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H-1 without specific job/GC continuation without H-1

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Submitted by Chief Editor on Apr 23rd 2009

ANSWER:

1. I don't have a work order or client letter to support my H1B extension which is expiring on 2nd June. Is it legally not allowed to file for H1B extension without this or to avoid RFE one need to support extension with this.

Ans. USCIS has criminalized civil conduct. To my amazement, I saw a criminal indictment count against an employer (Vision Systems - recently in the news) alleging that to obtain H-1 without a specific job in hand is a crime. I think this is ludicrous overreaching and misuse of law. Nevertheless, it is not a good idea to file an H-1 unless there is a specific job in hand.

2. My labor and I-140 is approved but if H1B extension is denied then I have to go back to India. Can GC processing be continued? If yes, In order to maintain my GC processing how quickly do I need to come back to US? What other options do I have in this scenario?

Ans. The green card can go on in your absence, but I am concerned that USCIS may consider that since there is no permanent job available, the green card should be canceled. To the best of my knowledge, they have never done it so far and may not do it, but the risk remains. Not much I can say other than if you don't have a choice then you have to leave and we will deal with other issues when (or if) they arise.

Unless the context shows otherwise, all answers here were provided by Rajiv ^[2] and were compiled and reported by our editorial team from comments and blog on immigration.com ^[3]

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