



I-751 Petition to Remove Conditions on Residency Processing Guide

Table of Contents

1. About the Author
2. Author's Note on Using this Guide
3. Chapter One: Introduction to the I-751 Process
4. Chapter Two: Supporting Documentation for Your I-751
5. Chapter Three: Completing Form I-751
6. Chapter Four: Prepare I-751 Petition Package for Filing
7. Chapter Five: I-751 Processing
8. Chapter Six: The Approval Notice and Post Adjudication Issues.

Appendix

- A1 Sample Completed I-751
- A2 Sample Affidavit from Family Member or Friend
- A3 Sample USCIS Cover Letter
- A4 Sample Receipt Notice
- A5 Sample Biometrics Appointment Notice
- A6 Sample RFE
- A7 Sample RFE Cover Letter
- A8 Sample Appointment Notice
- A9 Sample Approval Notice

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About the Author

Philip C. Curtis is an immigration attorney specializing in K1 fiance visa and other family-based United States immigration cases. Attorney Curtis became interested in immigration law when he married a Peruvian national while still in law school and filed a petition for an immigrant visa for his wife.

After graduating from law school at the University of California – Berkeley, Philip Curtis returned to his home town of Jackson, Michigan and began practicing law with his father. After a few years of practicing in the areas of general civil litigation, business transactions and immigration law Attorney Curtis began focusing his practice entirely on immigration law. Philip Curtis currently represents clients from all over the United States and the world in K1 cases and other types of immigration law cases.

Mr. Curtis is a member of the State Bar of Michigan and the American Immigration Lawyers Association.

Author's Note On Using this Guide

This Guide was written by a licensed and practicing immigration attorney. While this Guide is believed to be accurate it cannot address every issue that may arise in every case. It is not a substitute for legal advice. This Guide is reviewed at least annually but may contain inaccurate or out of date information. Please use this information at your own risk. If you are separated, divorced or in the process of a divorce from your U.S. Citizen petitioner spouse I strongly encourage you to retain a qualified immigration attorney to assist you with your I-751.

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Chapter One: Introduction to the I-751 Process

All persons who obtain lawful permanent residency through marriage to a U.S. Citizen and were not married for two years or more at the time they applied for residency are granted conditional lawful permanent residency. The conditional lawful permanent resident status is valid for a period of two years after which the conditional lawful permanent resident and his or her U.S. Citizen spouse have to file a joint petition to remove the conditions on the residency. Conditional residency and the requirement to file a petition to remove the conditions on residency became required after passage of the Marriage Fraud Act. The purpose of this process is to discourage and identify those marriages that may have been entered for the sole purpose of obtaining an immigration benefit.

In order to remove the conditions on residency, a conditional lawful permanent resident and his or her spouse must file a Petition to Remove Conditions on Residence during the 90 day period prior to the expiration of the conditional lawful permanent residency. The petition must be filed jointly by the conditional resident and his or her spouse. If the conditional resident cannot file the petition jointly because of death, divorce, separation or some other reason he or she must request a waiver of the joint filing requirement. This Guide will not address waivers of the joint filing requirement. If you require a waiver of the joint filing requirement you should retain a qualified immigration attorney.

The I-751 process requires that the applicants establish that their marriage was entered into “in good faith” and not for immigration purposes. Applicants establish this by providing certain types of evidence and undergoing an interview with a USCIS official. If the petition is approved, the conditional resident is issued a lawful permanent resident card which is valid for 10 years and not subject to any conditions.

Failure to file a timely I-751 will result in the termination of your LPR status and you will be subject of removal from the U.S.

Chapter Two: Supporting Documentation for Your I-751

As with most things in immigration law, the supporting documentation is the most critical part of the process. Although the process also requires the completion and proper filing of Form I-751, most I-751 cases are denied because the applicants fail to provide sufficient supporting documentation—not because the form was completed improperly. Thus, the first step in the I-751 petition process is to gather and prepare the required supporting documentation.

This section (and the instructions on the I-751 form which you should read) provide a number of examples of the types of documentation you can submit. However, these examples are not exclusive and what is important is that you submit any and all evidence you can think of that will show that your marriage is legitimate and was entered into in good faith. Generally speaking, the types of evidence that should be submitted will show the following:

1. That the applicants have been physically living together as husband and wife;
2. That the applicants have shared or co-mingled finances and expenses; and
3. That the applicants otherwise share a life together as a couple.

