

TABLE OF CHANGES – INSTRUCTIONS
Form I-765, Application for Employment Authorization
OMB Number: 1615-0040
11/28/2022

Reason for Revision: Fee Rule
Project Phase: NPRM OMB Review

Legend for Proposed Text:

- Black font = Current text
- **Red font** = Changes

Expires 10/31/2024

Edition Date 10/31/2022

Current Page Number and Section	Current Text	Proposed Text
<p>Page 1-16,</p> <p>Who May File Form I-765?</p>	<p>[Page 4]</p> <p>...</p> <p>If you are eligible to apply for NACARA 203 relief with USCIS, you may file Form I-765 together with your Form I-881. See our website at www.uscis.gov/I-881 for the most current information on where to file Form I-881. If you are eligible to file Form I-881 with EOIR, or if you have already filed Form I-881 with USCIS or EOIR, see the Where to File section of these Instructions.</p> <p>You may be eligible for a fee waiver under 8 CFR 103.7(c)(3)(xi).</p> <p>Applicant for non-NACARA Suspension of Deportation or Cancellation of Removal: File Form I-765 with evidence that:</p> <p>A. You are currently in immigration removal proceedings;</p> <p>B. The appropriate application fees were paid or evidence of the immigration judge’s order granting your fee waiver (The fee can be found in the regulations, in the Instructions with the application, and at www.uscis.gov or for the EOIR forms, at www.justice.gov/eoir; and</p>	<p>[Page 4]</p> <p>...</p> <p>If you are eligible to apply for NACARA 203 relief with USCIS, you may file Form I-765 together with your Form I-881. See our website at www.uscis.gov/I-881 for the most current information on where to file Form I-881. If you are eligible to file Form I-881 with EOIR, or if you have already filed Form I-881 with USCIS or EOIR, see the Where to File section of these Instructions.</p> <p>[deleted]</p> <p>Applicant for non-NACARA Suspension of Deportation or Cancellation of Removal: File Form I-765 with evidence that:</p> <p>A. You are currently in immigration removal proceedings;</p> <p>B. The appropriate application fees were paid or evidence of the immigration judge’s order granting your fee waiver (See USCIS Form G-1055, Fee Schedule, available at www.uscis.gov/g-1055, for all information on filing fees or see www.justice.gov/eoir for the EOIR forms fees); and</p>

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7. Spouse of an H-1B Nonimmigrant--(c)(26). File Form I-765 along with documentation of your current H-4 admission or extension of stay. You must also submit documentation establishing either your spouse is the beneficiary of an approved Form I-140, Immigrant Petition for Alien Worker, or your spouse received H-1B status based on the American Competitiveness in the Twenty-First Century Act (AC21) sections 106(a) and (b). For your convenience, you may file Form I-765 with Form I-539. However, we will not process your Form I-765 (except filing fees), until after we have adjudicated your Form I-539. You may also file Form I-765 at the same time as your Form I-539 and your H1-B spouse's Form I-129, Petition for a Nonimmigrant Worker. Please see the USCIS website at www.uscis.gov/I-765 for the most current information on where to file this benefit request.

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NOTE: If you are an asylee or refugee and have applied to adjust to lawful permanent resident status on Form I-485, file Form I-765 under category (a)(5) as an asylee or (a)(3) as a refugee. Do not file under eligibility category (c)(9). You will need to pay the filing fee or obtain a fee waiver for Form I-765 if your Form I-485 is still pending with USCIS and this is not your first EAD as a refugee or asylee and you did not pay the Form I-485 filing fee for any reason.

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17. A-3 or G-5 Nonimmigrant--(c)(14). If you have filed a pending civil action against your employer because your employer violated the terms of your

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7. Spouse of an H-1B Nonimmigrant--(c)(26). File Form I-765 along with documentation of your current H-4 admission or extension of stay. You must also submit documentation establishing either your spouse is the beneficiary of an approved Form I-140, Immigrant Petition for Alien Worker, or your spouse received H-1B status based on the American Competitiveness in the Twenty-First Century Act (AC21) sections 106(a) and (b). For your convenience, you may file Form I-765 with Form I-539. However, we will not process your Form I-765, until after we have adjudicated your Form I-539. You may also file Form I-765 at the same time as your Form I-539 and your H1-B spouse's Form I-129, Petition for a Nonimmigrant Worker. Please see the USCIS website at www.uscis.gov/I-765 for the most current information on where to file this benefit request.

