



Published on *US Immigration Lawyer, Law Offices of Rajiv S. Khanna, PC, Rajiv S. Khanna* (<https://immigration.com>)

H-1 extension denied - status

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Submitted by Chief Editor on May 5th 2009

ANSWER:

Quote: Hi Rajiv,

Its good to see the way you are providing appropriate answers to our questions. your responses are very helpful for us, specially in this tough time when USCIS is scrutinizing every Non-Immigration case.

I have a situation: My current Employer had applied for my H1B extension in regular processing in January, 09 which was expiring on 29th, April, 2009. They got a query, asking for agreement between me and the employer and agreement between my employer and 'ULTIMATE END CLIENT' and complete itenary of services. When, my employer applied for extension in Jan, I was working for a project in CA, and they submitted LCA showing, CA as my work place. But, by the time, they got RFE, my CA project was ended and i got another project in TX. Then, they replied to RFE under premium processing along with new LCA showing, TX as my work place. On 22nd April 09, USCIS denied my extension saying, they cannot accept new LCA with an old dated I-129. I had filed for my H1B extension with a new employer and USCIS received my application as of 27th April, 09. But now my new employer also got a RFE.

Note: My I-94 is expiring on 09th May, 09. According to this, I can legally stay in country.

Ans. This situation is a bit complicated. Do get together with your lawyers. I am giving you the advice that I can based upon what I see. The good thing about your situation is that you did not start working with a new employer. Since you continued working with the old employer, a strong argument can be made that you are still in status (despite the change in locations). When your employer (new or old) files an extension; that, if timely filed, keeps you in authorized stay and gives you permission to continue working for 240 days.

Quote: My question is:

Since my new employer got an RFE, now I will not have a decision on my H1 Transfer before 9th May, can I stay untill I get any decision?

Ans. Yes, you can stay.

Quote: If, I start working for my new employer and suppose I get a denial from them, will the duration I work for them will be legal?

Ans. Yes.

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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