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Follow Up Questions and Answers

The Ombudsman's Webinar Series: USCIS' Processing of Concurrently Pending Forms N-400 and Forms I-751

On October 7, 2020, the Department of Homeland Security's Office of the Citizenship and Immigration Services Ombudsman (CIS Ombudsman) hosted a public webinar to discuss USCIS' Processing of Concurrently Pending Forms N-400 (Application for Naturalization) and Forms I-751 (Petition to Remove Conditions on Residence). Subject matter experts (SMEs) from U.S. Citizenship and Immigration Services (USCIS) also joined this session and they committed to provide answers (in writing) to the additional questions from stakeholders after the webinar.

Below is the list of inquiries received from stakeholders with the responses from USCIS:

1. Unlike the I-751 processing times posted for each service center, the I-751 processing times for all field offices are reported as a collective range. Has USCIS considered changing the I-751 processing time to reflect the times at specific field offices, or is the processing time truly the same for *all* field offices?

USCIS Response: The Field Operations Directorate (FOD) will take this question into consideration to better reflect individual processing times for specific field offices. Another online tool to use for tracking the status of your case is the "Case Status Online" tool. The link to access this tool is <https://egov.uscis.gov/casestatus/landing.do>. It provides the status of an immigration application, petition, or request.

2. If an N-400 is denied because the I-751 was denied, but the I-751 is later reopened (either on a Service motion or approved Form I-290B (Notice of Appeal or Motion)) and approved, will USCIS reopen the denied N-400 without requiring another filing? If so, what action, if any, does the N-400 applicant need to take to have the N-400 reopened? Separately, if an N-400 is denied based on an I-751 denial, can both decisions be addressed during an N-336 (Request for a Hearing on a Decision in Naturalization Proceedings Form) hearing?

USCIS Response: Due to the nature of USCIS processing, all applications, petitions, and requests are handled on a case-by-case basis.

Ombudsman Note: The Ombudsman's office assists individuals and employers in resolving case problems with USCIS. While we do not advocate for a particular outcome, we seek to promote a fair and consistent process. If you believe that USCIS has taken an inconsistent action

on your case, and you are seeking to learn more about the specific facts that were considered, you may ask the Ombudsman's office to assist by submitting a request for case assistance.

It is important to note that we are an office of last resort and we ask that you attempt to resolve your issue with USCIS prior to contacting our office for assistance. In addition, submitting a request for case assistance is never a substitute for legal recourse; individuals and employers *must* timely file Motions to Reopen/Reconsider and appeals to preserve their rights, even after making a request for case assistance to the Ombudsman office. For more information on how to submit a request for cases assistance with the Ombudsman's office and what to include with your request, please visit the following link: <https://www.dhs.gov/case-assistance>.

3. For USCIS field offices currently conducting same-day naturalization oath ceremonies, will a pending I-751 frustrate the office's ability to conduct a same-day oath ceremony if both forms are approved on the day of the interview?

USCIS Response: Adjudicating an I-751 and N-400 should not delay a same-day naturalization oath ceremony if one is available and all requirements for both the petition and application are met.

4. Are the spouses of Department of Defense (DoD) civilians stationed overseas on "permanent change of station" (PCS) orders (where the spouse is listed as a dependent on the order) able to meet the three-year requirement for naturalization while stationed overseas?

USCIS Response: A spouse of a U.S. citizen employed abroad based on authorized employment is not required to have any specific period of residence or physical presence in order to naturalize. Consequently, a conditional permanent resident spouse is not required to file the petition to remove conditions if the spouse files his or her naturalization application before he or she reaches the 90-day filing period to remove the conditions on residence.

For more information on requirements while overseas, please refer to the USCIS Policy Manual at <https://www.uscis.gov/policy-manual/volume-12-part-g-chapter-5>.

5. Will an I-751 petition automatically be ineligible for an interview waiver if the petitioner has an N-400 pending?

USCIS Response: No.

Ombudsman Note: On November 30, 2018, USCIS revised its I-751 interview waiver guidance. Please refer to the following link: <https://www.uscis.gov/sites/default/files/document/memos/2018-11-30-PM-602-0168-revised-interview-waiver-guidance-for-form-I-751.pdf>.

6. Does the notice for an I-751 interview state the evidence that the petitioner must bring to the interview? Also, where can petitioners send additional evidence for the I-751 after receiving the receipt notice?

USCIS Response: If USCIS needs additional evidence on a Form I-751, we will issue a Request for Evidence (RFE). In general, a conditional permanent resident should wait to receive the RFE

before submitting additional evidence to ensure that it is matched with the Form I-751 in a timely manner. However, if the conditional permanent resident needs to change the basis of filing on the Form I-751 (for example, the individual's marital situation has changed), the conditional permanent resident can mail that request along with any supporting evidence and a copy of the Form I-751 receipt notice to the office that is currently processing that individual's Form I-751.

7. I-751 petitioners requesting a waiver of the joint filing requirement are instructed to select all applicable circumstances when asked to explain why they are unable to file a joint petition. However, the I-751 approval notice does not identify the basis for the approval (e.g., battered, or was the subject of extreme cruelty, by U.S. citizen or Legal Permanent Resident (LPR) spouse). As this may have an impact on when the individual is eligible to file for naturalization, how can I-751 petitioners learn the basis for approval of their Form I-751 when more than one reason was selected on the form?

USCIS Response: If USCIS approves the Form I-751 because the individual has established eligibility for a waiver of the joint filing requirement due to abuse or extreme cruelty, the approval notice will include the following language:

Your request for the removal of the conditional basis of your permanent resident status has been approved as a waiver of the joint filing requirement under the Immigration and Nationality Act (INA) section 216(c)(4)(C).

The approval notice will not include this sentence if your Form I-751 was approved because the individual established eligibility as a joint filing or under one of the other waiver provisions.

8. If an individual relocates while an I-751 and/or N-400 is pending, is there anything he or she should do to inform USCIS of the move, besides filing Form AR-11 (Alien's Change of Address Card)?

USCIS Response: An individual should always file an AR-11 upon relocation so that USCIS is aware of the current address. Individuals should also monitor their case on-line using Case Status Online at <https://egov.uscis.gov/casestatus/landing.do>.

Ombudsman Note: Because many of our requests for assistance relate to mailing issues, please remember to timely update your address with USCIS *for every pending application or petition*. For more information on how to notify USCIS of an address change, please visit the following link: <https://www.uscis.gov/addresschange>.