With this background information in mind, the following is a non-exclusive list of the types of evidence you should submit with your I-751:

1. Evidence of Co-Mingling Finances. Copies of bank statements, investment statements, 401Ks,

insurance policies, certificates of deposit or other financial assets showing joint ownership.

2. Evidence of Shared Expenses. Copies of utility bills, phone bills, credit card statements, cable bills or other bills which name both parties.
3. Evidence of Shared Residence. Copies of mortgage statements, deeds, leases or other documents showing joint ownership or joint tenancy of the marital home.
4. Evidence of Children Born to the Marriage. Provide copies of birth certificates for any children born to the couple.
5. Affidavits from Friends and Family Members. Submit notarized affidavits from family members or friends who can attest to the fact that the applicants have been living together as husband and wife. A sample affidavit is included in the appendix of this Guide.
6. Other Evidence. Photographs or videos of the applicants together on trips, at family gatherings, during holiday events, etc.

In addition to the required evidence of a good faith marriage, the applicants must also submit a copy of the front and back of their lawful permanent resident card.

Chapter Three: Completing Form I-751

Once you have gathered the required supporting documentation you will need to download and complete [Form I-751](#) which is available in fillable PDF format on the USCIS website. We have also included a Form I-751 in the appendix of this Guide which is completed with dummy text. The sections below include some more detailed instruction regarding the completion of this form.

Completing Part 1

Part one asks for basic biographical information about the conditional lawful permanent resident. Here are a few tips for completing this section:

- Country of Citizenship is generally the country where you were born.
- Your Alien Registration Number is the 9-10 digit number on your lawful permanent resident card
- The date your Conditional Residence expires is the expiration date on your conditional residency card

Completing Part 2

Part two requires you to select a basis for filing the petition. For most applicants, option (a) will be the basis for filing the petition. This basis is for couples who are still married and are filing jointly. If you are no longer married to your U.S. Citizen spouse or for some other reason you cannot file jointly with your spouse you will have to check one of the boxes c-g. (*If you are not checking box (a) we strongly encourage you to seek the advice of an immigration attorney.

Completing Part 3

Part 3 asks for additional information about the conditional lawful permanent resident. Here are some

tips for completing the questions in this section:

- Question 1: Enter any other names you have used in the past including your maiden name, previous married names or aliases.
- Question 2: Enter the date you were married to your spouse through which you obtained your conditional residency.
- Question 3: Enter the place of marriage (including the city, state and county if not U.S.)
- Question 5: If you are in removal or deportation proceedings retain an attorney.
- Question 6: If you paid anyone other than an attorney to assist you with the petition you must disclose this. Paying non-attorneys to assist you with immigration matters is not recommended.
- Question 7: If you have been arrested, charged or convicted of any crime other than a traffic violation you must mark “yes.” If you have been charged or convicted with a crime you should retain an immigration attorney.
- Question 8: This should be “yes” for most applicants. If you are no longer married to the person through which you obtained your conditional residency you should get assistance from an attorney.
- Question 9: If you have lived at more than one place since you became a conditional resident mark “yes” and attached a separate sheet listing the addresses and dates of those residences. *Be sure to include your name and A Number at the top of the attachment.
- Question 10: If your spouse is serving with or employed by the U.S. Government overseas mark “yes”. The evidentiary requirements for petitions of this nature are different. Please refer to the I-751 instructions. These applicants must submit Form FD-258 along with passport photos of both applicants and any dependents. The Form I-751 must also be clearly marked at the top “ACTIVE MILITARY” or “GOVERNMENT ORDERS” and must include a copy of the orders.

Completing Part 4

Part 4 asks for information about the U.S. Citizen or lawful permanent resident spouse. Here are some tips for completing this section:

- If your spouse is a U.S. Citizen he or she will not have an A-Number so enter “N/A” here.
- If your spouse's address in this section does not match the address you provided in Part 1 this will raise a red flag so be prepared to explain why you and your spouse are not living together. If this is the case you should address this matter in your cover letter to the USCIS and provide an explanation there.

Completing Part 5

Part 5 asks for information about the conditional resident's children. This includes any children born to the marriage, children from other marriages or relationships or any adopted children. Here are some tips for completing this section:

If your child does not have an A-Number enter “N/A”

If your child is in the U.S. Provide the address where the child lives and his or her immigration status.

Example: 555 First St., Jackson, MI 49203; U.S. Citizen

Completing Part 6

Part 6 asks for information about any accommodations the applicants may need as a result of a disability or impairment. If you are not disabled or otherwise do not need any special accommodation because of an impairment answer “NO” to all the questions in this section and move on. If you require an accommodation answer “YES” to the appropriate question and provide the information about the disability or impairment.

