

Instructions

These instructions supplement instructions for form I-485 for individuals seeking Adjustment of Status under section 902 of Public Law 105-277, The Haitian Refugee Immigration Fairness Act (HRIFA).

What Is the Purpose of This Form?

In addition to the other purposes of the form listed in the instructions, Form I-485 may be used by a national of Haiti who is seeking lawful permanent resident status under HRIFA and Title 8 of the Code of Federal Regulations, section 245.15.

Who May File This Application?

You may file this application if you:

1. Are a national of Haiti;
2. Qualify as a dependent applicant under HRIFA (see below);
3. Are admissible to the United States;
4. Have been continuously present in the United States since December 31, 1995, (except that a spouse or child of a principal applicant need not meet this requirement); **and**
5. Are physically present in the United States when the application is filed.

What is a "dependent applicant"?

You may qualify as a dependent applicant if you meet the requirements under "Who May File This Application?" **and** are the spouse, child, or unmarried son or daughter (over 21 years of age) of a principal applicant. Your relationship to the principal applicant must have been created prior to the date on which the principal applicant becomes or became a permanent resident.

What is meant by "admissible to the United States"?

You are ineligible for adjustment of status under HRIFA if you are inadmissible to the United States under any of the grounds of inadmissibility contained in section 212(a) of the Immigration and Nationality Act (INA), with the exception of those grounds which do not apply to HRIFA applicants or from which an individual waiver has been granted. The following inadmissibility sections of the INA do not apply to HRIFA adjustment applicants:

1. Section 212(a)(4) - an alien likely to become a public charge;
2. Section 212(a)(5) - an alien without a labor certification or proper qualifications for certain occupations;
3. Section 212(a)(6)(A) - an alien present without admission or parole;
4. Section 212(a)(7)(A) - an alien not in possession of a valid immigrant visa; **and**
5. Section 212(a)(9)(B) - an alien unlawfully present in the United States.

In addition, you may be eligible for an individual waiver pertaining to certain medical, criminal, documentary, and other grounds of inadmissibility.

General Instructions

Step 1. Fill Out Form I-485

1. Type or print legibly in black ink.
2. If extra space is needed to complete any item, attach a continuation sheet, indicate the item number, and date and sign each sheet.
3. Answer all questions fully and accurately. State that an item is not applicable with "N/A." If the answer is none, write "none."

Important Note

When completing the application for adjustment under HRIFA, you **Must** indicate in **Part 2** of the Form I-485 the classification you are seeking. **Check Block H** and write whichever **One** of the following is appropriate:

1. HRIFA Dependent - Spouse;
2. HRIFA Dependent - Child under 21 years old; or
3. HRIFA Dependent - Unmarried son or daughter.

Step 2. General Requirements

Evidence of qualification as a dependent applicant

The evidence needed to qualify as a dependent applicant depends on which type of dependent applicant you are claiming.

- 1. Spouse or child of a principal applicant.** If you are the spouse or unmarried, minor (under 21 years of age) child of a principal applicant, you must submit evidence of your relationship to the principal applicant. You do not need to submit any documentation establishing either presence in the United States on December 31, 1995, or continuity of presence since that date. You must, however, be present in the United States at time of filing.
- 2. Unmarried son or daughter of an principal applicant.** If you are the unmarried son or daughter (over 21 years of age) of a principal applicant, you must submit evidence of your relationship to the principal applicant. You must also submit evidence of your continuity of presence in the United States since December 31, 1995, along with a statement regarding all departures and arrivals from the United States. You do not need to submit evidence of your presence in the United States on December 31, 1995. You must, however, be present in the United States at time of filing.

How does an unmarried son or daughter establish continuity of physical presence since December 31, 1995?

In determining whether you have maintained continuous physical presence in the United States since December 31, 1995, the law allows absences from the United States totaling 180 days or less. You are required to submit a statement on a separate piece of paper listing the dates of departure and return of all absences from the United States since your last arrival on or prior to December 31, 1995. If you have not been absent from the United States, write "I have not been outside the U.S. since my arrival on the date indicated in Part 1 of Form I-485."

