OMB No. 1615-0040; Expires 02/28/2018

Department of Homeland Security
U.S. Citizenship and Immigration Services

# I-765, Application For Employment Authorization

| For USCIS Use Only | Fee Stamp | Action Block | Initial Receipt | Resubmitted |
|---|---|---|---|---|
| | | | Relocated | |
| | | | Received | Sent |
| | | | Completed | |
| | | | Approved | Denied |
| | | | A# | |

☐ Application Approved
☐ Authorization/Extension Valid From _____
☐ Authorization/Extension Valid To _____

☐ Application Denied - Failed to establish:
☐ Eligibility under 8 CFR 274a.12 (a) or (c)
☐ Economic necessity under 8 CFR 274a.12(c)(14), (18) and 8 CFR 214.2(f)

Subject to the following conditions: _____

☐ Applicant is filing under section 274a.12 _____

**I am applying for:** ☐ Permission to accept employment. ☐ Replacement (of lost employment authorization document).
☐ Renewal of my permission to accept employment (attach a copy of your previous employment authorization document).

1. **Full Name**
(Family Name) (First Name) (Middle Name)

2. **Other Names Used** (include Maiden Name)

3. **U.S. Mailing Address**
(Street Number and Name) (Apt. Number)

(Town or City) (State) (ZIP Code)

4. **Country of Citizenship or Nationality**

5. **Place of Birth**
(Town or City) (State/Province) (Country)

6. **Date of Birth** (mm/dd/yyyy)

7. **Gender** ☐ Male ☐ Female

8. **Marital Status**
☐ Married ☐ Single ☐ Divorced ☐ Widowed

9. **Social Security Number** (Include all numbers you have ever used, if any)

10. **Alien Registration Number (A-Number)** or **Form I-94 Number** (if any)

11. **Have you ever before applied for employment authorization from USCIS?**
☐ Yes (Complete the following questions.)
Which USCIS Office? Dates

Results (Granted or Denied - attach all documentation)

☐ No (Proceed to **Question 12.**)

12. **Date of Last Entry into the U.S., on or about** (mm/dd/yyyy)

13. **Place of Last Entry into the U.S.**

14. **Status at Last Entry** (B-2 Visitor, F-1 Student, No Lawful Status, etc.)

15. **Current Immigration Status** (Visitor, Student, etc.)

16. **Eligibility Category.** Go to the "**Who May File Form I-765?**" section of the Instructions. In the space below, place the letter and number of the eligibility category you selected from the instructions. For example, (a)(8), (c)(17)(iii), etc.
( ) ( ) ( )

17. **(c)(3)(C) Eligibility Category.** If you entered the eligibility category (c)(3)(C) in **Question 16** above, list your degree, your employer's name as listed in E-Verify, and your employer's E-Verify Company Identification Number or a valid E-Verify Client Company Identification Number in the space below.
Degree Employer's Name as listed in E-Verify

Employer's E-Verify Company Identification Number or a Valid E-Verify Client Company Identification Number

18. **(c)(26) Eligibility Category.** If you entered the eligibility category (c)(26) in **Question 16** above, please provide the receipt number of your H-1B principal spouse's most recent Form I-797 Notice of Approval for Form I-129.

**Certification**

I certify, under penalty of perjury, that the foregoing is true and correct. Furthermore, I authorize the release of any information that U.S. Citizenship and Immigration Services needs to determine eligibility for the benefit I am seeking. I have read the "**Who May File Form I-765?**" section of the instructions and have identified the appropriate eligibility category in **Question 16**.

**Applicant's Signature** _____

**Date of Signature** (mm/dd/yyyy) _____

**Telephone Number** _____

**Signature of Person Preparing Form, If Other Than Applicant**

I declare that this document was prepared by me at the request of the applicant and is based on all information of which I have any knowledge.

**Preparer's Signature** _____

**Date of Signature** (mm/dd/yyyy) _____

**Printed Name** _____

**Address** _____

OMB No. 1615-0040; Expires 02/28/2018

**Department of Homeland Security**
U.S. Citizenship and Immigration Services

# Instructions for I-765, Application for Employment Authorization

## What Is the Purpose of This Form?

Certain aliens who are temporarily in the United States may file Form I-765, Application for Employment Authorization, to request an Employment Authorization Document (EAD). Other aliens who are authorized to work in the United States without restrictions must also use this form to apply to USCIS for a document that shows such authorization. Review **Eligibility Categories** to determine whether you should use this form.

If you are a lawful permanent resident, a conditional resident, or a nonimmigrant authorized to be employed with a specific employer under 8 CFR 274a.12(b), do **not** use this form.

### Definitions

**Employment Authorization Document (EAD):** Form I-688, Form I-688A, Form I-688B, Form I-766, or any successor document issued by USCIS as evidence that the holder is authorized to work in the United States.

**Renewal EAD:** An EAD issued to an eligible applicant upon the expiration of a previous EAD issued under the same category.

**Replacement EAD:** An EAD issued to an eligible applicant when the previously issued EAD has been lost, stolen, mutilated, or contains erroneous information, such as a misspelled name.

**Interim EAD:** An EAD issued to an eligible applicant when USCIS has failed to adjudicate an application within 90 days of a properly filed EAD application, or within 30 days of a properly filed initial EAD application based on an asylum application filed on or after January 4, 1995. The interim EAD will be granted for a period not to exceed 240 days and is subject to the conditions noted on the document. *The Interim EAD provisions apply to individuals filing Form I-765 based on Consideration of Deferred Action for Childhood Arrivals only after a determination on deferred action is reached.*

## Who May File Form I-765?

USCIS adjudicates a request for employment authorization by determining whether an applicant has submitted the required information and documentation, and whether the applicant is eligible. In order to determine your eligibility, you must identify the category in which you are eligible and fill in that category in **Question 16** on Form I-765. Enter only **one** of the following category numbers on the application form. For example, if you are a refugee applying for an EAD, write **"(a)(3)"** at **Question 16**.

