



Guardian I-9 Processing for H-1B Portability

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FAQ

➤ **What is H-1B Portability?**

H-1B portability is a provision that allows non-immigrant workers who are in H-1B status and already working for an approved H-1B employer to change employers (port) and actively start work for a new H-1B employer as soon as an I-129 Petition is filed with USCIS. Under the American Competitiveness Act in the Twenty-First Century (AC-21), an H-1B employee who is changing employers within the H-1B program may begin working for the new employer upon receiving confirmation that a COE petition has been filed without having to wait for the pending petition to be approved.

FAQ

➤ **How does an employee qualify for H-1B Portability?**

To qualify for AC-21 benefits, the I-129 petition must have been filed prior to the expiration of the individual's period of authorized stay as recorded on his or her I-94/I-94A card with the previous employer. The employee's unexpired foreign passport together with his or her existing I-94/I-94A record with the previous employer (whether unexpired or not) serve to satisfy the Form I-9 documentation requirements under List A.

FAQ

➤ **What other documentation is necessary for H-1B portable employees?**

It is recommended that a copy of the documentation showing the filing date of the I-129 Petition (whether the I-797 Notice of Receipt or a copy of the courier's airbill documenting delivery of the petition to USCIS Service Center) be uploaded to the employee's I-9 OnDocs.

➤ **How does Guardian alert the assigned user(s) of the employees temporary work authorization?**

Upon approval of the I-9, a task is created and emailed to the assigned user(s) at a pre-determined number of days following the employee's hire to remind of the reverification following approval of the I-129 petition.

FAQ

➤ **What administrative options are available for H-1B portability?**

Guardian allows organizations to indicate a maximum value to determine the I-9 “expiration” for I-9s of H-1B portable new hires. This value in conjunction with the I-129 filing date entered in Section 2 is used to establish the I-9’s reverification date/expiration date.

Section 1

Awaiting Issuance of SSN

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with this application. I attest, under penalty of perjury, that I am (check one of the following):

- 1. A citizen of the United States [i](#)
- 2. A noncitizen national of the United States (See [instructions](#)) [i](#)
- 3. A lawful permanent resident (Alien Registration Number/USCIS Number): [i](#)
- 4. An alien authorized to work until (expiration date, if applicable mm/dd/yyyy) [i](#) Indefinite

Some aliens may write "N/A" in this field. (See [instructions](#))

Aliens authorized to work must provide only one of the following document numbers to complete Form I-9.
An Alien Registration Number/USCIS Number OR Form I-94 Admission Number OR Foreign Passport Number.

1. Alien Registration Number/USCIS Number: [i](#)

OR

2. Form I-94 Admission Number: [i](#)

OR

3. Foreign Passport Number: [i](#)

Country of Issuance: [i](#)

Preparer and/or Translator Certification (check one): [i](#)

- I did not use a preparer or translator [i](#)
- A preparer(s) and/or translator(s) assisted the employee in completing Section 1. [i](#)

QR Code - Section 1
Do Not Write in This Space

Employee will enter their alien authorized to work date, as well as either their **I-94 Admission Number** OR **Foreign Passport Number** on Section 1. See the Section 1 tutorial and/or workflow tutorials for additional information.

Sign

Section 2

In Section 2, select the **Foreign Passport and I-94/I-94A Document Title from List A.**



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Employer / Agent Review and Verification

To fulfill the requirements of the I-9 form, please inspect the identity and employment eligibility documents that the employee has provided. Find the corresponding document in one of the lists below. You will need to select either an item from List A or items from both List B and List C and record the required information.

[Review Section 1 Answers](#)
[Review I-9 Form Instructions](#)

08

Section 2. Employer or Authorized Representative Review and Verification

(Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine one document from List A OR examine a combination of one document from List B and one document from List C as listed on the "Lists of Acceptable Documents")

Employee Info from Section 1	Last Name (Family Name)	First Name (Given Name)	M.I.	Citizenship/Immigration Status
	Smith	John	N/A	4

List A Identity and Employment Authorization	OR	List B Identity	AND	List C Employment Authorization
Document Title <input type="text"/> Foreign Passport and I-94/I-94A		Document Title <input type="text"/>		Document Title <input type="text"/>
Issuing Authority <input type="text"/>		Issuing Authority <input type="text"/>		Issuing Authority <input type="text"/>
Document Number <input type="text"/>		Document Number <input type="text"/>		Document Number <input type="text"/>
Expiration Date (if any)(mm/dd/yyyy) <input type="text"/>		Expiration Date (if any)(mm/dd/yyyy) <input type="text"/>		Expiration Date (if any)(mm/dd/yyyy) <input type="text"/>
Additional Information ⓘ <input type="text"/>				

Section 2

Select the **Employee Qualifies for H-1B Portability** option.

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Employer / Agent Review and Verification

[Review Section 1 Answers](#)
[Review I-9 Form Instructions](#)

To fulfill the requirements of the I-9 form, please inspect the identity and employment eligibility documents that the employee has provided. Find the corresponding document in one of the lists below. You will need to select either an item from List A or items from both List B and List C and record the required information.

