

## **Green Card Application Process Overview and Timeline**

There are **two** steps to getting an employment-based green card:

1. Approved I-140; and
2. Approved I-485 (if you are in the US) or Immigrant Visa (if you are outside the US).

**Please be aware that a pending or approved I-140 alone will not grant you a valid status to remain in/enter the US or employment authorization.**

If you are in the US and eligible to file the I-485, you can remain in the US based on your pending I-485 even if you lose your nonimmigrant visa status. You can also file an I-765 with your I-485 to apply for an Employment Authorization Document (EAD) that will allow you to work while your I-485 is pending. You can find regular processing time for I-765 [here](#) and it is very difficult to expedite the processing (see [here](#)). Since EAD card processing time varies, you should avoid making any firm plan relying on the approval of I-485 EAD card.

### **If you are in the US and your priority date is current...**

...You will file an I-140 and I-485 to get your green card. To determine if the priority date is current for filing I-485, please refer to USCIS Adjustment of Status Filing Charts from the Visa Bulletin published each month (see [here](#)).

If your I-140 is denied and you have filed your I-485, your I-485 will be automatically denied. If your I-140 is approved, it is very likely that your I-485 will be approved; however, it is not guaranteed (see [Q7](#)).

When your I-140 priority date is current, you have **three filing options for the I-485**:

#### **1. File your I-140 and I-485 simultaneously**

- a. This is known as “concurrent” filing.
- b. USCIS will not approve your I-485 until your I-140 is approved. Additionally, the actual processing time can vary from case to case. You can find the current processing times at the various service centers at this link:  
<https://egov.uscis.gov/processing-times/>

c. Benefits

- i. You can apply earlier for an Employment Authorization Document (EAD) and Advance Parole document (AP) to work/travel as you cannot apply for them prior to filing I-485.
- ii. You can remain in the US legally based on your pending I-485 even if you will lose your nonimmigrant visa status.

d. Risks

- i. If your I-140 is ultimately denied, your I-485 will be automatically denied, your EAD/AP will be invalidated, and you will lose your I-485 filing fee(s) (\$1,225 per person, \$1,140 for children under 14).
- ii. Once you file the I-485 you will clearly demonstrate your immigrant intent and will have difficulty getting a nonimmigrant visa requiring nonimmigrant intent (e.g. F, J, B, TN) in the future if your I-485 is denied. You will still be eligible for a nonimmigrant visa that permits “dual intent”— immigrant and nonimmigrant intent at the same time (e.g., H-1B, L-1).

**2. File your I-140, wait for the I-140 receipt notice, and then paper file your I- 485 with a copy of the I-140 receipt notice while your I-140 is still pending.**

- a. This is known as a “pending” filing.
- b. Currently, due to COVID-19, it can take up to 90 days to receive the I-140 receipt notice after an I-140 is filed.
- c. You must wait to file the I-485 with a copy of the paper I-140 receipt notice from USCIS.
- d. If you choose the DIY option for your I-485, we will file your I-140 and then you will paper file your I-485 directly to USCIS once you receive the I-140 receipt notice.
- e. USCIS will not approve your I-485 until your I-140 is approved. Additionally, the actual processing time can vary from case to case. You can find the current processing times at the various service centers at this link:  
<https://egov.uscis.gov/processing-times/>
- f. Benefits
  - i. You can apply earlier for an Employment Authorization Document (EAD) and Advance Parole document (AP) to work/travel comparing filing I-485

after I-140 approval, as you cannot not apply for them prior to filing I-485.

- ii. You can remain in the US based on your pending I-485 even if you will lose your nonimmigrant visa status.

g. Risks

- i. If your I-140 is ultimately denied, your I-485 will be automatically denied, your EAD/AP will be invalidated, and you will lose your I-485 filing fee(s) (\$1,225 per person, \$1,140 for children under 14).
- ii. Once you file the I-485 you will clearly demonstrate your immigrant intent and will have difficulty getting a nonimmigrant visa requiring nonimmigrant intent (e.g. F, J, B, TN) in the future if your I-485 is denied. You will still be eligible for a nonimmigrant visa that permits “dual intent”– immigrant and nonimmigrant intent at the same time (e.g., H-1B, L-1).