You must also support your statement regarding continuity of physical presence since December 31, 1995, by submitting documentation from one or more governmental or non-governmental authorities. This evidentiary requirement is **in addition to** the list of departures and returns discussed above. The document(s) must bear your name (or the name of a family member with whom you can establish that you were co-habiting), the date of issuance, and (if the document normally contains it) the signature, seal, or other authenticating instrument of the issuing authority.

While you do not need to submit documents covering each and every day or month since December 31, 1995, there should be no large, unexplained gaps in the documentation. Examples of such documents might include but are not limited to rent receipts, school records, utility bills, other dated receipts, personal checks, employment records, and credit card statements.

Other evidence

If you are 14 years of age or older, you **must** submit a police clearance from each municipality where you resided for six months or longer since arriving in the United States. If your local police authority refuses to provide such clearance, you may submit written evidence to that effect and request that this requirement be waived. You are not required to submit either an employment letter or an affidavit of support.

What if the documentation is already contained in my immigration file?

If you have received correspondence or had other interaction with USCIS, and know that your immigration file contains copies of such correspondence or record of such interaction, you may simply submit a statement listing the type and dates of such evidence that is already contained in your immigration file.

Where To File

Only a dependent spouse and or child of the principal granted legal status under HRIFA are eligible to apply for benefits under HRIFA. **The filing period for principal HRIFA applicants has closed.** All applications for HRIFA dependents must be filed at the Nebraska Service Center.

**USCIS Nebraska Service Center
P.O. Box 87245
Lincoln, NE 68501-7245**

However, if you are in exclusion, deportation, or removal proceedings, you should submit the application to the Immigration Court which has jurisdiction over your case. However, if such proceedings have been administratively closed, submit the application to the Nebraska Service Center.

What Is the Filing Fee?

See instructions for Form I-485, Application to Register Permanent Residence or Adjust Status, for the required filing fee.

Processing Information

Can an applicant receive employment authorization while the adjustment application is pending?

You may request authorization to work in the United States while your application for adjustment of status under HRIFA is pending by filing Form I-765, Application for Employment Authorization. You should follow all the directions on that form pertaining to "Adjustment Applicant - (c)(9)," **Except** that you must file the application for employment authorization in one of the following manners.

1. If you **are not** in exclusion, deportation, or removal proceedings and are filing concurrently with an I-485 adjustment application, mail your application to:

**USCIS Nebraska Service Center
P.O. Box 87245
Lincoln, NE 68501-7245**

2. If you **are** in exclusion, deportation, or removal proceedings and are filing subsequent to the filing of your I-485 adjustment application, mail your application to:

**USCIS Nebraska Service Center
P.O. Box 87131
Lincoln, NE 68501-7131**

3. If you are currently in exclusion, deportation, or removal proceedings, file it with the USCIS office having jurisdiction over your place of residence in the United States.

You may receive work authorization if your application has been pending with USCIS for more than 180 days. However, work authorization may be issued earlier if your application for adjustment of status is supported by evidence that is verified by USCIS from its records.

Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with Form I-485, we will deny your application and may deny any other immigration benefit.

In addition, you will face severe penalties provided by law and may be subject to criminal prosecution.

Privacy Act Notice

We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit for which you are filing. Our legal right to ask for this information can be found in the Immigration and Nationality Act, as amended. We may provide this information to other government agencies. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your Form I-485.

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 OMB control number. The public reporting burden for this collection of information is estimated at 30 minutes per response, including the time for reviewing instructions. 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, Regulatory Products Division, Office of the Executive Secretariat, 20 Massachusetts Avenue, N.W., Washington, DC 20529-2020; OMB No 1615-0005. This form expires September 30, 2012. **Do not mail your application to this address.**