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NOTE: If you are an asylee or refugee and have applied to adjust to lawful permanent resident status on Form I-485, file Form I-765 under category (a)(5) as an asylee or (a)(3) as a refugee. Do not file under eligibility category (c)(9). You will need to pay the filing fee or obtain a fee waiver for Form I-765 if your Form I-485 is still pending with USCIS and this is not your first EAD as a refugee or asylee and you did not pay the Form I-485 filing fee for any reason. See USCIS Form G-1055, Fee Schedule, available at www.uscis.gov/g-1055, for all information on filing fees.

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17. A-3 or G-5 Nonimmigrant--(c)(14). If you have filed a pending civil action against your employer because your employer violated the terms of your

	<p>employment contract or conditions of your employment, you may file Form I-765 to request deferred action and receive work authorization. File Form I-765 with a copy of the civil complaint filed in court and proof of lawful admission into the United States in A-3 or G-5 status (for example, a copy of your passport with your A-3 or G-5 nonimmigrant visa). If you are requesting renewal after your initial employment authorization is granted, file Form I-765 with evidence that the civil case is still pending (for example, a recent court docket update).</p> <p>18. Applicant for Commonwealth of the Northern Mariana Islands (CNMI) Long-Term Resident Status-- (c)(37). You must file Form I-765 together with your Form I-955, Application for CNMI Long-Term Resident Status. If you do not submit your Form I-765 with all applicable fees together with your Form I-955, the entire submission will be rejected. A fee waiver is not available. If your Form I-955 is approved, you will receive an employment authorization document as evidence of your CNMI Long-Term Resident Status and evidence that you are authorized for employment in the CNMI incident to status.</p>	<p>employment contract or conditions of your employment, you may file Form I-765 to request deferred action and receive work authorization. File Form I-765 with a copy of the civil complaint filed in court and proof of lawful admission into the United States in A-3 or G-5 status (for example, a copy of your passport with your A-3 or G-5 nonimmigrant visa). If you are requesting renewal after your initial employment authorization is granted, file Form I-765 with evidence that the civil case is still pending (for example, a recent court docket update).</p> <p>[deleted]</p>
<p>Page 16-17, General Instructions</p>	<p>[Page 16]</p> <p>General Instructions</p> <p>...</p> <p>Filing Fee. Each application must be accompanied by the appropriate filing fee. (See the What Is the Filing Fee section of these Instructions.)</p> <p>Biometric Services Fee. If you file this application with USCIS, you do not need to include a biometric services fee at the time you submit your application. If you are later notified that you must submit biometrics, you will receive a biometric services appointment notice with instructions on how to submit the additional biometric services fee. If you file this application with an agency other than USCIS, please check with that agency to determine if and when you must submit a biometric services fee.</p>	<p>[Page 16]</p> <p>General Instructions</p> <p>...</p> <p>Filing Fee. See USCIS Form G-1055, Fee Schedule, available at www.uscis.gov/g-1055, for all information on filing fees.</p> <p>[deleted]</p>