**3. File your I-140, wait for your I-140 to be approved and receive the I-140 approval notice, and then paper file your I-485 with a copy of the I-140 approval notice.**

- a. USCIS will not approve your I-485 until your I-140 is approved. Additionally, the actual processing time can vary from case to case. You can find the current processing times at the various service centers at this link:  
<https://egov.uscis.gov/processing-times/>
- b. If you will upgrade your I-140 to premium processing, we recommend that you wait to file your I-485 after your I-140 is approved and you receive the I-140 approval notice unless you have an urgent need to file the I-485 (e.g., you need the I-485 EAD/AP).
- c. Benefits
  - i. You will not risk losing your I-485 filing fee(s) if your I-140 is denied.
  - ii. Your I-485 can still be denied even if your I-140 is approved (please see Q7 below for a list of reasons for a denial of the I-485).
- d. Disadvantage
  - i. You cannot apply for EAD/AP card until you file I-485 application.

**If you are outside the US and your priority date is current...**

...You will undergo immigrant visa processing (IVP) at a US embassy/consulate in your home country after your I-140 is approved. You must indicate on your Form I-140 that you will undergo IV processing.

**\*Clients currently in Iran** – please note that since there is no US embassy or consulate in Iran, you must undergo IV processing at one of the following US embassies: Ankara, Turkey; Abu Dhabi, UAE; or Yerevan, Armenia. Please indicate your preferred embassy on your Form I-140. In our experience, one embassy is not better than the others so please select the embassy that is most convenient for you.

If you would like to undergo IVP in a country other than your home country (e.g., you are from India but you are currently working in Australia), you can list your preferred embassy on your Form I-140 and you may be permitted to undergo IVP there, but we cannot guarantee it. If the National Visa Center (NVC, see [here](#)) decides it is more appropriate for you to return to your home country for IVP, it may assign you to an embassy/consulate in your home country instead. However, if you would like to try to undergo IVP in a country other than your home country, you may indicate that embassy/consulate on your Form I- 140.

**It is very important that you indicate your will undergo IV processing on your Form I-140.**

If you instead indicate that you will apply for adjustment of status within the US (i.e., I-485), you will have to file an I-824 to have USCIS forward your case to the NVC. The current I-824 filing fee is \$465 and the current average processing time is 6-8 months. Therefore, not indicating IV processing on your Form I-140 will increase your costs and delay your green card application process.

**Timeline** – IVP typically takes 5-7 months from the date the I-140 is approved (or the I-824 is approved if IVP was not indicated on the Form I-140). If you indicate IVP on your Form I-140, once your I-140 is approved by USCIS, your case will be automatically forwarded to the NVC - this usually takes 6-8 weeks. NVC will then email you the IVP fee invoice (currently \$345 per person) when your priority date is current under the “Dates For Filing” chart. Once the fees are paid, you can submit the electronic Form DS-260 and supporting documents for you and any dependents. NVC will process the supporting documents (currently taking at least 60 days). Once the processing is complete, NVC will forward your case to the proper US embassy for the scheduling of your interview appointment when your priority date is current under the “Final Action Dates” chart (the wait time for an interview can be several months). Once you successfully complete the interview and receive your immigrant visa stamp(s), you must enter the US with the IV stamp(s) before the expiration date on the stamp(s) (usually 6 months from the issue date but may be less). Once you enter the US with your IV stamp(s) and pay the USCIS Immigrant Fee (currently \$225 per person), your green card should be mailed to your US address within 30-60 days.

Dependents can enter the US *with* the primary beneficiary or *after* the primary beneficiary; however, they cannot enter *before* the primary beneficiary.

For more information about IVP, please see the DOS website ([here](#)). Please note that an affidavit of support and financial documents are only required for employment-based IV applicants who own 5% or more of the company petitioning their I-140. Otherwise, you can ignore those sections of the DOS instructions.

### **If your priority date is not current...**

...You will not be eligible to file an I-485 or undergo IV processing until your priority date is current.

Unfortunately priority dates do not progress according to a predictable schedule. Therefore, we are not able to tell you exactly when you will be eligible to file your I-485 or undergo IVP. Rather, you must check the DOS Visa Bulletin and USCIS filing charts each month to see whether or not your priority date is current. The DOS Visa Bulletin is available [here](#).

If there is **any** chance that you may be outside the US at the time your I-140 priority date becomes current, we **strongly** recommend that you indicate IV processing on your Form I-140 so that you can immediately start IVP when your priority date becomes current.