08

Section 2. Employer or Authorized Representative Review and Verification

(Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine one document from List A OR examine a combination of one document from List B and one document from List C as listed on the "Lists of Acceptable Documents")

Employee Info from Section 1	Last Name (Family Name) Smith	First Name (Given Name) John	M.I. N/A	Citizenship/Immigration Status 4
-------------------------------------	----------------------------------	---------------------------------	-------------	-------------------------------------

List A Identity and Employment Authorization	OR	List B Identity	AND	List C Employment Authorization
Document Title View Sample Document Foreign Passport and I-94/I-94 <input type="checkbox"/> Replacement Receipt <input checked="" type="checkbox"/> Employee Qualifies for H-1B Portability		Document Title		Document Title
Issuing Authority		Issuing Authority		Issuing Authority
Document Number <i>Foreign Passport Number</i>		Document Number		Document Number
Expiration Date (if any)(mm/dd/yyyy) <i>The expiration date on this field must be recorded, and not expired.</i>		Expiration Date (if any)(mm/dd/yyyy)		Expiration Date (if any)(mm/dd/yyyy)
Document Title				

Section 2

Enter the I-129 Petition Filed Date and click Proceed.

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Employer / Agent Review and Verifications

To fulfill the requirements that the employee has, select either an item from

08

Section 2. Employer or Authorized Representative

(Employers or their authorized representatives must examine one document from List A OR examine a company document from List B)

Employee Info from Section 1

List A

Identity and Employment Authorization

Document Title [View Sample Document](#)

Foreign Passport and I-94/I-94A

Replacement Receipt

Employee Qualifies for H-1B Portability

Issuing Authority

Document Number

Foreign Passport Number

Expiration Date (if any)(mm/dd/yyyy)

The expiration date on this field must be recorded, and not expired.

Document Title

H-1B Portability

Employers hiring an employee under the American Competitiveness Act in the Twenty-First Century (AC-21) should make additional notations on the I-9 to provide evidence of the new petition filed on his or her behalf.

Please provide the date on which your organization submitted the I-129 H-1B petition on behalf of this employee. The file date, along with the notations "AC-21" will be inserted into the Section 2 Additional Information box.

I-129 Petition Filed Date:

The indication was made in error. The AC-21 rules does not apply.

Proceed

[Review Section 1 Answers](#)

[Review I-9 Form Instructions](#)

ent. You must physically examine one document from List A OR examine a company document from List B

ship/Immigration Status

List C

Employment Authorization

Section 2

A notation of the filing date is automatically inserted into the **Additional Information** space, and will appear on the I-9 PDF.

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List A Identity and Employment Authorization	OR	List B Identity
Document Title View Sample Document Foreign Passport and I-94/I-94A <input type="checkbox"/> Replacement Receipt ⓘ <input checked="" type="checkbox"/> Employee Qualifies for H-1B Portability ⓘ		Document Title Document Title
Issuing Authority	Issuing Authority	Issuing Authority
Document Number Foreign Passport Number	Document Number	Document Number
Expiration Date (if any)(mm/dd/yyyy) The expiration date on this field must be recorded, and not expired.	Expiration Date (if any)(mm/dd/yyyy)	Expiration Date (if any)(mm/dd/yyyy)
Document Title I-94/I-94A	Additional Information ⓘ AC-21, I-129 Petition Filed: 1/13/2017	
Issuing Authority		
Document Number		
I-94/I-94A Document Number		
Expiration Date (if any)(mm/dd/yyyy) The expiration date on this field must be recorded, and not expired.		
Document Title N/A		

Section 2

Enter in the document information from the employee's Foreign Passport and I-94. See the Section 2 tutorial and/or the workflow tutorials for additional information.

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List A	OR	List B
Identity and Employment Authorization		Identity
Document Title View Sample Document Foreign Passport and I-94/I-94A		Document Title
<input type="checkbox"/> Replacement Receipt ⓘ		
<input checked="" type="checkbox"/> Employee Qualifies for H-1B Portability ⓘ		
Issuing Authority CHINA	Issuing Authority	Issuing Authority
Document Number 123456789 <i>Foreign Passport Number</i>	Document Number	Document Number
Expiration Date <i>(if any)(mm/dd/yyyy)</i> 01/01/2025 <i>The expiration date on this field must be recorded, and not expired.</i>	Expiration Date <i>(if any)(mm/dd/yyyy)</i>	Expiration Date <i>(if any)(mm/dd/yyyy)</i>
Document Title I-94/I-94A	Additional Information ⓘ AC-21, I-129 Petition Filed: 1/13/2017	
Issuing Authority U.S. Customs and Border Protection		
Document Number 12345678910		
I-94/I-94A Document Number		
Expiration Date <i>(if any)(mm/dd/yyyy)</i> 01/14/2017 <i>The expiration date on this field must be recorded, and not expired.</i>		
Document Title N/A		

Monitoring Pending Petitions

An H-1B Petition Reminder **Task** is automatically created, and the employee will also appear on the **Top Pending Re-Verifications** dashboard panel.

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Dashboard:

- Employee Group
- Location

My Managed Groups

Refresh All

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Top Pending Re-Verifications

View All Analyze

	Date I-9 Created	Employee Name	Expiration Date	Days Left
🟡	01/15/2017	Smith, John	02/12/2017	28
🟢	01/05/2017	Smith, Barry	01/01/2018	351
🟢	01/05/2017	Smith, John	01/01/2018	351

Top Pending Tasks

View

	Reminder Date	Subject	Employee Name	Expiry Date
🟡	01/13/2017	H-1B Petition Reminder	Smith, John	02/12/2017
🟢	03/05/2017	Receipt Reminder	Andrews, Robert	04/04/2017
🟢	03/05/2017	Receipt Reminder	Andrews, Robert	04/04/2017
🟢	12/02/2017	Reverification Reminder	Smith, John	01/01/2018
🟢	12/02/2017	Reverification Reminder	Smith, Barry	01/01/2018



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For Additional Assistance

- Select **Help** from the vertical toolbar to access other Guardian tutorials.
- For additional assistance contact your in-house Guardian expert.

Confidential User Guide

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Thank you.