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## I-485 FAQ

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Submitted by Rajiv S. Khanna on Dec 15th 2011

The following questions were asked in today's community conference call. I feel the answers should be of use to many folks.

Originally posted by **Kavita\_K** [View Post](#) <sup>[2]</sup>

Namaste Rajiv ji,

I am on H1-B visa and my EB-2 Priority Date is May 15, 2010. Please see below questions regarding I-485.

Question # 1:- Typically, how long would it take to receive Advance Parole and EAD after filing I-485?

Answer. EAD is usually processed within 90 days and AP within 3-6 months. You can check I-131 processing times from links on this page: <http://www.immigration.com/processin...-status-checks> <sup>[3]</sup>

Question # 2:- I entered USA on F1-Visa in year 2000, and then changed my status to H1-B visa within USA in year 2004. I never left USA since year 2000. My passport does **not** have H1-B visa stamp. In order to file I-485, is it required to have H1-B visa stamp in my passport?

Answer: A visa stamp is NOT required. Proper status only is needed.

Question # 3:-After filing I-485 and **before** receiving A.P., if I travel to my home country for H1-B visa stamping, is it possible that my company can mail A.P. documents to my home country so that I could enter USA using my A.P. in case H1-B visa in my home country is denied?

Answer: It is NOT advisable to travel before AP is issued, if you do not have an H/L visa already stamped. For details, listen to today's recording of the community conference call. It will be posted here: <http://www.immigration.com/free-comm...nference-calls> <sup>[4]</sup>

Question # 4:- I came to know that it is required for an alien to be present in USA at the time of I-485 filing. Is it also required that an alien must be present in USA until A.P. is approved?

Answer: Presence in USA for 485 filing is mandatory. See previous answer for AP.

Question # 5:- Does Visa Officer have the ability to cancel A.P., in case H1-B visa is denied in my home country due to 221(g)/missing tax returns/W-2's/Paystubs?

Answer: I do not believe VO has the authority to revoke an AP.

Question # 6:- If my H1-B visa is denied in my home country, and if i enter USA using A.P., then could my spouse enter USA using H-4 visa using my valid I-797 approval notice even though I do not have H1-B visa stamp in my passport? If I enter USA using A.P., what are the options for my spouse? Kindly advise.

Answer: Under Cronin memo, if you enter on AP to continue working on an existing, valid H-1, you are still considered to be on H-1. I believe your spouse can use his H-4.

Question # 7:- At what point of time during GC process, do I need to add my spouse? Should it be before filing of I-485 or before Visa Number is available? Kindly advise me

Answer: Before APPROVAL of I-485. Listen to today's community conference call recording for more info: <http://www.immigration.com/free-comm...nference-calls> [4]

Question # 8:- After filing my I-485, and if my spouse is in USA on H-4, will I be able to add my spouse to my I-485 application? By the time, I want to add my spouse to I-485 application, if Visa Number is available and if AOS/I-485 is approved, then would I still be able to add my spouse if spouse is in USA **and also outside USA?**

Answer: Your spouse can file his 485 if he is in USA; Priority Dates are current AND he has not been out of status for more than 180 days -- whether or not your 485 is already approved.

Thanks in advance! Happy New Year 2012!!

Kavita

**Green Card:**

Form I-485 [5]

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**Links:**

[1] <https://immigration.com/blog/form-i-485/i-485-faq>

[2] <http://forumarchive.immigration.com/forum/rajiv-s-corner/free-community-conference-call-for-immigration-related-questions/335266-recording-available-for-download-for-dec-15-conference-call?p=3496205#post3496205>

[3] <http://www.immigration.com/processing-times-and-status-checks>

[4] <http://www.immigration.com/free-community-conference-calls>

[5] <https://immigration.com/greencard/green-card/form-i-485>