I-9 Processing For H-1B Portable Employees
Key Notes:

- **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 Change of Employer ("COE") 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. To qualify for AC-21 benefits, the COE 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.
Completing Section 1
Employee or Preparer/Translator enters the employee information.

Note: The alien authorized to work date and the Admission (I-94) # come from the previous I-94.
Employee clicks to **Check Form**.
Employee confirms his or her identity to begin the electronic signature process.
I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

I attest, under penalty of perjury, that I am (check one of the following):

- A citizen of the United States
- A noncitizen national of the United States (See instructions)
- A lawful permanent resident (Alien Registration Number/USCIS Number):
- An alien authorized to work until (expiration date, if applicable mm/dd/yyyy) 06/01/2013. [x] Indefinite Some aliens may write "N/A" in this field. (See instructions)
  
  For aliens authorized to work, provide your Alien Registration Number/USCIS Number OR Form I-84 Admission Number:
  
  1. Alien Registration Number/USCIS Number: 
  
  OR
  
  2. Form I-94 Admission Number: 

Employee completes attestation to reveal PIN.

Signature of Employee: ____________________________ Date (mm/dd/yyyy): 

Did you receive assistance in filling out Section 1?  [ ] No  [ ] Yes

Confirm your Identity

In order to reveal your PIN:

Step 1: Please verify that your first name, last name and date of birth shown belong to you by clicking the checkbox next to each item.

- [ ] First Name Miguel
- [ ] Last Name Branson
- [ ] Date of Birth 01/01/1970

Your PIN: ??

[ ] I attest under penalty of perjury that I am the individual specified in Section 1 of the I-9, that I have read the I-9 Attestation above, and that the act of entering my unique PIN and clicking the Electronically Sign button signifies that I have attached my electronic signature at the bottom of Section 1 of this I-9 form and in so doing attest as indicated on the Section 1 Employee's Signature line of this Form I-9.

This form can only be updated by the employee entered in section 1. In order to save changes, employee must electronically sign this form by entering the PIN number revealed by confirming his/her identity above and clicking the Electronically Sign button.
Employee enters system generated PIN.
Employee clicks to **Electronically Sign**.
Completing Section 2
Key Notes:

- **How does I-9 completion for H-1B portable employees differ?**

  The latest M-274 *Handbook for Employers* provides specific guidance on how to provide documentation of continued employment authorization for H-1B portable employees in Section 2 of the I-9. In particular, it recommends that the representative annotate Section 2 with “AC-21” and include the date the Form I-129 Change of Employer Petition was submitted to USCIS.
Key Notes:

- **How does Guardian streamline this documentation process?**

  If an employee has attested to being an alien authorized to work in Section 1 and presents an unexpired foreign passport and I-94 card (whether expired or unexpired), Guardian allows the user after selecting this document combination in Section 2 to indicate whether or not the H-1B portable special rule applies. The user is then guided through documenting the I-129 submission date. The additional notations appear on the I-9 PDF in Section 2.
User selects the appropriate document.
User selects the special I-9 rule related to H-1B Portability.
Section II - Employer Review and Verification

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" on the next page of this form. For each document you review, record the following information: document title, issuing authority, document number, and expiration date (if any).

Employee Last Name, First Name and Middle Initial from Section 1: Branson, Miguel

Note: Special Rules may apply to this I-9

Select Special rule (if any) that applies to this I-9: N/A

User may select Explain Choices for additional information.

<table>
<thead>
<tr>
<th>Document Title:</th>
<th>Document Title:</th>
<th>Document Title:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unexpired Foreign Passport watch</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>View Sample Document</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Issuing Authority:</th>
<th>Issuing Authority:</th>
<th>Issuing Authority:</th>
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</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>DHS</td>
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</table>

<table>
<thead>
<tr>
<th>Document Number:</th>
<th>Document Number:</th>
<th>Document Number:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unexpired Foreign Passport Number</td>
<td>None</td>
<td>None</td>
</tr>
</tbody>
</table>

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

The expiration date on this field must be recorded, and not expired.
User enters date of I-129 petition filing.
User completes document entry.
Key Notes:

- **What if the I-94 from the previous employer has expired?**

If the Alien Authorized to Work date entered by the employee in Section 1 has expired at the time of hire, users will be prompted to check an attestation box in Section 2 to verify that the employee’s work authorization. This override permits I-9 completion despite the expired document.

![List A Identity and Employment Authorization](image)
User clicks **Check Form** to perform system check.
User confirms identity and clicks attestation box.
User enters password to electronically sign.
Once done, user clicks **Mark Completed**.
User clicks *Approve This I-9* to lock the I-9 and submit to E-Verify (if applicable).
User may click **View I-9** to view the completed I-9, including AC-21 notation and I-129 filing date.
Key Notes:

- **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 COE 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 scanned and 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.
Auto created task related to pending I-129 petition.

<table>
<thead>
<tr>
<th>Reminder Date</th>
<th>Subject</th>
<th>Employee Name</th>
<th>Date Expires</th>
</tr>
</thead>
<tbody>
<tr>
<td>06/01/2012</td>
<td>H-1B Petition Reminder</td>
<td>Branson, Miguel</td>
<td>06/07/2012</td>
</tr>
<tr>
<td>12/03/2012</td>
<td>Reverification Reminder</td>
<td>Three, Charlie</td>
<td>03/03/2013</td>
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<tr>
<td>12/03/2012</td>
<td>Reverification Reminder</td>
<td>Three, Charlie</td>
<td>03/03/2013</td>
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<tr>
<td>10/03/2013</td>
<td>Reverification Reminder</td>
<td>Koreg, Jonas</td>
<td>01/01/2014</td>
</tr>
</tbody>
</table>
Administrative Settings
Key Notes:

- **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. Reminders trigger based on the identified expiration value and the organization’s *Expiration Reminder Lead Days* and *Subsequent Reminder Lead Days* settings.
Access the **Administration** module.
Access Preferences.
Access I-9 Preferences on the General tab.
Enter a value in **H-1B Portability Days** to set the number of lead days for the automatic task reminder. If not set, the default remains at 30 days.
Update to save changes.
What is the default text of the H-1B portable task?

The text of the task and reminder is as follows:

The employee's I-129 Change of Employer Petition is pending with USCIS pursuant to the rules governing H-1B portability. Please confirm whether this petition has been approved, and if so, promptly re-verify employee based on his/her new H-1B work authorization.
Further Assistance

- Select *Tutorials and Information* from the vertical toolbar to access other system tutorials.

- Select the help icon located in the upper left hand corner of the vertical toolbar.
Confidential User Guide

Do not distribute this document outside of your organization without our written permission.

Thank you.

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