to do things. So make sure you have LCA for your home location. You can always come back on H-4 if the H-1 is denied and your husband does not have to go with you. It is not necessary to go as a family but the option of coming back on H-4 is always there.

2. We always get LCA for home location. So if your employers have not obtained LCA for you I think they might need to do an H-1B amendment depending upon the facts of your case. So before you go for visa stamping it would be a good idea to discuss it with your lawyers. In my view the safest thing is to have an LCA and that location specifically approved under the H-1 process.

Nonimmigrant Visas:

[LCA](#) [3]

[H-1 Visa](#) [4]

[H-4 Visa](#) [5]

Unless the context shows otherwise, all answers here were provided by [Rajiv](#) [6] and were compiled and reported by our editorial team from comments and blog on [immigration.com](#) [7]

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