	<p>Evidence. At the time of filing, you must submit all evidence and supporting documents listed in the Required Documentation section of these Instructions. If you do not have and cannot get a required document, you must demonstrate this and provide secondary evidence. If secondary evidence does not exist or is unavailable, you must demonstrate both the unavailability of the required document and the relevant secondary evidence and submit two or more sworn affidavits by people not named on this application who have direct knowledge of the event and circumstances.</p> <p>...</p>	<p>Evidence. At the time of filing, you must submit all evidence and supporting documents listed in the Required Documentation section of these Instructions. If you do not have and cannot get a required document, you must demonstrate this and provide secondary evidence. If secondary evidence does not exist or is unavailable, you must demonstrate both the unavailability of the required document and the relevant secondary evidence and submit two or more sworn affidavits by people not named on this application who have direct knowledge of the event and circumstances.</p> <p>...</p>
<p>Page 18-21, Specific Instructions</p>	<p>[Page 18]</p> <p>...</p> <p>NOTE: Replacement (correction) of an employment authorization document due to USCIS error does not require a new Form I-765 and filing fee. Refer to Replacement for Card Error in the What Is the Filing Fee section of these Instructions for further details.</p> <p>...</p> <p>NOTE: If you were admitted to the United States by CBP at an airport or seaport after April 30, 2013, CBP may have issued you an electronic Form I-94 instead of a paper Form I-94. You may visit the CBP website at www.cbp.gov/i94 to obtain a paper version of an electronic Form I-94. CBP does not charge a fee for this service. Some travelers admitted to the United States at a land border, airport, or seaport after April 30, 2013, with a passport or travel document, who were issued a paper Form I-94 by CBP, may also be able to obtain a replacement Form I-94 from the CBP website without charge. If you cannot obtain your Form I-94 from the CBP website, you may obtain it by filing Form I-102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Record, with USCIS. USCIS does charge a fee for this service. See the USCIS website at www.uscis.gov/I-102 for more</p>	<p>[Page 18]</p> <p>...</p> <p>NOTE: Replacement (correction) of an employment authorization document due to USCIS error does not require a new Form I-765 and filing fee. See USCIS Form G-1055, Fee Schedule, available at www.uscis.gov/g-1055, for all information on filing fees.</p> <p>...</p> <p>NOTE: If you were admitted to the United States by CBP at an airport or seaport after April 30, 2013, CBP may have issued you an electronic Form I-94 instead of a paper Form I-94. You may visit the CBP website at www.cbp.gov/i94 to obtain a paper version of an electronic Form I-94. CBP does not charge a fee for this service. Some travelers admitted to the United States at a land border, airport, or seaport after April 30, 2013, with a passport or travel document, who were issued a paper Form I-94 by CBP, may also be able to obtain a replacement Form I-94 from the CBP website without charge. If you cannot obtain your Form I-94 from the CBP website, you may obtain it by filing Form I-102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Record, with USCIS. USCIS does charge a fee for Form I-102. See Form G-1055, available at www.uscis.gov/forms, for specific</p>

	<p>information.</p> <p>...</p>	<p>information about the fees applicable to this form.</p> <p>...</p>
<p>Page 21-24,</p> <p>Required Documentation</p>	<p>[Page 25]</p> <p>...</p> <p>You must file all applications with the documents required below, the particular evidence required for each category listed in the Who May File Form I-765 section of these Instructions, and the appropriate filing fee, if required.</p> <p>...</p> <p>1. The appropriate filing fee, if applicable. See the What Is the Filing Fee section of these Instructions for details.</p> <p>...</p> <p>3. You have a complete pending asylum application on file. You must have filed your asylum application (Form I-589) with us (former Immigration and Naturalization Service (INS) or USCIS) or with an EOIR IJ to receive an EAD. Therefore, submit evidence that you previously filed a complete asylum application when you submit Form I-765. You are not required to submit this evidence when you apply, but it will help us process your request more efficiently.</p>	<p>[Page 25]</p> <p>...</p> <p>You must file all applications with the documents required below, the particular evidence required for each category listed in the Who May File Form I-765 section of these Instructions.</p> <p>...</p> <p>1. The appropriate filing fee, if applicable. See USCIS Form G-1055, Fee Schedule, available at www.uscis.gov/g-1055, for all information on filing fees.</p> <p>...</p> <p>3. You have a complete pending asylum application on file. You must have filed your asylum application (Form I-589) with us (former Immigration and Naturalization Service (INS) or USCIS) or with an EOIR IJ to receive an EAD. Therefore, submit evidence that you previously filed a complete asylum application when you submit Form I-765. You are not required to submit this evidence when you apply, but it will help us process your request more efficiently.</p>
<p>Page 26-29,</p> <p>What Is the Filing Fee?</p>	<p>[Page 26]</p> <p>What Is the Filing Fee?</p> <p>The filing fee for Form I-765 is \$410.</p> <p>NOTE: The filing fee is not refundable, regardless of any action USCIS takes on this application. DO NOT MAIL CASH. You must submit all fees in the exact amounts.</p> <p>Special Instructions for TPS Applicants. If you are requesting an EAD as an initial TPS applicant, you must pay the Form I-765 filing fee, unless you are under 14</p>	<p>[deleted]</p>

years of age or over 65 years of age. If you are a TPS beneficiary requesting an EAD when filing for TPS re-registration, you must pay the Form I-765 filing fee, regardless of your age.

Special Instructions for Deferred Action for Childhood Arrivals--(c)(33). All requestors under this category must pay the biometric services fee of **\$85**. The biometric services fee and the filing fee for this application cannot be waived.

Special Instructions for Beneficiaries of an Approved Employment-Based Immigrant Petition--(c)(35) and Spouses or Children of a Principal Beneficiary of an Approved Immigrant Petition--(c)(36). All applicants under these categories must submit biometrics. An additional biometric services fee of **\$85** is required for applicants 14 to 79 years of age, unless waived.

