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Change in Job Titles/Duties During Green Card Process

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Submitted by Editor on Dec 5th 2014

I have I-140 approved with title business systems analyst. Promoted to director in the same job profile, H-1B amended to reflect the title but no new PERM filed as was explained by my lawyer that it is OK to have some career progression and more than 50% of job duties are same as old job. Now we are going to go through another re-org and probably I may not have the same title but senior business systems analyst. What are the steps

1. Do we need to file new perm or wait for the new law and apply H-1B reflecting the new title
2. Apply for EAD on the basis of existing I-140 approved as business systems analyst.

Please advice..

ANSWER:

See clip from Attorney Rajiv S. Khanna's conference call video that addresses this question.

<https://www.youtube.com/watch?v=3YV-qIIAEpl#t=8F>[2]

FAQ Transcript

What do I do, if there is change in job title or duties during the Green Card? What happened in this scenario is that he got I-140 approved with title business system analyst, he got promoted to director and his lawyer said that, it's OK to have some career progression and more than 50% of the job duties.

I think we have stated on our website also and I told you that's little optimistic, be careful because there is absolutely no guarantee under today's law, that if your duties changed, you don't have to start new green card process all over again, President Obama has said in his executive order that, they will make it clear through memorandum or regulation. I think it's memorandum that the definition of same or similar job for green card purposes would include those jobs where they are related or the job is in natural progression in a person's career.

But my problem is OK in the context of AC-21, but you are not on AC-21 stage, you are really before that stage. Of course, Obama's is proposal and his executive order goes all the way, things might be different. But as of today a person in your situation, better of starting second Green card process for the higher job and then transferring the priority date. Why take a chance its a few thousand dollars, it's well worth it I would take a chance. If I am your lawyer, I would say look you should start a second green card process, just to be in safe side.

Green Card:

Employment Based Green Cards [3]

Unless the context shows otherwise, all answers here were provided by Rajiv [4] and were compiled and reported by our editorial team from comments and blog on immigration.com [5]

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