For easier reference, the categories are subdivided as follows:


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1. **Asylee/Refugee Categories (and their Spouse and Children**

   A. **Refugee--(a)(3).** File Form I-765 with either a copy of your Form I-590, Registration for Classification as Refugee, approval letter, or a copy of a Form I-730, Refugee/Asylee Relative Petition, approval notice.

   B. **Paroled as a Refugee--(a)(4).** File Form I-765 with a copy of your Form I-94, Arrival-Departure Record.

   C. **Asylee (Granted Asylum)--(a)(5).** File Form I-765 with a copy of the USCIS letter, or judge's decision, granting you asylum. It is not necessary to apply for an EAD as an asylee until 90 days before the expiration of your current EAD.

   D. **Asylum Applicant (With a Pending Asylum Application) Who Filed for Asylum on or After January 4, 1995--(c)(8).** For specific instructions for applicants with pending asylum claims, see section entitled **"Special Filing Instructions for Those with Pending Asylum Applications ((c)(8))."**

2. **Nationality Categories**

   A. **Citizen of Micronesia, the Marshall Islands, or Palau--(a)(8).** File Form I-765 if you were admitted to the United States as a citizen of the Federated States of Micronesia (CFA/FSM), the Marshall Islands (CFA/MIS), or Palau under agreements between the United States and the former trust territories.

   B. **Deferred Enforced Departure (DED)/Extended Voluntary Departure--(a)(11).** File Form I-765 with evidence of your identity and nationality.

C. **Temporary Protected Status (TPS)--(a)(12) and (c)(19).** A category (a)(12) EAD is issued to an individual granted TPS under 8 CFR 244. A category (c)(19) EAD is a temporary treatment benefit under TPS pursuant to 8 CFR 244.5.

To request an EAD based on TPS, file Form I-765 with Form I-821, or with evidence that your initial Form I-821 was accepted or approved. Include evidence of nationality and identity as required by the Form I-821 instructions. If you are requesting extension of TPS status, also include a copy (front and back) of your last available TPS document: EAD, Form I-94, or approval notice.

To register for TPS, you must file a Form I-765 with Form I-821, Application for Temporary Protected Status, for each applicant, regardless of age, even if you are not requesting employment authorization. No fee is required for Form I-765 filed as part of TPS registration. (Form I-821 has separate fee requirements.)

If you have been granted TPS by an immigration judge (IJ) or the Board of Immigration Appeals (BIA) and are requesting your first EAD, you must submit evidence of your IJ or BIA grant of TPS with your application for an EAD along with a copy of your I-821 application that the IJ or BIA approved. You must also follow the instructions for filing your application as described in the most recent TPS *Federal Register* notice regarding a TPS designation or extension for your country. As further instructed in those notices, once you receive your I-797 application receipt notice, you must also send an e-mail to **tpsijgrant.vsc@dhs.gov** with the following information: Your name; your A number; your date of birth; the receipt number for your application; and the date you were granted TPS.

D. **NACARA Section 203 Applicants Who Are Eligible to Apply for NACARA Relief With USCIS--(c)(10).** See the instructions to Form I-881, Application for Suspension of Deportation or Special Rule Cancellation of Removal, to determine if you are eligible to apply to USCIS for NACARA 203 relief.

If you are eligible, you may file a Form I-765 with the Form I-881. See Instructions to Form I-881 for filing location. If you file the Form I-765 separately from the Form I-881 see **"Where to File?"** instructions. Your response to **Question 16** on the Form I-765 must be "(c)(10)."

E. **Dependent of TECRO E-1 Nonimmigrant--(c)(2).** File Form I-765 with the required certification from the American Institute in Taiwan if you are the spouse or unmarried dependent son or daughter of an E-1 employee of the Taipei Economic and Cultural Representative Office.

3. **Foreign Students**

A. **F-1 Student Seeking Optional Practical Training (OPT) in an Occupation Directly Related to Studies: (c)(3)(A)--Pre-completion Optional Practical Training; (c)(3)(B)--Post-completion Optional Practical Training; (c)(3)(C)--24-month extension for STEM (Students With a degree in Science, Technology, Engineering, or Mathematics) Optional Practical Training.** File Form I-765 with a Certificate of Eligibility of Nonimmigrant (F-1) Student Status (Form I-20 A-B/ I-20 ID) timely endorsed by a Designated School Official (DSO) (DSO's recommendation within the past 30 days for Post-Completion OPT and 60 days for the 24-month STEM OPT extension). If you are requesting a 24-month STEM OPT extension under the eligibility code (c)(3)(C), you must submit a copy of your degree and the employer name as listed in E-Verify, along with the E-Verify Company Identification Number, or a valid E-Verify Client Company Identification Number for the employer with whom you are seeking the 24-month OPT extension. You must provide this information in **Question 17** of the form

B. **F-1 Student Offered Off-Campus Employment Under the Sponsorship of a Qualifying International Organization--(c)(3)(ii).** File Form I-765 with the international organization's letter of certification that the proposed employment is within the scope of its sponsorship, and a Certificate of Eligibility of Nonimmigrant (F-1) Student Status -- For Academic and Language Students (Form I-20 A-B/ I-20 ID) endorsed by the Designated School Official within the past 30 days.