Special Instructions for Applicants for Commonwealth of the Northern Mariana Islands (CNMI) Long-Term Resident Status--(c)(37). All applicants under this category must pay the biometric services fee of **\$85**. The biometric services fee and the filing fee for the I-765 application cannot be waived.

Exceptions

Initial EAD. If this is your initial application and you are applying under one of the following categories, a filing fee is **not** required for:

1. (a)(3) Refugee;
2. (a)(4) Paroled as Refugee;
3. (a)(5) Asylee;
4. (a)(7) N-8 or N-9 nonimmigrant;
5. (a)(8) Citizen of Micronesia, Marshall Islands, or Palau;
6. (a)(10) Granted Withholding of Deportation;
7. (a)(16) Victim of Severe Form of

Trafficking (T-1 Nonimmigrant);

8. (a)(12) or (c)(19) Temporary Protected Status if you are filing an initial TPS application and you are under 14 years of age or over 65 years of age. All TPS beneficiaries who apply for TPS re-registration who want an EAD must pay the filing fee, unless granted a fee waiver;

9. (a)(19) Victim of Qualifying Criminal Activity (U-1 Nonimmigrant);

10. (c)(1), (c)(2), (c)(4), or (c)(7) Dependent of certain foreign government, international organization, or NATO personnel;

11. (c)(8) Applicant for Asylum and Withholding of Deportation and Removal (an applicant filing under the special ABC procedures must pay the filing fee);

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12. (c)(9) or (c)(16) Any current Adjustment of Status or Registry applicant who filed Form I-485 on or after July 30, 2007, and paid the appropriate Form I-485 filing fee. If you file Form I-765 separately from your Form I-485, you must also submit a copy of your Form I-797C Notice for Form I-485, as evidence of filing Form I-485 on or after July 30, 2007, and payment of the appropriate filing fee. If you did not pay the appropriate Form I-485 filing fee because your filing fee was waived or you are exempt from paying it, you must pay the Form I-765 filing fee or request that the filing fee be waived; and

13. (c)(31) VAWA Self-Petitioner.

Renewal EAD. If this is a renewal application and you are applying under one of the following categories, a filing fee is **not** required for:

1. (a)(8) Citizen of Micronesia, Marshall Islands, or Palau;

2. (a)(10) Granted Withholding of Deportation;

3. (c)(1), (c)(2), (c)(4), or (c)(7) Dependent of certain foreign government, international organization, or NATO personnel; and

4. (c)(9) or (c)(16) Any current Adjustment of Status or Registry applicant who filed for adjustment of status on or after July 30, 2007, and paid the appropriate Form I-485 filing fee of **\$930** or **\$985**. If you file Form I-765 separately from your Form I-485, you must also submit a copy of your Form I-797C Notice for Form I-485, as evidence of filing Form I-485 on or after July 30, 2007, and payment of the appropriate form filing fee of **\$930** or **\$985** (**\$600** or **\$635** for an accompanying minor). If you did not pay the appropriate Form I-485 filing fee because your filing fee was waived or you are exempt from paying it, you must pay the Form I-765 filing fee or request that the filing fee be waived.

Replacement for Lost, Stolen, or Damaged EAD. If you are requesting a replacement EAD because your previously issued card was lost, stolen, or damaged but has not expired, you must pay the filing fee unless you have filed for adjustment of status on or after July 30, 2007, and paid the Form I-485 filing fee. If you did not pay the Form I-485 filing fee because your filing fee was waived or you are exempt from paying it, you must pay the Form I-765 filing fee or request that the filing fee be waived. See Form I-912 at www.uscis.gov/i-912.

Replacement for Card Error

1. If the card we issued to you contains incorrect information that is not attributed to our error, you must submit a new Form I-765 and filing fee, unless you have a pending Form I-485 and paid the Form I-485 filing fee. If you did not pay the appropriate Form I-485 filing fee because your filing fee was waived or you are exempt from paying it, you must pay the Form I-765 filing fee or request that the filing fee be waived. You must include the card containing the error when you submit the new Form I-765.

2. If the card we issued to you contains incorrect information that is attributed to USCIS error, you do not need to file a new Form I-765 and filing fee. Instead, you must submit a letter explaining the error, along with the card containing the error, to the service center or National Benefits Center that approved your last Form I-765.

Payments by Check or Money Order

Use the following guidelines when you prepare your check or money order for the Form I-765 filing fee:

1. The check or money order must be drawn on a bank or other financial institution located in the United States and must be payable in U.S. currency; **and**
2. Make the check or money order payable to **U.S. Department of Homeland Security**.

