

ALERTS

USCIS Clarifies Position on AC21 H-1B Extensions

01.2018

This week, USCIS clarified that it is not considering changing its interpretation of the H-1B extension of status provisions offered in the American Competitiveness in the Twenty First Century Act (AC21).

AC21 has two provisions, sections 104(c) and 106(a), which allow H-1B workers currently in the permanent residency "green card" process to extend their status beyond the six-year regulatory limitation on H-1B status. Such extensions are provided in one- and three-year increments, and only provided for H-1B visa holders who have reached certain milestones in the green card process.

On December 30, 2017, it was reported that CIS was considering a change in their interpretation of the AC21 provisions for H-1B extensions. These reports caused concern with H-1B workers and their employers as these are widely-used provisions, offering H-1B workers the ability to remain in the U.S. and work while navigating the often long and complicated permanent residency process.

However on January 8, 2018, CIS indicated that it is not considering a regulatory change to the AC21 provisions impacting H-1B extensions.

While CIS has clarified their position on these extensions, the Service is in the process of conducting a thorough review of employment-based visa programs, in response to the Trump Administration's "Buy American, Hire American" executive order, and it is anticipated that future changes to policy will be proposed.

If you have any questions regarding H-1B visas or potential changes to this visa program, please contact an MVA Immigration Team Member.