

H-1B Visa Guidance Sheet

I. Overview of the H-1B Visa:

The H-1B visa is a non-immigrant visa that allows U.S. companies to employ foreign workers in specialty occupations requiring theoretical or technical expertise.

II. Employer Eligibility for H-1B:

To sponsor an H-1B visa, the employer must:

- ❖ Be a U.S. employer offering a specialty occupation.
- ❖ Submit Labor Condition Applications (LCAs) to the Department of Labor.
- ❖ Pay the prevailing wage or the actual wage paid to similarly employed workers, whichever is higher.
- ❖ Not adversely affect the working conditions of U.S. workers in similar positions.

III. How It Functions Employee Eligibility for H-1B:

For an employee to qualify for an H-1B visa:

- ❖ Have a job offer from a U.S. employer in a specialty occupation.
- ❖ Possess a relevant bachelor's degree in a field of study specific to the role, or have the equivalent of a U.S. bachelor's degree based on experience.
- ❖ Meet any additional requirements specific to the job position.

IV. H-1B Transfer:

Employees already holding an H-1B visa can transfer to a new employer by:

- ❖ Obtaining a new job offer from a different U.S. employer.
- ❖ Filing a new H-1B petition with USCIS.
- ❖ Starting work with the new employer upon USCIS receipt and or approval of the petition.

V. H-1B Extension:

An H-1B visa can be extended if:

- ❖ The employer intends to continue employing the visa holder.
- ❖ The employee maintains H-1B status and meets all visa requirements.
- ❖ The employer files for an extension with USCIS before the current H-1B status expiration.

VI. H-1B Change of Status:

Changing from another non-immigrant status to an H-1B visa involves:

- ❖ Obtaining an H-1B job offer from a U.S. employer.
- ❖ Filing an H-1B petition with USCIS requesting a change of status.
- ❖ Starting work upon USCIS approval.

VII. H-1B Lottery:

Due to high demand, the H-1B visa process involves a lottery:

- ❖ USCIS conducts a random selection process if the number of applications exceeds the annual quota (cap).
- ❖ The lottery selects enough petitions to meet the cap for regular and advanced degree exemptions.
- ❖ Petitions not selected are returned, while selected ones move forward for processing.

VIII. Additional Tips:

- ❖ Plan ahead and ensure all documentation is complete and accurate.
- ❖ Stay updated with USCIS announcements and deadlines.
- ❖ Consider consulting an immigration attorney for guidance through the process.

Please Note: This guidance sheet provides a broad overview of the H-1B visa process, but applicants should always refer to official USCIS guidelines and seek legal advice for case specific matters.