C. **F-1 Student Seeking Off-Campus Employment Due to Severe Economic Hardship--(c)(3)(iii).** File Form I-765 with Form I-20 A-B/I-20 ID, Certificate of Eligibility of Nonimmigrant (F-1) Student Status -- For Academic and Language Students, and any evidence you wish to submit, such as affidavits, that detail the unforeseen economic circumstances that cause your request, and evidence that you have tried to find off-campus employment with an employer who has filed a labor and wage attestation.

D. **J-2 Spouse or Minor Child of an Exchange Visitor--(c)(5).** File Form I-765 with a copy of your J-1 (principal alien's) Certificate of Eligibility for Exchange Visitor (J-1) Status (Form IAP-66). You must submit a written statement with any supporting evidence showing that your employment is not necessary to support the J-1 but is for other purposes.

E. **M-1 Student Seeking Practical Training After Completing Studies--(c)(6).** File Form I-765 with a completed Form I-539, Application to Change/ Extend Nonimmigrant Status, according to the filing instructions for Form I-539. You must also include Form I-20 M-N, Certificate of Eligibility for Nonimmigrant (M-1) Student Status -- For Vocational Students endorsed by the Designated School Official within the past 30 days, with your application.

4. **Eligible Dependents of Employees of Diplomatic Missions, International Organizations, or NATO**

A. **Dependent of A-1 or A-2 Foreign Government Officials--(c)(1).** Submit Form I-765 with Form I-566, Interagency Record of Request-A, G, or NATO Dependent Employment Authorization or Change/Adjustment to/from A, G, or NATO Status, Dependent Employment Authorization, through your diplomatic mission to the Department of State (DOS). The DOS will forward all favorably endorsed applications directly to the Nebraska Service Center for adjudication.

B. **Dependent of G-1, G-3 or G-4 Nonimmigrant--(c)(4).** Submit Form I-765 with Form I-566, Interagency Record of Request-A, G, or NATO Dependent Employment Authorization or Change/ Adjustment to/from A, G, or NATO Status, Dependent Employment Authorization, through your international organization to the Department of State (DOS). (In New York City, the United Nations (UN) and UN missions should submit such applications to the United States Mission to the UN (USUN).) The DOS or USUN will forward all favorably endorsed applications directly to the Nebraska Service Center for adjudication.

C. **Dependent of NATO-1 Through NATO-6--(c)(7).** Submit Form I-765 with Form I-566, Interagency Record of Request-A, G, or NATO Dependent Employment Authorization or Change/Adjustment to/from A, G, or NATO Status, Dependent Employment Authorization, to NATO SACLANT, 7857 Blandy Road, C-027, Suite 100, Norfolk, VA 23551-2490. NATO/SACLANT will forward all favorably endorsed applications directly to the Nebraska Service Center for adjudication.

5. **Employment-Based Nonimmigrant Categories**

A. **B-1 Nonimmigrant Who Is the Personal or Domestic Servant of a Nonimmigrant Employer--(c)(17)(i).** File Form I-765 with:

1. Evidence from your employer that he or she is a B, E, F, H, I, J, L, M, O, P, R, or TN nonimmigrant and you were employed for at least 1 year by the employer before the employer entered the United States, or your employer regularly employs personal and domestic servants and has done so for a period of years before coming to the United States; and

2. Evidence that you have either worked for this employer as a personal or domestic servant for at least 1 year, or evidence that you have at least 1 year's experience as a personal or domestic servant; and

3. Evidence establishing that you have a residence abroad that you have no intention of abandoning.

B. **B-1 Nonimmigrant Domestic Servant of a U.S. Citizen--(c)(17)(ii).** File Form I-765 with:

1. Evidence from your employer that he or she is a U.S. citizen; and

2. Evidence that your employer has a permanent home abroad or is stationed outside the United States and is temporarily visiting the United States or the citizen's current assignment in the United States will not be longer than 4 years; and

3. Evidence that he or she has employed you as a domestic servant abroad for at least 6 months prior to your admission to the United States.

C. **B-1 Nonimmigrant Employed by a Foreign Airline-- (c)(17)(iii).** File Form I-765 with a letter from the airline fully describing your duties and stating that your position would entitle you to E nonimmigrant status except for the fact that you are not a national of the same country as the airline or because there is no treaty of commerce and navigation in effect between the United States and that country.

D. **Spouse of an E-1/E-2 Treaty Trader or Investor--(a)(17) or Spouse of an E-3 Certain Specialty of Occupation Professional from Australia.** File Form I-765 with evidence of your lawful status and evidence you are a **spouse** of a principal E-1/E-2, such as your Form I-94, and a copy of the principal's visa, and your marriage certificate. (Other relatives or dependents of E-1/E-2 aliens who are in E status are not eligible for employment authorization and may not file under this category.)

E. **Spouse of an L-1 Intracompany Transferee--(a)(18).** File Form I-765 with evidence of your lawful status and evidence you are a **spouse** of a principal L-1, such as your Form I-94, and a copy of the principal's visa and your marriage certificate. (Other relatives or dependents of L-1 aliens who are in L status are not eligible for employment authorization and may not file under this category.)

F. **Spouse of an E-2 CNMI Investor--(c)(12).** File Form I-765 with evidence of your lawful status and evidence you are a **spouse** of a principal E-2 CNMI Investor, and a copy of the principal E-2 CNMI Investors long-term business certificate or Foreign Investment Certificate. (Please note that spouse of a principal E-2 CNMI Investor who obtained status on the basis of a Foreign Retiree Investment Certification is not eligible for employment authorization and may not file under this category.)

