



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 22739710

Date: OCT. 24, 2022

Appeal of Vermont Service Center Decision

Form I-485, Application for Adjustment of Status of U Nonimmigrant

The Applicant, who is a “U” nonimmigrant seeks to become a lawful permanent resident (LPR) under section 245(m) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1255(m). The Director of the Vermont Service Center denied the Form I-485, Application for Adjustment of Status of U Nonimmigrant (U adjustment application), and the matter is now before us on appeal. Upon *de novo* review, we will remand the matter to the Director for the issuance of a new decision.

I. LAW

Section 245(m) of the Act sets forth the eligibility requirements for individuals seeking to adjust status to that of an LPR based on having been granted U status. In addition, applicants for adjustment of status under 245(m) must comply with the general Form I-485 filing instructions and documentary requirements, which include submission of “a photocopy of their birth certificate issued by the appropriate civil authority from the country of birth.” 8 C.F.R. 103.2(a)(1); *see also Instructions for Form I-485*, <https://www.uscis.gov/sites/default/files/document/forms/i-485instr.pdf> (referring applicants to the U.S. Department of State’s Reciprocity Schedule for information on availability of birth certificates and appropriate issuing civil authority for their specific countries).

Applicants must establish that they meet each eligibility requirement for the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010).

II. ANALYSIS

The record reflects that the Applicant, a native and citizen of Honduras, was granted U-3 nonimmigrant status from October 2014 until September 2018, which was later extended through April 15, 2020. She timely filed the instant U adjustment application in July 2019. In support of her adjustment request, the Applicant submitted a copy of her Honduran birth certificate. The Director subsequently issued a request for evidence (RFE), explaining that this birth certificate was not sufficient because it did not comport with the U.S. Department of State’s Reciprocity Schedule, which indicated that only birth certificates issued and certified by the *Registro Nacional de las Personas* (RNP) were acceptable for immigrant visa purposes. The Director determined that the Applicant did not include a copy of such a birth certificate with her response to the RFE, and denied the Form I-485

concluding that the Applicant was ineligible for adjustment of status because she did not submit the proper documentation required under the regulations at 8 C.F.R. 103.2.

On appeal, the Applicant explains that she previously had difficulty obtaining the requested documentation from Honduras due to the ongoing pandemic. She now submits a copy of her birth registration document issued and certified by the RNP with certified English translation. Because the record does not indicate that the Director had an opportunity to review this new evidence we will remand the matter to the Director to consider it in the first instance, and to further determine whether the Applicant has satisfied the remaining eligibility criteria to adjust her status to that of an LPR under section 245(m) of the Act.

ORDER: The decision of the Director is withdrawn. The matter is remanded to the Director for the entry of a new decision consistent with the foregoing analysis.