Completing Part 7

Part 7 is the signature block. Print the name and date of the applicant and U.S. Citizen or lawful permanent resident spouse and sign the form. The signatures must be original and should be in ink.

Completing Part 8

Part 8 only needs to be completed if the I-751 was completed by someone on your behalf such as an attorney. If not, just leave this section blank.

Chapter Four: Prepare the I-751 Petition Package for Filing

After you have completed Form I-751 and gathered the required supporting documentation, you will need to prepare the petition package for filing along with a cover letter to the USCIS.

Preparing the USCIS Cover Letter

The cover letter to the USCIS provides basic identifying information about your petition, provides an outline of the information and documents you are submitting and also provides you with an opportunity to address any anticipated issues with your case. We have included a sample USCIS cover letter in the Appendix of this Guide. Prepare a cover letter for your case using this as a guide and including the information about your case. Be sure that your cover letter includes a complete list of everything you are including with your petition and references the applicants' names and A-Numbers in the Re line for easy identification.

Before you begin preparing your cover letter visit the [USCIS I-751 webpage](#) to determine the proper filing address for your petition so you can insert that address in your cover letter.

Compiling the Petition Package

Once you have completed the USCIS cover letter put the petition documents together in the following order (with the first item being the top of the package):

1. USCIS Cover
2. Form I-751
3. Copy of Conditional Lawful Resident Card
4. Evidence of Relationship

With the documents compiled in this order, make a photocopy of the completed petition package for your records. Next, two-hole punch the entire petition package at the top of the documents and insert an [ACCO style fastener](#). It also may be helpful to review the [USCIS tips](#) for assembling petitions.

Next, prepare a check or money order made payable to the U.S. Department of Homeland Security in the proper amount for the I-751 filing fee. Make a photocopy of the check and place this with your copy of the petition package for your records. (At the time this Guide was written the current filing fee was \$590.00.) Check the [USCIS website](#) to confirm the proper filing fee before you prepare the check. Staple the check or money order to the top left-hand corner of the cover letter. *Certified checks or money orders are best to ensure there is no chance that the check will be returned.

Submitting the Petition to the USCIS

Once you have compiled the I-751 petition and made your photocopies, review the petition package one more time to ensure the following:

- The I-751 is signed by both parties and the signatures are original
- The check is signed and in the correct amount
- The USCIS address is correct
- A copy of your I-751 is included
- All of the supporting documentation of your relationship is included
- Any documents such as affidavits which are included contain original signatures

Place the petition package in an envelope and address it to the USCIS along with your return address. A few lines above the address write **“I-751 - FIRST SUBMISSION/A[insert your A#]”**

Mail the petition package to the USCIS utilizing a mail service that will provide you with proof of delivery. This is very important as it is not uncommon for the USCIS to lose petitions and this will allow you to establish that your petition was filed on time in the event something goes wrong and the petition does not make it to the USCIS.

Finally, calendar ahead about a week and track your package to make sure it was delivered to the USCIS.

Chapter Five: I-751 Processing

The Receipt Notice

Once the USCIS receives your petition the first thing it will do is conduct an initial review to make sure your petition meets the basic requirements to be accepted for filing. This initial review includes making sure the form is properly signed and the check for the filing fee is in the proper amount. Assuming the petition meets the basic filing requirements it will be accepted by the USCIS for processing. Your case will be assigned a case number and the USCIS will send you a receipt notice indicating that your petition was accepted. It's a good idea to mark your calendar about 45 days from the date you submitted your petition so you can follow up with the USCIS if you did not receive a

receipt notice.

Once you receive your receipt notice put it in a safe place as you may need it for future reference. The receipt number for your case will be located in the upper right hand corner of the receipt notice. A sample receipt notice is included in the Appendix of this Guide for your reference. Be sure to reference this receipt number in any future correspondence with the USCIS. You can also use your receipt number to check your [case status online](#) or sign up for automated [case status updates](#).

Upon receipt of your receipt notice mark your calendar 45 days from the date you received your receipt notice to check on the status of your case. You should receive a biometrics appointment notice within 30-60 days of your receipt notices. Contact USCIS customer service if you have not received your biometrics appointment notice in this time frame.