G. **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 that the H-1B principal has an approved Immigrant Petition for Alien Worker (Form I-140), or that your current H-4 admission or extension of stay was approved pursuant to the principal H-1B nonimmigrant's admission or extension of stay based on sections 106(a) and (b) of the American Competitiveness in the Twenty-First Century Act (AC21). For your convenience, you may file Form I-765 with Form I-539, Application to Extend/ Change Nonimmigrant Status. However, USCIS will not process Form I-765 (except filing fees), until after USCIS has adjudicated Form I-539. You may also file Form I-765 at the same time as Form I-539 **and** Form I-129, Petition for a Nonimmigrant Worker. The 90-day period for adjudicating Applications for Employment Authorization (Form I-765) filed together with Form I-539 does not begin until USCIS has determined whether you are eligible for the underlying H-4 nonimmigrant status, and that the principal is eligible for H-1B status. Please see the USCIS Web site at **www.uscis.gov/I-765** for the most current information on where the file this benefit request.

1. **Proof of Your Status.** Submit a copy of your current Form I-797 approval notice for Form I-539 or Form I-94 showing your admission as an H-4 nonimmigrant or your most recent approved extension of stay; and

2. **Proof of Relationship to the Principal H-1B.** Submit a copy of the marriage certificate for you and the principal H-1B nonimmigrant. If you cannot submit a copy of your current Form I-797, Form I-94, or marriage certificate, USCIS will consider secondary evidence.

3. **Basis for Work Authorization.** Acceptable documentation includes:

   a. **Approved Form I-140.** Submit evidence that the H-1B principal is the beneficiary of an *approved* Immigrant Petition for Alien Worker (Form I-140). You may show this by submitting a copy of the H-1B principal's Form I-797 approval notice for Form I-140; or

   b. **H-1B Principal Received AC21 106(a) and (b) Extension.** Submit evidence that the principal H-1B nonimmigrant has received an extension of stay under AC21 106(a) and (b). You may show this by submitting copies of the H-1B principal's passports, prior Forms I-94, and current and prior Forms I-797 for Form I-129. In addition, please submit evidence to establish one of the following bases for the H-1B extension of stay:

   **Based on Filing of a Permanent Labor Certification Application**. Submit evidence that the H-1B principal is the beneficiary of a Permanent Labor Certification Application that was filed at least 365 days prior to the expiration of the 6-year limitation of stay. You may show this by submitting a copy of a print out from the Department of Labor's (DOL's) Web site or other correspondence from DOL showing the status of the H-1B principal's Permanent Labor Certification Application. If DOL certified the Permanent Labor Certification, you must also submit a copy of Form I-797 Notice of Receipt for Form I-140 establishing that the Form I-140 was filed within 180 days of DOL certifying the Permanent Labor Certification; or

   **Based on a Pending Form I-140**. If the preference category sought for the principal H-1B spouse does not require a Permanent Labor Certification Application with DOL, submit evidence that the H-1B principal's Form I-140 was filed at least 365 days prior to the expiration of the 6-year limitation of stay and remains pending. You may show this by submitting a copy of the Form I-797 Notice of Receipt for Form I-140.

4. **Secondary Evidence.** If you do not have the evidence listed in 1, 2, or 3 above, you may ask USCIS to consider other evidence ("secondary evidence") in support of your application for employment authorization as an H-4 spouse. For example, in establishing the Basis for Employment Authorization as described in 3a and 3b, you may submit the receipt number of the H-1B principal's most current Form I-129 extension of stay or the receipt number of the H-1B principal's approved Form I-140 petition.

   Failure to provide the evidence listed above or secondary evidence may result in the delay or denial of your application for employment authorization. For additional information on secondary evidence, see **Evidence** in the **General Instructions** section.

6. **Family-Based Nonimmigrant Categories**

   A. **K-1 Nonimmigrant Fiance(e) of U.S. Citizen or K-2 Dependent--(a)(6).** File Form I-765 if you are filing within 90 days from the date of entry. This EAD cannot be renewed. Any EAD application other than for a replacement must be based on your pending application for adjustment under (c)(9).

   B. **K-3 Nonimmigrant Spouse of U.S. Citizen or K-4 Dependent--(a)(9).** File Form I-765 along with evidence of your admission such as copies of your Form I-94, passport, and K visa.

   C. **Family Unity Program--(a)(13).** If you are filing for initial or extension of Family Unity benefits, complete and submit Form I-817, Application for Family Unity Benefits, according to the filing instructions on Form I-817. An EAD will be issued if your Form I-817 is approved; you do not need to submit Form I-765.

      If your non-expired Family Unity EAD is lost or stolen, file Form I-765 with proper fee(s), along with a copy of your approval notice for Family Unity benefits, to request a replacement.

   D. **LIFE Family Unity--(a)(14).** If you are applying for initial employment authorization under Family Unity provisions of section 1504 of the LIFE Act Amendments, or an extension of such authorization, you should not use this form. Obtain and complete Form I-817, Application for Family Unity Benefits. If you are applying for a replacement EAD that was issued under LIFE Act Amendments Family Unity provisions, file Form I-765 with the required evidence listed in the **"Required Documentation"** section of these instructions.

   E. **V-1, V-2, or V-3 Nonimmigrant--(a)(15).** If you have been inspected and admitted to the United States with a valid V visa, file this application along with evidence of your admission, such as copies of your Form I-94, passport, and K visa. If you have been granted V status while in the United States, file this application along with evidence of your V status, such as an approval notice. If you are in the United States but you have not yet filed an application for V status, you may file this application at the same time as you file your application for V status. USCIS will adjudicate this application after adjudicating your application for V status.

7. **EAD Applicants Who Have Filed for Adjustment of Status**

   A. **Adjustment Applicant--(c)(9).** File Form I-765 with a copy of the receipt notice or other evidence that your Form I-485, Application for Permanent Residence or Adjust Status, is pending. You may file Form I-765 together with your Form I-485.

