The H-1B visa is a cornerstone of U.S. employment-based immigration, allowing skilled workers to contribute their expertise to American businesses. However, career growth often necessitates a job change, and transferring your H-1B visa to a new employer can be a daunting process. This guide provides an educational overview of **H-1B visa transfers**, outlining the steps, legal considerations, and potential challenges for both employees and employers.

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 Latest Update: Big changes to the H-1B program were announced in 2025, including a $100,000 fee for some overseas petitions and rising salary requirements. Read our H-1B 2025 Updates Blog for full details.

What Is an H-1B Visa Transfer?

An H-1B visa transfer allows a foreign worker to change employers without having to reapply for a new visa under the H-1B cap. Instead, the new employer must file a petition with **U.S. Citizenship and Immigration Services (USCIS)** to sponsor the worker. Once the petition is accepted, the employee can begin working for the new employer even before final approval, thanks to the portability provisions of the H-1B visa.

Eligibility for an H-1B Transfer

To be eligible for an H-1B transfer:

1. **Existing H-1B Status**: The employee must currently hold a valid H-1B visa or be within the authorized grace period.
2. **Timely Filing**: The new employer must file a petition with USCIS before the employee starts work.
3. **Same Specialty Occupation**: The new job must qualify as a "specialty occupation" consistent with the original H-1B terms.

Step-by-Step Process for H-1B Visa Transfers

1. Secure a Job Offer from the New Employer

The new employer must provide a formal offer letter specifying the terms of employment.

2. File a Labor Condition Application (LCA)

The employer files an LCA with the Department of Labor (DOL) to demonstrate compliance with wage and working condition standards.

3. Submit Form I-129

The employer files Form I-129, Petition for a Nonimmigrant Worker, with USCIS. Supporting documents typically include:

- A copy of the current H-1B visa.
- Proof of qualifications (e.g., degree certificates).
- Evidence of the job offer and a detailed job description.

4. Work Portability

Under H-1B portability rules, the employee can begin working for the new employer as soon as USCIS receives the transfer petition, even if it is still pending.

5. Await USCIS Decision

Once USCIS approves the petition, the employee's H-1B status is officially transferred to the new employer.

Employer Responsibilities in H-1B Transfers

1. **Compliance with Wage Requirements**
   Employers must meet prevailing wage standards as determined by the DOL.
2. **Filing Accurate Documents**
   Employers must ensure all submitted forms and documents are accurate and complete to avoid delays or denials.
3. **Timely Filing**
   Delays in filing can lead to status gaps, jeopardizing the employee's ability to work legally.

Employee Considerations in H-1B Transfers

1. **Maintain Status**
   Ensure you remain in valid H-1B status until the transfer petition is filed.
2. **Grace Period**
   If you've recently left a job, the 60-day grace period allows you to find new employment and initiate a transfer.
3. **Non-compete Clauses**
   Review your current employment contract for non-compete clauses that may impact your ability to transition to a new job.

Understanding H-1B Visa Costs for Employers

Sponsoring an H-1B visa entails several mandatory fees that employers must bear. As of April 2024, the fee structure is as follows:

- **Electronic Registration Fee**: $215 per beneficiary for cap-subject petitions.
- **Form I-129 Filing Fee**: $780 for most employers; reduced to $460 for small employers (25 or fewer employees) and nonprofits.
- **ACWIA Training Fee**: $750 for employers with 25 or fewer employees; $1,500 for those with more than 25 employees. Certain organizations, such as educational institutions and nonprofit research organizations, may be exempt.
- **Fraud Prevention and Detection Fee**: $500, applicable to new H-1B petitions or when changing employers.

- **Public Law 114-113 Fee**: $4,000 for employers with more than 50 employees, where over half are on H-1B or L-1 visas.

- **Asylum Program Fee**: $600 for employers with 26 or more employees; $300 for those with 25 or fewer employees; nonprofits are exempt.

- **Premium Processing Fee (Optional)**: $2,805 for expedited processing within 15 calendar days.

