

No proposal to reinterpret H-1B-linked clause, says USCIS

Fears that up to 7,50,000 Indian Americans could be forced to leave the U.S. as the result of possible changes in H-1B visa policy were dispelled this week.

“Even if it were (considering changes to section 104-c), such a change would not likely result in these H-1B visa holders having to leave the United States because employers could request extensions in one-year increments under section 106(a)-(b) of AC-21 instead,” Jonathan Withington, chief of media relations for the U.S. Citizenship and Immigration Services, told *The Hindu* .

The ‘AC-21’ or the ‘American Competitiveness in the Twenty First Century Act’, in its section on three-year extensions, uses the word ‘may’ which could allow some discretion by the executive. However, there is a separate section that allows a one-year extension in which the executive has no discretion. It says that the administration ‘shall’ grant such extensions. The agency said as much on Monday, but also added that there has not been a move at all to reinterpret the clause related to three-year extensions.

However, the USCIS also clarified that it is reviewing the programme, and will come up with changes later this year.

Possible changes

“The agency is considering a number of policy and regulatory changes... including a thorough review of employment-based visa programmes,” said Mr. Withington.

But the administration can change through executive action only those aspects of the H-1B programme that were effected through executive actions. The work permit for spouses of H-1B visa holders and the lottery system that selects beneficiaries are governed by executive decisions.

END

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