

Is it a good idea for laid off H-1B workers to switch to a US tourist visa, and back again?

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Synopsis

When laid-off H-1B workers consider transitioning to B-1/B-2 visitor status for job searching, they gain valuable time and a streamlined process back to H-1B, endorsed by USCIS. This strategic move offers a safety net and opportunity for a successful career transition in the U.S.



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Despite considerable hesitation among laid-off [H-1B workers](#) and potential future employers, changing from H-1B to B visitor status (aka B-1/B-2) and then back to H-1B is a routine procedure with no unforeseen pitfalls. Let's explore the details and why this option is worth considering.

When H-1B workers are laid off, generally, they have a grace period of 60 days to secure a new job, change their status, or depart the United States. One available option is transitioning to [B-1/B-2 visitor status](#), which grants them the ability to stay in the country for up to 6 months while job searching. This extra time can be invaluable in finding the right [employment opportunity](#) without the pressure of an impending deadline.

The [U.S. Citizenship and Immigration Services \(USCIS\)](#) itself recommends B status as an option on a page titled "Options for Nonimmigrant Workers Following Termination of

Employment." It states:

"Other possible nonimmigrant options include student status (F-1) or visitor status (B-1 or B-2)"

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This establishes that changing to B status is not an extraordinary or mysterious process but rather a standard option endorsed by the USCIS. The fact that the USCIS unambiguously suggests this route should reassure those considering it. Changing back from B approved or B pending status is similarly tried and tested.

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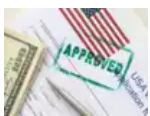
In March 2023, the USCIS instituted a new policy to prioritize adjudicating a pending B-1/B-2 [change of status](#) application if the applicant's new employer files an H-1B petition with [premium processing](#). This allows the H-1B to be swiftly approved without waiting for the B-1/B-2 decision, enabling the applicant to remain in the U.S. and commence working for the new H-1B employer upon approval. This streamlined process significantly reduces the uncertainty and waiting time associated with changing status.

The USCIS FAQ (under the accordion text "Change of Status") clarifies how they will expedite a change of status back to a work visa like H-1B:

Q: Will my pending I-539 change of status application to B-1 or B-2 be prioritized if I find a new employer who files an I-129 petition with a request for premium processing service?

A: If an employer files a Form I-129 petition on your behalf, along with a request for premium processing service, we generally will process the pending I-539 and the I-129 together during the premium processing timeframe and issue concurrent decisions. This means there should be no delay in adjudication of the I-129 because of the pending I-539. No formal request is required for the pending I-539 to be prioritized. If we approve the I-129 petition, including any requested change of status, then you generally will obtain the nonimmigrant status requested on the I-129 petition (not the I-539), and may begin working. You generally would not need to depart the United States to obtain the requested nonimmigrant status in this scenario.

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It's important to note that while in B-1/B-2 status, searching for employment and interviewing for positions are permissible activities. However, the applicant is not allowed to start working until the new H-1B petition and change of status are approved. This ensures compliance with [immigration regulations](#) while allowing individuals to pursue job opportunities actively.

In essence, the USCIS advises that changing to B-1/B-2 status can afford laid-off H-1B workers valuable additional time to stay in the U.S. and search for a new job. The policy update from March 2023 facilitates changing back to H-1B status if a new job is secured while the B-1/B-2 application is still pending. This flexibility is particularly beneficial given the current [economic climate](#) and the challenges of finding suitable employment.

For laid-off H-1B workers, the B visitor status presents a viable and advantageous option to extend their stay and [job search](#) in the United States. With the USCIS actively supporting and streamlining the process of changing to and from B status, hesitation should be set aside in favor of leveraging this opportunity. As always, well-informed planning and

execution are key to navigating the intricacies of the U.S. immigration system and achieving the desired outcome.

This option is advisable for many work visas, including E-1, E-2, E-3, H-1B1, L-1, O-1, or TN classifications.

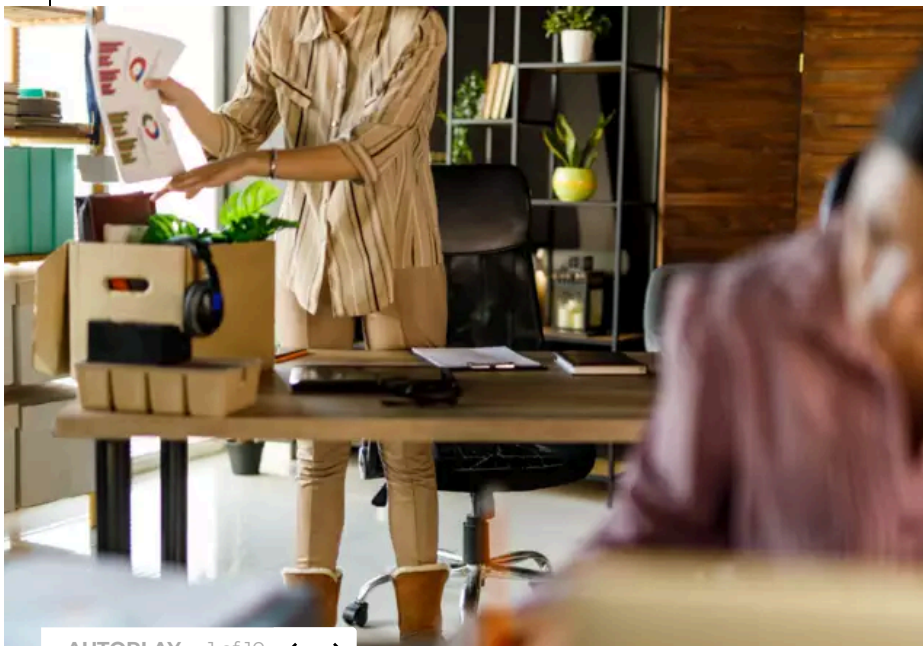
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Understandably, the prospect of changing status may seem daunting, especially in the face of job loss and uncertainty. However, the B visitor status provides a safety net and a chance to regroup without having to leave the country abruptly. By taking advantage of this option, laid-off H-1B workers can give themselves the best possible chance of finding a new job and continuing their career journey in the United States.

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