   B. **Adjustment Applicant Based on Continuous Residence Since January 1, 1972--(c)(16).** File Form I-765 with your Form I-485, Application to Register for Permanent Residence or Adjust Status; a copy of your receipt notice; or other evidence that the Form I-485 is pending.

   C. **Renewal EAD for National Interest Waiver Physicians:** If you are filing for a renewal EAD based on your pending adjustment status and an approved National Interest Waiver Physician petition, you must also include evidence of your meaningful progress toward completing the national interest waiver obligation. Such evidence includes documentation of employment in any period during the previous 12 months (e.g., copies of W-2 forms). If you did not work as a national interest waiver physician during any period of the previous 12 months, you must explain and provide a statement of future intent to work in the national interest waiver employment program.

8. **Other Categories**

   A. **N-8 or N-9 Nonimmigrant--(a)(7).** File Form I-765 with the required evidence listed in the **"Required Documentation"** section of these instructions.

   B. **Granted Withholding of Deportation or Removal (a)(10).** File Form I-765 with a copy of the Immigration Judge's order. It is not necessary to apply for a new EAD until 90 days before the expiration of your current EAD.

C. **Applicant for Suspension of Deportation--(c)(10).** File Form I-765 with evidence that your Form I-881, Application for Suspension of Deportation or Special Rule Cancellation of Removal (Pursuant to Section 203 of Public Law 105-100 (NACARA)), or Form EOIR-40, is pending.

D. **Paroled in the Public Interest--(c)(11).** File Form I-765 if you were paroled into the United States for emergent reasons or reasons strictly in the public interest.

E. **Deferred Action--(c)(14).** File Form I-765 with a copy of the order, notice, or document reflecting the exercise of deferred action. To determine your eligibility for work authorization, you must establish economic necessity. USCIS will consider whether you have an economic need to work by reviewing your current annual income, your current annual expenses, and the total current value of your assets. Provide this financial information on Form I-765WS, Form I-765 Worksheet. If you would like to provide an explanation, complete **Part 3. Explanation**, of the worksheet. It is not necessary to submit supporting documentation, though it will be accepted and reviewed if you choose to submit it.

F. **Consideration of Deferred Action for Childhood Arrivals--(c)(33).**

1. You must file Form I-765 with Form I-821D if you meet the guidelines described in the Form I-821D Filing Instructions. Enter (c)(33) in **Question 16** as the letter and number of the category for which you are applying.

   a. To determine your eligibility for work authorization, you must establish economic necessity. USCIS will consider whether you have an economic need to work by reviewing your current annual income, your current annual expenses, and the total current value of your assets. Provide this financial information on Form I-765WS, Form I-765 Worksheet. If you would like to provide an explanation, complete **Part 3. Explanation**, of the worksheet. It is not necessary to submit supporting documentation, though it will be accepted and reviewed if you choose to submit it. You do not need to include other household member's financial information to establish your own economic necessity.

   b. The 90-day period for adjudicating Form I-765 filed together with Form I-821D does not begin until DHS has decided whether to defer action in your case.

   c. The fee for Form I-765 filed based on the Consideration of Deferred Action for Childhood Arrivals category cannot be waived. Biometric collection and the biometric services fee for Form I-765 based on the Consideration of Deferred Action for Childhood Arrivals category is also required and cannot be waived.

2. If U.S. Immigration and Customs Enforcement (ICE) deferred action on your case, file a stand-alone Form I-765 with a copy of the order, notice, or document reflecting the exercise of deferred action. To determine your eligibility for work authorization, you must establish economic necessity. USCIS will consider whether you have an economic need to work by reviewing your current annual income, your current annual expenses, and the total current value of your assets. Provide this financial information on Form I-765WS, Form I-765 Worksheet. If you would like to provide an explanation, complete **Part 3. Explanation**, of the worksheet. It is not necessary to submit supporting documentation, though it will be accepted and reviewed if you choose to submit it. You do not need to include other household member's financial information to establish your own economic necessity.

   When completing the Form I-765:

   a. Enter "Unlawful Status: Deferred Action for Childhood Arrivals by ICE" for **Question 15**.

   b. Enter (c)(33) in **Question 16** as the letter and number of the category for which you are applying.

G. **Final Order of Deportation--(c)(18).** File Form I-765 with a copy of the order of supervision and a request for employment authorization that may be based on but not limited to the following:

1. Existence of a dependent spouse and/or children in the United States who rely on you for support;

2. Existence of economic necessity to be employed; and

3. Anticipated length of time before you can be removed from the United States.

H. **LIFE Legalization Applicant--(c)(24).** We encourage you to file File Form I-765 together with your Form I-485, Application to Register Permanent Residence or Adjust Status, to facilitate processing. However, you may file Form I-765 at a later date with evidence that you were a CSS, LULAC, or Zambrano class member applicant before October 1, 2000, and with a copy of the receipt notice or other evidence that your Form I-485 is pending.

I. **T-1 Nonimmigrant--(a)(16).** If you are applying for initial employment authorization as a T-1 nonimmigrant, file Form I-765 only if you did not request an employment authorization document when you applied for T nonimmigrant status. If you have been granted T nonimmigrant status and this is a request for a renewal or replacement of an employment authorization document, file Form I-765 along with evidence of your T nonimmigrant status, such as an approval notice.

J. **T-2, T-3, or T-4 Nonimmigrant--(c)(25).** File Form I-765 with a copy of your T-1 (principal alien's) approval notice and proof of your relationship to the T-1 principal.

K. **U-1 Nonimmigrant--(a)(19).** If you are applying for initial employment authorization as a U-1 nonimmigrant, file Form I-765 only if you did not request an employment authorization document when you applied for U nonimmigrant status. If you have been granted U nonimmigrant status and this is a request for a renewal or replacement of an employment authorization document, file Form I-765 along with evidence of your U nonimmigrant status, such as an approval notice.

