



**Homeland  
Security**

## **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 (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.

In the family-based immigrant context, permanent resident status is conditional when it is based on a marriage that was less than 2 years old on the date the individual was granted permanent residence status (either through admission to the United States on an immigrant visa or adjustment of status to permanent residence). A conditional permanent resident receives a Form I-551, Permanent Resident Card, valid for 2 years. In general, a conditional permanent resident must jointly file an I-751 petition with his or her petitioning spouse. Absent good cause and extenuating circumstances, the I-751 petition must be submitted to USCIS during the 90-day period prior to the 2-year conditional residence expiration.

All the rights and privileges that apply to lawful permanent residents, however, apply to conditional residents, including the right to apply for naturalization. Also, pursuant to Section 319(a) of the Immigration and Nationality Act, the spouse of a citizen may naturalize after residing in the United States for 3 years after becoming a lawful permanent resident, rather than 5 years as generally required. Lawful permanent residents who are eligible to naturalize under this provision of law may file their N-400 applications up to 90 calendar days before they complete their 3-year permanent residence requirement. All the other requirements for naturalization must be met on the day of filing the application. Due to the lengthening of processing times for I-751 petitions, both a request to remove the conditional status and an application for naturalization may be pending at the same time, which creates operational and adjudication issues at USCIS.

During this session, the speakers explained the circumstances under which Forms N-400 and I-751 may be pending concurrently, clarified USCIS' current processes when handling and adjudicating these concurrently pending forms, and allowed stakeholders to share their experiences with this process. For example, the speakers confirmed that I-751 receipt numbers with the prefix MSC are routed for interview scheduling; receipt numbers that do not contain the MSC prefix (e.g., EAC, VSC, LIN, etc.) are routed to the appropriate service center for an interview waiver determination. The speakers also clarified that, if the jointly filed I-751 petition is pending at the time of the N-400 interview, an applicant should bring his or her petitioning spouse to the naturalization interview.

Almost 450 stakeholders joined this webinar [attorneys/legal representatives – 67%, employers – 4.5%, government workers – 10%, petitioners/applicants – 6.5%, and others – 12%]. They submitted 123 written questions. USCIS' SMEs answered some of these questions during the engagement and committed to responding to others in writing after the webinar. Participants expressed interest in understanding USCIS' current processes when handling and adjudicating these concurrently pending forms (I-751 and N-400),

knowing the processing times for both forms, obtaining guidance for attending in-person appointments (if spouses or attorneys can join interviews given the COVID-19 health emergency), clarifying when interview waivers apply, and obtaining information on how to proceed when one of the forms is outside of the normal processing times, but the other form is not. Below is a sample of the questions received:

- Why is it taking USCIS so long to review applications?
- Are electronically filed N-400 applications processed faster than those filed on paper?
- What happens to the concurrently-filed N-400 if the I-751 is denied?
- What is the process if the green card expires while the I-751 adjudication is still pending, and the petitioner needs to travel overseas?

## **Speakers:**

- Michael Dougherty, Ombudsman
- Bertha Anderson, Chief of Public Engagement and Outreach at the Ombudsman's Office
- Michael Onka, Senior Advisor at the Ombudsman's Office
- Shelly Sweeney, Adjudications Officer at USCIS
- James Weidemann, Adjudications Officer at USCIS
- Fred Dimichele, Adjudications Officer at USCIS