NOTE: Spell out U.S. Department of Homeland Security; do not use the initials “USDHS” or “DHS.”

NOTE: If you filed Form I-485 on or after July 30, 2007, and you paid the appropriate Form I-485 filing fee, no filing fee is required to request employment authorization on Form I-765. You may file Form I-765 with Form I-485, or you may submit Form I-765 at a later date. If you file Form I-765 separately, you must also submit a copy of your Form I-797C Notice as evidence of filing Form I-485 on or after July 30, 2007, and paying the filing fee.

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If you did not pay the appropriate Form I-485 filing fee because your filing fee was waived or you are exempt from paying it, you must pay the Form I-765 filing fee or request that the filing fee be waived.

Notice to Those Paying by Check. If you send USCIS a check, we will convert it into an electronic funds transfer (EFT). This means we will copy your check and use the account information on it to electronically

debit your account for the amount of the check. The debit from your account will usually take 24 hours and your bank will show it on your regular account statement.

You will not receive your original check back. We will destroy your original check, but we will keep a copy of it. If USCIS cannot process the EFT for technical reasons, you authorize us to process the copy in place of your original check. If your check is returned as unpayable, we will re-submit the payment to the financial institution one time. If the check is returned as unpayable a second time, we will reject your application and charge you a returned check fee.

Payments by Credit Card

If you are filing your application at a USCIS Lockbox facility, you can pay your filing fee using a credit card. Please see Form G-1450, Authorization for Credit Card Transactions, at www.uscis.gov/G-1450 for more information.

How To Check If the Fees Are Correct

Form I-765's filing fee is current as of the edition date in the lower left corner of this page. However, because USCIS fees change periodically, you can verify that the fee is correct by following one of the steps below:

1. Visit the USCIS website at www.uscis.gov, select "FORMS," and check the appropriate fee; or
2. Visit the USCIS Contact Center at www.uscis.gov/contactcenter to get answers to your questions and connect with a live USCIS representative. The USCIS Contact Center provides information in English and Spanish. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

Fee Waiver

You may be eligible for a fee waiver under 8 CFR 103.7(c). If you believe you are eligible for a fee waiver, complete Form I-912, Request for Fee Waiver (or a written request), and submit it and any required

	evidence of your inability to pay the filing fee with this application. You can review the fee waiver guidance at www.uscis.gov/feewaiver .	
Page 29, Where to File?	[Page 29] Where to File? ...	[Page 24] Where to File? ...
Page 31, Paperwork Reduction Act	[Page 31] Paperwork Reduction Act An agency may not conduct or sponsor an information collection, and a person is not required to respond to a collection of information, unless it displays a currently valid Office of Management and Budget (OMB) control number. The public reporting burden for this collection of information is estimated at 4 hours and 30 minutes per response, including the time for reviewing instructions, gathering the required documentation and information, completing the application, preparing statements, attaching necessary documentation, and submitting the application. The collection of biometrics is estimated to require 1 hour and 10 minutes. The public reporting burden for the collection of information for Form I-765WS is estimated at 30 minutes per response, including the time for reviewing instructions, gathering the required documentation and information, completing the application, preparing statements, attaching necessary documentation, and submitting the application. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Office of Policy and Strategy, Regulatory Coordination Division, 5900 Capital Gateway Drive, Mail Stop #2140, Camp Springs, MD 20588-0009; OMB No. 1615-0040. Do not mail your completed Form I-765 to this address.	[Page 31] Paperwork Reduction Act An agency may not conduct or sponsor an information collection, and a person is not required to respond to a collection of information, unless it displays a currently valid Office of Management and Budget (OMB) control number. The public reporting burden for this collection of information is estimated at 4.317 hours per response, including the time for reviewing instructions, gathering the required documentation and information, completing the application, preparing statements, attaching necessary documentation, and submitting the application. The collection of biometrics is estimated to require 1 hour and 10 minutes. The public reporting burden for the collection of information for Form I-765WS is estimated at 30 minutes per response, including the time for reviewing instructions, gathering the required documentation and information, completing the application, preparing statements, attaching necessary documentation, and submitting the application. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Office of Policy and Strategy, Regulatory Coordination Division, 5900 Capital Gateway Drive, Mail Stop #2140, Camp Springs, MD 20588-0009; OMB No. 1615-0040. Do not mail your completed Form I-765 to this address.