L. **U-2, U-3, U-4, or U-5--(a)(20).** If you obtained U nonimmigrant status while in the United States, you must submit a copy of the approval notice for your U nonimmigrant status. If you were admitted to the United States as a U nonimmigrant, you must submit a copy of your passport with your U nonimmigrant visa.

M. **VAWA Self-Petitioners--(c)(31).** If you are the principal beneficiary or qualified child of an approved VAWA self-petition, you are eligible for work authorization. File Form I-765 with evidence of your status, such as a copy of Form I-360 approved notice. Additionally, you may file Form I-765 together with your initial VAWA self-petition.

## General Instructions

Each application must be properly signed and filed. A photocopy of a signed application or a typewritten name in place of a signature is not acceptable.

Each application must be accompanied by the appropriate filing fee.

If you are under 14 years of age, your parent or legal guardian may sign the application on your behalf.

**Evidence.** You must submit all required initial evidence along with all the supporting documentation with your application at the time of filing.

If a required document does not exist or cannot be obtained, you must demonstrate this and submit secondary evidence pertinent to the facts at issue. If secondary evidence does not exist or is unavailable you must demonstrate this and submit two or more sworn affidavits by non-parties who have direct knowledge of the event and circumstances.

If you are electronically filing this application, you must follow the instructions provided on the USCIS Web site, www.uscis.gov.

**Biometrics Services Appointment.** After receiving your application and ensuring completeness, USCIS will inform you in writing when to go to your local USCIS Application Support Center (ASC) for your biometrics services appointment. Failure to attend the biometrics services appointment may result in denial of your application.

**Copies.** Unless specifically required that an original document be filed with an application or petition, a legible photocopy may be submitted. Original documents submitted when not required may remain a part of the record and will not be automatically returned to you.

**Translations.** Any document containing foreign language submitted to USCIS must be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English.

### How To Fill Out Form I-765

1. Type or print legibly in black ink.
2. If extra space is needed to complete any item, attach a continuation sheet, write your name and Alien Registration Number (A-Number) (if any), at the top of each sheet of paper, indicate the Part and item number to which your answer refers, 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."

## Required Documentation

**All** applications must be filed with the documents required below in addition to the particular evidence required for the category listed in **"Who May File Form I-765?"** with fee, if required.

If you are required to show economic necessity for your category, submit a list of your assets, income, and expenses. Provide this financial information on Form I-765WS, Form I-765 Worksheet. If you would like to provide an explanation, complete Part 3, Explanation, of the worksheet.

Assemble the documents in the following order:

1. Your application with the filing fee. See **"What Is the Filing Fee?"** for details.
2. If you are mailing your application to USCIS, you must also submit:

   **A.** A copy of Form I-94, Arrival-Departure Record (front and back), if available. If you are filing Form I-765 under the (c)(9) category, Form I-94 is not required.

   **B.** A copy of your last EAD (front and back). If no prior EAD has been issued, you must submit a copy of a government-issued identity document, such as a passport showing your picture, name, and date of birth; a birth certificate with photo ID; a visa issued by a foreign consulate; or a national ID document with photo and/or fingerprint. The identity document photocopy must clearly show the facial features of the applicant and the biographical information. If you are filing under the (c)(33) category, additional documentation beyond what you submit under **"3. What Documents Do You Need to Provide to Prove Identity?"** of the filing instructions for Form I-821D, Consideration of Deferred Action for Childhood Arrivals, is not required.

   **C.** You **must** submit two identical color photographs of yourself taken within 30 days of filing your application. The photos must have a white to off-white background, be printed on thin paper with a glossy finish, and be unmounted and unretouched.

   The passport-style photos must be 2" by 2". The photos must be in color with full face, frontal view on a white to off-white background. Head height should measure 1" to 1 3/8" from top to bottom of chin, and eye height is between 1 1/8' to 1 3/8" from bottom of photo. Your head must be bare unless you are wearing headwear as required by a religious order of which you are a member. Using pencil or felt pen, lightly print your name and Alien Receipt Number on the back of the photo.

## Special Filing Instructions for Those With Pending Asylum Applications ((c)(8))

**Asylum Applicant (with a pending asylum application) who filed for asylum on or after January 4, 1995.** You must wait at least 150 days following the filling of your asylum claim before you are eligible to apply for an EAD. Any delay in processing the asylum application that is caused by you, including unexcused failure to appear for fingerprinting and other biometrics capture, will not be counted as part of that 150 days. If you fail to appear for your asylum interview or for a hearing before an immigration judge, you will be ineligible for an EAD. If you have received a recommended approval for a grant of asylum, you do not need to wait the 150 days and may apply for an EAD immediately upon receipt of your recommended approval. If you file Form I-765 early, it will be denied. File Form I-765 with:

1. A copy of the USCIS acknowledgement mailer which was mailed to you;
2. Other evidence that your Form I-589 was filed with USCIS;
3. Evidence that your Form I-589 was filed with an Immigration Judge at the Executive Office for Immigration Review (EOIR); or
4. Evidence that your asylum application remains under administrative or judicial review.

**Asylum applicant (with a pending asylum application) who filed for asylum and for withholding of deportation prior to January 4, 1995, and is *NOT* in exclusion or deportation proceedings.**

You may file Form I-765 at any time; however, it will only be granted if USCIS finds that your asylum application is not frivolous. File Form I-765 with:

1. A complete copy of your previously filed Form I-589;
2. A copy of your USCIS receipt notice;
3. A copy of the USCIS acknowledgement mailer;
4. Evidence that your Form I-589 was filed with EOIR;
5. Evidence that your asylum application remains under administrative or judicial review; or
6. A copy of the USCIS acknowledgement mailer.

