Form I-9: AC-21 H-1B Portability
AC-21 H-1B Portability: Employees Changing Employers

- 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 you as soon as you file a Form I-129 petition on his or her behalf.
- To qualify for AC-21 benefits, the new petition must not be frivolous and must have been filed prior to the expiration of the individual’s period of authorized stay. Individual must remain in the employ of his current employer while the petition is being filed.
- You must complete a new Form I-9 for this newly hired employee. An H-1B employee’s Form I-94 issued for employment with the previous employer, along with his or her foreign passport, would qualify as a List A document.
- You should write “AC-21” and record the date you submitted Form I-129 to USCIS in the margin of Form I-9 next to Section 2.
- Once USCIS approves the application/petition for an extension of stay, you will receive a Form I-797(A), which includes an expiration date and an attached Form I-94, Arrival/Departure Record along with the Notification of Approved Petition from IFSS. Have the employee complete Section 1 of the I-9 form. Record the document title, number and expiration date listed on the I-797/I-94 form in Section 3 of Form I-9.
Section 1: AC-21 H-1B Portability

Employee completes Section 1

An alien authorized to work (Alien# or Admission #): Comes from the employee’s Form I-94 issued for employment with the previous employer.

Alien authorized to work until: “N/A”
Section 2: AC-21 H-1B Portability

Section 2. Employer Review and Verification (To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C, as listed on the reverse of this form, and record the title, number, and expiration date, if any, of the document(s).)

<table>
<thead>
<tr>
<th>List A</th>
<th>OR</th>
<th>List B</th>
<th>AND</th>
<th>List C</th>
</tr>
</thead>
<tbody>
<tr>
<td>Document title:</td>
<td>Passport</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Issuing authority:</td>
<td>France</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Document #:</td>
<td>000XXX000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expiration Date (if any):</td>
<td>MM/DD/YY</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Document #:</td>
<td>I-94 #00000000000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expiration Date (if any):</td>
<td>N/A</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- Employee completes Section 1:
  - Alien authorized to work until “N/A”
- Employer completes Section 2, List A block with:
  - Unexpired foreign passport
  - I-94 card showing H-1B status with original employer
  - Write “AC-21” and date I-129 submitted to USCIS in margin of Form I-9 next to Section 2
Section 2: AC-21 H-1B Portability

CERTIFICATION: I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month/day/year) 06/01/2011 and that to the best of my knowledge the employee is authorized to work in the United States. (State employment agencies may omit the date the employee began employment.)

<table>
<thead>
<tr>
<th>Signature of Employer or Authorized Representative</th>
<th>Print Name</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>HR Liaison for Department</td>
<td>Business Officer</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Business or Organization Name and Address (Street Name and Number, City, State, Zip Code)</th>
<th>Date (month/day/year)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Texas A&amp;M University, 750 Agronomy Rd, College Station, TX 77843</td>
<td>06/03/2011</td>
</tr>
</tbody>
</table>

- Employer enters date employment began.
- Employer attests to examining the documents provided by completing the signature block.
### Section 3: AC-21 H-1B Portability

#### Section 3. Updating and Reverification

*(To be completed and signed by employer.)*

<table>
<thead>
<tr>
<th>A. New Name (if applicable)</th>
<th>B. Date of Rehire (month/day/year) (if applicable)</th>
</tr>
</thead>
</table>

C. If employee’s previous grant of work authorization has expired, provide the information below for the document that establishes current employment authorization.

- **Document Title:** Form I-797 Receipt
- **Document #:** USCIS Receipt#
- **Expiration Date (if any):** Form-797

I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

<table>
<thead>
<tr>
<th>Signature of Employer or Authorized Representative</th>
<th>Date (month/day/year)</th>
</tr>
</thead>
</table>

- **Doc. Title:** Form I-797/I-94 Receipt
- **Document #:** From Form I-797/I-94
- **Expiration date:** Write date from Form I-797/I-94 approval
Web Resources & Training

I-9 Handbook for Employers
http://www.uscis.gov/files/form/m-274.pdf

Online Form I-9 Processing
http://payroll.tamu.edu/docs/general/Form-I9-Training-Website.swf

Form I-9 with instructions

I-9 FAQ’s
http://texasamucfo.custhelp.com/app/answers/list/p/132/

I-9 Form Processing Flowchart
http://payroll.tamu.edu/docs/general/393I9Flowchart.pdf

Flowchart - Guidelines for Completing the I-9 Form
http://payroll.tamu.edu/docs/general/394I9Guidelines.pdf
Help!

• Payroll Processing Teams
  – PhD : 845-2782 or 845-2787
  – CEO : 845-2760 or 845-2797
  – payrollprocessing@tamu.edu

• IFSS
  – 862-1719or ifss@tamu.edu
  – http://ifss.tamu.edu

• ISS
  – 845-1824 or iss@tamu.edu
  – http://iss.tamu.edu