## **FAQs**

### **Q1: What are the steps for getting my employment-based green card?**

There are two steps –

1. Approved I-140; and

2. Approved I-485 (if you are in the US) or Immigrant Visa (if you are outside the US).

**Q2: I am outside the US and my priority date is current, can I file an I-485?**

No. You must be physically present in the US to file the I-485. If you are outside the US, you must undergo Immigrant Visa (IV) processing to get your green card.

**Q3: Can I enter the US to file the I-485?**

It depends on what type of visa you will use to enter. If you will use a nonimmigrant visa (NIV) that permits 'dual intent' (nonimmigrant and immigrant intent at the same time, e.g., H-1B, H-4, L-1, L-2) to enter the US, then you should be able to do so. If you will enter using a NIV that requires nonimmigrant intent (e.g., F-1, F-2, J-1, J-2, B1/B2), then your entry may be deemed fraudulent. We strongly recommend that clients do not enter the US on a nonimmigrant visa that requires nonimmigrant intent to file the I-485 as the consequences of committing visa fraud can be very serious.

For example, if you are an F-1 student, we strongly recommend that you do not bring your spouse and children to the US on F-2 for the purpose of filing the I-485. They should undergo IV processing abroad after your I-485 is approved. Or you can choose to do IV processing with them and all of you can return to the US with IV stamp(s) after you have completed the IV processing (see Q5).

If you choose to bring your spouse and children to the US on a "dual intent" visa (e.g., H-4, L-2) to file the I-485, they should enter the US before your I-485 is approved. Once your I-485 is approved and you become a permanent resident, your nonimmigrant visa status will be invalidated. Your spouse and children can no longer enter the US on a dependent visa if your NIV status is no longer valid; instead, they would have to undergo IV processing to get their green card.

**Q4: If I am in the US and my priority date is current, what are my options for filing the I-485?**

You have three options: (1) file the I-485 with your I-140 simultaneously; (2) file the I-140 first and then file the I-485 with a copy of the I-140 receipt notice while your I-140 is pending; (3) file the I-140, wait until your I-140 is approved and then file the I-485.



**Q5: If I am in the US and my priority date is current, can I choose to undergo IV processing?**

Yes. You should only need to leave the US for your medical exam and IV interview. You would then enter the US with your IV stamp after you have completed the IV processing.

**Q6: If my spouse and children are currently in the US. Can they file their I-485 after I file my I-485?**

Yes. As long as you were married before your I-485 is approved, you spouse and unmarried children under the age of 21 are eligible to apply for a green card based on your I-140. Your spouse and children can file their I-485 at the same time with your I-485, when your I-485 is pending or after your I-485 is approved. Please note, however, that if your dependents are in the US on a dependent visa status (e.g., H-4, F-2, J-2), they will lose their dependent visa status if you lose your own visa status (i.e., you lose your H-1B employment, you use the I-485 EAD/AP, your I-485 is approved, etc.).

**Q7: What are the common reasons for an I-485 denial after an I-140 approval?**

(1) criminal history; (2) security threat (e.g., affiliation with a terrorist organization); (3) communicable disease (e.g., TB, syphilis); (4) misrepresentations on forms and documents submitted to USCIS; (5) public charge (i.e., not able to financially support yourself in the U.S.); (6) missing scheduled appointments (e.g., biometrics appointment); (7) applicant is out-of-status or engaged in unauthorized employment for more than 180 days since his/her last lawful admission to the US; (8) primary applicant is no longer engaged in the same or similar field that is the basis for the approved I-140; (9) being subject to 212(e) as a result of a current or previous J-1 exchange program without fulfilling the foreign residency requirement or getting a J-1 waiver; and (10) current membership in the Communist Party or previous membership within the last five years.

**Q8: What are the processing times for I-140, I-485 and Immigrant Visa processing?**

Please keep in mind that processing times can change frequently and the actual processing time can vary from case to case. For I-140 processing time, you can find the current processing times at the various service centers at this link: <https://egov.uscis.gov/processing-times/>

For I-485, it usually takes a year for adjudication in our experience. We are currently seeing IV processing take 5-7 months, but this is not a guaranteed timeline. The processing time depends on many factors such as how fast NVC processes your documents, the local embassy/consulate availability, whether you are placed in administrative processing, etc.