**Asylum applicant (with a pending asylum application) who filed an initial request for asylum prior to January 4, 1995, and is IN exclusion or deportation proceedings.** If you filed your Request for Asylum and Withholding of Deportation (Form I-589) prior to January 4, 1995, and you are IN exclusion or deportation proceedings, file your EAD application with:

1. A date-stamped copy of your previously filed Form I-589;
2. A copy of Form I-221, Order to Show Cause and Notice of Hearing, or Form I-122, Notice to Applicant for Admission Detained for Hearing Before Immigration Judge;
3. A copy of EOIR-26, Notice of Appeal, date stamped by the Office of the Immigration Judge;
4. A date-stamped copy of a petition for judicial review or for *habeas corpus* issued to the asylum applicant; or

5. Other evidence that you filed an asylum application with EOIR.

**Asylum application under the ABC Settlement Agreement--(c)(8).** If you are a Salvadoran or Guatemalan national eligible for benefits under the ABC settlement agreement, American Baptist Churches v. Thornburgh, 760 F. Supp. 976 (N.D. Cal. 1991), follow the instructions contained in this section when filing your Form I-765.

You must have an asylum application (Form I-589) on file either with USCIS or with an Immigration Judge in order to receive work authorization. Therefore, submit evidence that you have previously filed an asylum application when you submit Form I-765. You are not required to submit this evidence when you apply, but it will help USCIS process your request efficiently.

If you are renewing or replacing your EAD, you must pay the filing fee.

Mark your application as follows:

1. Write "ABC" in the top right corner of your EAD application. You must identify yourself as an ABC class member if you are applying for an EAD under the ABC settlement agreement.
2. Write "(c)(8)" in **Question 16** of the application.

You are entitled to an EAD without regard to the merits of your asylum claim. Your application for an EAD will be decided within 60 days if: (1) you pay the filing fee, (2) you have a complete pending asylum application on file, and (3) you write "ABC" in the top right corner of your EAD application. If you do not pay the filing fee for an initial EAD request, your request may be denied if USCIS finds that your asylum application is frivolous. However, if you cannot pay the filing fee for an EAD, you may qualify for a fee waiver under 8 CFR 103.7(c).

### Special Filing Instructions for Spouses of E-2 CNMI Investors ((c)(12)).

Spouses of certain principal E-2 CNMI Investors (E-2C) are eligible to seek employment in the CNMI. An EAD issued under this category is only valid for employment in the Commonwealth of Northern Mariana Islands (the CNMI).

To determine if you are eligible for an EAD under this section, you must determine what type of investor certificate was issued by the CNMI to your spouse, the principal E-2 CNMI Investor. If your spouse was issued either a Long-Term Business Certificate or Foreign Investment Certificate, you may be eligible for an EAD under this category. If your spouse, the principal E-2 CNMI Investor, was issued a Foreign Retiree Investment Certification, you are not eligible to receive an EAD under this category.

File Form I-765 with:

1. Documentation, such as a marriage certificate establishing a legal marriage between you and the principal E-2C. Additionally, documentation such as divorce or death certificates establishing the termination of any prior marriages of you and your spouse.
2. Documentation establishing that you reside in the Commonwealth of the Northern Mariana Islands.
3. Documentation establishing that you have obtained E-2C status as a dependent.
4. Evidence that your spouse has obtained E-2C status.
5. A copy of your spouse's CNMI issued Long-Term Business Certificate or Foreign Investment Certificate.

## What Is the Filing Fee?

**The filing fee for Form I-765 is $380.**

**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:

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);
8. (a)(19) U-1 Nonimmigrant;
9. (c)(1), (c)(4), or (c)(7) Dependent of certain foreign government, international organization, or NATO personnel;
10. (c)(8) Applicant for asylum (an applicant filing under the special ABC procedures must pay the fee); or
11. (c)(31) VAWA Self-Petitioner.

**Special Instructions for Childhood Arrivals ((c)(33)).** All requestors under this category must submit biometrics. The biometrics services fee of $85 is required for all requestors. *The biometrics services fee and the filing fee for this form cannot be waived.*

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

1. (a)(8) Citizen of Micronesia, Marshall Islands, or Palau;
2. (a)(10) Granted Withholding of Deportation;
3. (c)(l), (c)(4), or (c)(7) Dependent of certain foreign government, international organization, or NATO personnel;
4. (c)(9) or (c)(16) Adjustment applicant who applied after July 30, 2007.

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

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

   **NOTE:** If you are requesting a replacement EAD under the (c)(9) or (c)(16) Adjustment applicant who applied after July 30, 2007 category, then the full filing fee will be required; however, no biometrics fee is required.

**Card Error:**

1. If the card issued to you contains incorrect information that is not attributed to USCIS error, a new Form I-765 and filing fee are required. Form I-765 must be accompanied by the card containing the error.
2. If the card issued to you contains incorrect information that is attributed to a USCIS error, a new Form I-765 and filing fee are not required. Instead, you must submit a letter, accompanied by the card containing the error to the Service Center or National Benefit Center that approved your last employment authorization request.

You may be eligible for a fee waiver under 8 CFR 103.7(c) if you are filing for an EAD related to your application or grant of TPS.

**Use the following guidelines when you prepare your check or money order for the Form I-765 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, Application to Register Permanent Residence or Adjust Status, as of July 30, 2007, ***and you paid the Form I-485 filing fee***, no fee is required to also file a request for employment authorization on Form I-765. You may file the Form I-765 with your Form I-485, or you may submit the 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 of Action, receipt as evidence of the filing of Form I-485 as of July 30, 2007.

