



INS on Validity of Business NIVs

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Validity of Certain Nonimmigrant Visas
July 8, 1997

All District Directors
All Officers-in-Charge
Office of Benefits
Service Center Directors
(HQBEN)
All Port Directors

This office has received a number of inquiries from the public and Service officers concerning the validity of certain nonimmigrant visas where the beneficiary changes employers but remains in the same nonimmigrant classification. This issue has generated a substantial amount of correspondence between the Service and the Department of State (DOS). The purpose of this memorandum is to provide you with the current policy of the Service and the DOS with respect to this issue.

The issue arises where, for example, an alien enters the United States as an H-1B nonimmigrant on the basis of a petition filed by "Company A." After commencing employment, the alien receives a more attractive job offer from "Company B." Company B files a new H-1B petition in the alien's behalf which is approved by the INS. The alien then begins employment with Company B. The alien subsequently leaves the United States and then applies for admission as an H-1B nonimmigrant alien to work for Company B presenting the H-1B visa issued to him based on Company A's petition.

Be advised that the current Service and DOS policy is that, in the case of an H, L, O, or P nonimmigrant visa, the visa remains valid during its validity period regardless of a change in the beneficiary's employer. As long as the alien remains in the same nonimmigrant classification, the visa is considered to be valid up until the date of its expiration. An H, L, O, or P nonimmigrant alien who changes employers in the United States, but remains in the same nonimmigrant classification, may use the previously issued visa to apply for admission to the United States if it is still valid.

The policy will continue until further notice. This memorandum relates only to the H, L, O and P nonimmigrant classifications.

In addition, service officers are again reminded that H-1B and L-1 nonimmigrant aliens should be admitted for the validity period of the supporting petition, if otherwise admissible. Officers should not arbitrarily limit the admission period of an H-1B or L-1 nonimmigrant alien.

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