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Submitted by Chief Editor on Sep 1st 2009

My 6 year period of H1b visa expires in Dec 2010 and my labor application is still pending for approval. It was filed in February 2009. Am I eligible to apply for a visa extension , if so when should I apply for that? I assume I still have time.

ANSWER:

H-1 extension beyond six years can be obtained under two circumstances:

First, indefinite H-1 extensions in one-year increments can be obtained, if the I-140 (or I-485) was filed and the green card process was started a year ago. The GC process is started for:

- Labor Certification based cases (including PERM) the date for the beginning of the countdown is the date when the labor certification is officially received:
- for PRE PERM cases - by the local office (SWA); and
- for PERM cases - the date it is received by the DOL; and

-EB-1 and National Interest Waiver cases; when the I-140 is officially filed with CIS.

Second, if your I-140 has been approved but you cannot file I-485 because your priority date has retrogressed, you can get H-1 extensions (most probably) in chunks of three years each time.

You are permitted to apply for an extension 6 months ahead of time, as long as you meet one of the above two criteria on the requested start date of H-1.

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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