**Notice to Those Making Payment by Check.** If you send us a check, it will be converted 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 will be shown 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 the EFT cannot be processed for technical reasons, you authorize us to process the copy in place of your original check. If the EFT cannot be completed because of insufficient funds, we may try to make the transfer up to two times.

**How to Check If the Fees Are Correct**

The fee on this form is current as of the edition date appearing in the lower right corner of this page. However, because USCIS fees change periodically, you can verify if the fees are correct by following one of the steps below:

1. Visit our Web site at **www.uscis.gov**, select "Forms Filing Fees" and check the appropriate fee; **or**
2. Telephone our National Customer Service Center at **1-800-375-5283** and ask for the fee information. For TDD (hearing impaired) call: **1-800-767-1833**.

## Where to File?

Please visit the USCIS Web site at **www.uscis.gov/I-765** or contact the USCIS National Customer Service Center at **1-800-375-5283** for the most current information about where to file this benefit request. For TDD (hearing impaired) call: **1-800-767-1833**.

## Address Change

If you have changed your address, you must inform USCIS of your new address. For information on filing a change of address go to the USCIS Web site at **www.uscis.gov/addresschange** or contact the USCIS National Customer Service Center at **1-800-375-5283**. For TDD (hearing impaired) call: **1-800-767-1833**.

**NOTE:** Do not submit a change of address request to USCIS Lockbox facilities because USCIS Lockbox facilities do not process change of address requests.

## Processing Information

**Any Form I-765 that is not signed or accompanied by the correct fee will be rejected with a notice that Form I-765 is deficient.** You may correct the deficiency and resubmit Form I-765. An application or petition is not considered properly filed until accepted by USCIS.

**Initial processing.** Once Form I-765 has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form, or file it without required initial evidence, you will not establish a basis for eligibility, and we may deny your Form I-765.

**Biometric collection, interview, and requests for more information.** We may request more information or evidence, or we may request that you appear at a USCIS office for an interview, which may include collection of biometrics (fingerprints, photograph, and signature). We may also request that you submit the originals of any copy. We will return these originals when they are no longer required.

You may be required to provide biometrics at a USCIS Application Support Center (ASC) in order for your EAD application to be adjudicated and your card to be produced. If necessary, USCIS will send you a notice scheduling you for an ASC appointment for the electronic collection of your biometrics. The ASC notice will inform you of the documents that you must bring with you to the appointment. If you fail to attend your ASC appointment, your EAD application may be denied.

**Approval.** If approved, your EAD will either be mailed to you or you may be required to visit your local USCIS office to pick it up.

**Denial.** If your application cannot be granted, you will receive a written notice explaining the basis of your denial.

**Interim EAD.** If you have not received a decision within 90 days of receipt by USCIS of a properly filed EAD application or within 30 days of a properly filed initial EAD application based on an asylum application filed on or after January 4, 1995, you may request interim work authorization by calling the USCIS National Customer Service Center at **1-800-375-5283** or by appearing in person at your local USCIS Field Office by making an **InfoPass** appointment. For TDD (hearing impaired) call: **1-800-767-1833**. For further processing at a USCIS Field Office, you must bring proof of identity and any notices that you have received from USCIS in connection with your application for employment authorization. *The Interim EAD provisions apply to individuals filing Form I-765 based on Consideration of Deferred Action for Childhood Arrivals only after a determination on deferred action is reached.*

## USCIS Forms and Information

To ensure you are using the latest version of this form, visit the USCIS Web site at **www.uscis.gov** where you can get USCIS forms and immigration-related information. If you do not have internet access, you may order USCIS forms by calling our toll-free number at **1-800-870-3676**. You may also obtain forms and information by calling our USCIS National Customer Service Center at **1-800-375-5283**. For TDD (hearing impaired) call: **1-800-767-1833**.

As an alternative to waiting in line for assistance at your local USCIS office, you can now schedule an appointment through the USCIS Internet-based system, **InfoPass**. To access the system, visit the USCIS Web site. Use the **InfoPass** appointment scheduler and follow the screen prompts to set up your appointment. **InfoPass** generates an electronic appointment notice that appears on the screen.

## Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with your Form I-765, we will deny your Form I-765 and may deny any other immigration benefit.

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

## USCIS Privacy Act Statement

**AUTHORITIES:** The information requested on this application, and the associated evidence, is collected pursuant to the Immigration and Nationality Act, 8 U.S.C. section 1324a, as amended.

**PURPOSE:** The primary purpose for providing the requested information on this form is to determine eligibility for certain aliens who are temporarily in the United States requesting an Employment Authorization Document (EAD).

**DISCLOSURE:** The information you provide is voluntary. However, failure to provide the requested information, and any requested evidence, may delay a final decision or result in the denial of your benefit request.

**ROUTINE USES:** The information you provide on this benefit application may be shared with other federal, state, local, and foreign government agencies and authorized organizations in accordance with approved routine uses, as described in the associated published system of records notices [**DHS-USCIS-001 - Alien File, Index, and National File Tracking System; DHS-USCIS-007 - Benefit Information System; and DHS/USCIS-010 - Asylum Information and Pre-Screening**, which can be found at **www.dhs.gov/privacy**]. The information may also be made available, as appropriate for law enforcement purposes or in the interest of national security.

## 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 as follows: 3.42 hours for reviewing instructions and completing and submitting Form I-765; 1.17 hours associated with biometrics processing; .50 hours for reviewing instructions and completing Form I-765WS; and .50 hours associated with providing passport-style photographs. 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 Coordination Division, Office of Policy and Strategy, 20 Massachusetts Ave NW, Washington, DC 20529-2140. OMB No. 1615-0040. **Do not mail your completed Form I-765 to this address.**