

## H-1B Amendments: The Times They Are A-Changin'

By [Pam Prather](#)

*If your time to you  
Is worth savin'  
Then you better start swimmin'  
Or you'll sink like a stone  
For the times they are a-changin'.*

Bob Dylan's lyrics in this [song](#) are timeless.

They apply to almost every aspect of our lives, including immigration laws and policy.

The times, they definitely are changing.

Ask any Information Technology (IT) company who places their employees at end-client sites if times have changed and the answer you'll likely get is, YES.

We have been advising H-1B IT employers for quite some time now that a change of location for their employee cannot be ignored when it comes to their status, the Department of Labor, and the conditions of their employment. In the past, companies would simply apply for a new Labor Condition Application (LCA) when an employee moved to a new work location. However, that is not enough.

***It is now imperative that any change or addition of work location MUST be reported to the [USCIS](#) through an actual H1B Amendment.***

EVERY time the employee is moved to a different client, the company needs to notify the USCIS.

With an increase of USCIS site visits, it's getting more and more important that communication with this federal agency be thorough and timely.

Here is a section (all identifying factors have been changed) of a 10-page USCIS "Notice of Intent to Revoke" an already approved H-1B petition AFTER a USCIS site visit, of which we were recently made aware:

*The very nature of your business, locating and placing aliens with computer backgrounds into positions with firms that use computer programmers and/or analysts to complete their projects, is such that multiple employment locations would be expected.*

*In your filing, LCA Case Number I-200-00000-111111 certified on August 9, 2010 for 123 Main Street, Anytown USA, was submitted. No other work locations were noted on the LCA or in any other evidence in the file.*

*However, on March 28, 2011, an administrative site visit was performed at the address listed on the petition as the location where the beneficiary would work. Upon review of the work location address at 123 Main Street, Anytown USA, the site inspector*

*discovered that your company did not exist at that location; and the beneficiary was not working at that address.*

*On July 01, 2011, John Doe, Vice President of ABC Company, sent an email to our office which stated that the beneficiary is scheduled to work on July 10, 2011 at XYZ Company, 789 Side Street, Every City USA. At the time, Mr. Doe emailed a copy of the LCA I-200-00000-222222 which was certified on June 30, 2011 for 789 Side Street, Every City USA. No other locations were noted on the LCA.*

*A search of USCIS records indicates that you did not file another petition on behalf of this beneficiary.*

*As such, the record only contains one valid LCA, LCA Case Number I-200-00000-111111 certified on August 09, 2010 for 123 Main Street, Anytown USA. Since the beneficiary was not found at the location listed on the LCA, and it cannot be determined where the beneficiary is currently working, USCIS has determined that the LCA submitted cannot be considered valid.*

So, this employer did the right thing in filing a new Labor Condition Application after his employee was moved to another End Client pursuant to a new contract. However, the employer did NOT file an H-1B amendment with USCIS.

***A new LCA without an official H-1B amendment can no longer satisfy the USCIS.***

If an employer does not file the amendment, it risks getting a Notice of Intent to Revoke an already approved H-1B petition, as mentioned above. Or, its employee can encounter problems when applying for an H-1B visa at a U.S. Consulate Office abroad.

An H-1B amendment (without an H-1B extension request) only requires a USCIS filing fee of \$325. It's worth the cost, or an employer risks losing the employee and client project.

You should contact an [immigration attorney](#) any time your H1B employee's work conditions change to a degree that might be considered significant. But certainly contact one if the work location changes.

"The times they are a-changin'."