Additionally, employers should account for legal fees associated with preparing and filing the petition, which can vary based on the complexity of the case and the attorney's rates. Employers must budget for these expenses to ensure compliance and a smooth sponsorship process. (*Source*: *NNU Immigration*)

> *Note: Fee amounts are based on information available as of April 2024 and are subject to change. Employers should consult the USCIS Fee Schedule for the most current information.*

Common Challenges and How to Address Them

1. **Request for Evidence (RFE)**
   USCIS may issue an RFE if the petition lacks sufficient documentation. Respond promptly with the required evidence.
2. **Denials**
   If the transfer petition is denied, the employee must immediately cease working for the new employer. Staying proactive and ensuring thorough documentation reduces this risk.
3. **Processing Delays**
   While premium processing can expedite the approval process, standard processing times may lead to delays.

Legal Framework for H-1B Transfers

The Immigration and Nationality Act (INA) governs the H-1B program, with USCIS overseeing petition approvals. The Department of Labor ensures compliance with wage requirements through the LCA process. These agencies work in tandem to maintain program integrity and protect both workers and employers.

Conclusion

H-1B visa transfers allow foreign professionals to pursue career opportunities while maintaining their immigration status. However, navigating the process requires careful attention to timelines, documentation, and compliance with U.S. immigration laws. Employees and employers can ensure a smooth and successful transition by understanding the steps and potential challenges.

FAQs

Do I need to go through the H-1B lottery again for a transfer?

No, if you already hold a valid H-1B visa, you do not need to go through the lottery again. The transfer process involves filing a new Form I-129 petition with USCIS under the sponsorship of your new employer.

How long does the H-1B visa transfer process take?

Processing times vary, but standard processing can take **2 to 6 months**, depending on USCIS workload. Premium processing is available, which guarantees a response within **15 calendar days** for an additional fee.

Can I start working before my H-1B transfer is approved?

Yes, under H-1B portability rules, you can start working with your new employer as soon as USCIS receives the transfer petition. However, if the petition is denied, you may have to stop working immediately.

What documents are required for an H-1B transfer?

Commonly required documents include:

- Labor Condition Application (LCA) approval from the Department of Labor.
- A valid job offer letter from the new employer.
- A copy of your existing H-1B approval notice (Form I-797).
- Passport and visa copies.
- Most recent pay stubs from your current employer (if applicable).
- Updated resume and educational certificates.

Is there a limit on how many times I can transfer my H-1B visa?

No, there is no limit to how many times you can transfer your H-1B visa, as long as each transfer petition is filed by a new employer and meets all requirements.

Do I need to inform my current employer before transferring my H-1B visa?

Legally, you are not required to inform your current employer before initiating an H-1B transfer. However, if you leave your current job before the transfer is approved and your new petition is denied, you could be out of status.

What happens if my H-1B transfer is denied?

If USCIS denies your H-1B transfer petition and you have already left your previous employer, you may have to leave the U.S. or apply for a status change. If you are still working with your old employer, your current H-1B status remains valid.

Can my spouse continue working under H-4 EAD during my H-1B transfer?

Yes, suppose your spouse has an H-4 visa with a valid Employment Authorization Document (EAD). In that case, they can continue working as long as the EAD remains valid, even during your H-1B transfer process.

Can I transfer my H-1B visa to a part-time job?

Yes, H-1B transfers to part-time jobs are allowed, but the new employer must still comply with all labor and wage requirements set by the Department of Labor (DOL).

Can I travel internationally while my H-1B transfer is pending?

It is generally advisable to avoid international travel while an H-1B transfer is pending. If you must travel, ensure you have a valid visa stamp and that USCIS has received your new petition before departure.

How does the H-1B transfer affect my green card process?

If your previous employer started your green card process (PERM Labor Certification), your new employer will typically need to restart the process unless you are far along and can retain your priority date.

Do I need to attend an interview for an H-1B transfer?

No, most H-1B transfers do not require an in-person interview. However, if you need to travel and obtain a new visa stamp, you may need to attend a visa interview at a U.S. consulate.

Does an H-1B transfer reset my 6-year limit?

No, an H-1B transfer does not reset your 6-year limit. The time spent on H-1B with your previous employer still counts toward your total duration unless you have spent a full year outside the U.S.

Can I file multiple H-1B transfers simultaneously?

Yes, you can file multiple H-1B transfer petitions at the same time. However, once a petition is approved, you must choose which employer you will work for.

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