****IMPORTANT NOTE: Your I-751 receipt notice will state that employment and travel are authorized and this document must be presented along with your expired conditional resident card to evidence employment authorization and for return entry to the United States. DO NOT travel outside the United States without your expired conditional resident card and this document.***

Biometrics Appointment

Shortly after you receive your receipt notice (usually in about 45 days) your spouse will receive a USCIS notice instructing her to appear at a USCIS Application Support Center to have her fingerprints and photograph taken. Be sure to put the date and time for this appointment on your calendar. Although biometrics appointments may be rescheduled, I would strongly discourage you from rescheduling your biometrics appointment unless it is an absolute emergency as this can greatly increase processing times and increase the likelihood of case errors.

On the date of your appointment be sure to take the following with you to your biometrics appointment:

- Your original biometrics appointment notice
- Your conditional resident card
- Any other documentation requested in the Biometrics Appointment Notice

Dealing with a Request for Evidence

In some cases, the USCIS will issue a Request for Evidence (RFE) after conducting its preliminary review of your I-751 petition. RFEs are issued in cases where the USCIS does not have sufficient supporting documentation to process the case. In these cases, the USCIS issues a Request for Evidence requesting that the missing evidence be submitted within a certain time frame. If you receive an RFE don't panic and following these steps:

- Identify the required response deadline and put this on your calendar so you don't forget.
- Read the RFE carefully and determine what evidence the USCIS is requesting. Often the RFEs are written in general terms and may ask for evidence you believe you already submitted. Most often this means that the USCIS found whatever you submitted to be inadequate so make sure

- you submit new evidence.
- Submit all of the requested evidence at once—you only get one chance and cannot submit additional evidence later even if it is before the stated deadline.

Once you have obtained the additional evidence requested make sure to do the following when responding to the USCIS request:

- Prepare a cover letter outlining the additional evidence that is being submitted. Be sure to reference your name, case receipt number and A number in the Re line of the cover letter. We have included a sample cover letter in response to an RFE which you can use as an example.
- In the Re line of the cover letter write “RESPONSE TO REQUEST FOR EVIDENCE”
- Include a copy of the RFE with your response.
- Make sure you mail the response to the RFE to the address indicated on the RFE and write your receipt number, Alien Number and nature of the submission on the outside of the envelope like this:

RESPONSE TO REQUEST FOR EVIDENCE
WAC-0345-98235-09999
A0876122898

- Submit the response in plenty of time so that it will arrive at the USCIS before the deadline. Make sure you use a mailing service that provides you with proof of delivery.

The I-751 Interview

The I-751 interview is the last step in the I-751 petition process. Once the USCIS has completed its processing of your petition at the Service Center and the applicant's biometrics have been taken, the case will be forwarded to a local USCIS District Office for a personal interview. The USCIS Service Center will issue an appointment notice directing the CLPR and the joint applicant U.S. Citizen or LPR spouse to appear at a USCIS District Office for an interview with a USCIS officer. The interview will be scheduled at the USCIS District Office which has jurisdiction over your place of residence. When you receive the appointment notice put the date on your calendar. The I-751 interview can be rescheduled for good cause but I would strongly discourage you from rescheduling your interview unless it is a true emergency. Be sure you have the following prepared to take with you on the day of the interview:

- The original I-751 Appointment Notice
- Your expired CLPR Card
- A complete copy of your I-751 petition
- Copies of any other documentation you received from or submitted to the USCIS
- Any other documents requested in the interview notice

Personal interviews are always the most worrisome part of dealing with the USCIS for most people. In fact, most I-751 interviews are very short and painless. In the average case, the USCIS officer will simply review the application and supporting documentation and confirm the accuracy and

completeness by asking the applicants a few questions. The interview on a well documented I-751 petition where no “red flags” are present generally will not last more than 15 minutes or so. However, the USCIS officer may conduct a more in-depth interview if one or more “red flags” are present in your case. An example of a “red flag” would be a petition which shows that the applicants have not been living in the same residence or were not living in the same residence for some extended period of time.

You may have noticed that the form cover letter we provided for this petition requests a waiver of the I-751 interview. If the waiver is granted you will not have to attend an interview and the you will simply receive an approval notice a new permanent resident card in the mail. The USCIS does not often grant waivers of the personal interview so do not be surprised or alarmed if the waiver is not granted in your case. Generally speaking, the USCIS only grants interview waivers in those cases that include very strong evidence of a legitimate marital relationship. Most of the cases I have handled (including my own) where an interview waiver was granted where cases were the applicants had children born to the marriage as the USCIS considers this very strong evidence of a legitimate marital relationship.

In many cases the USCIS officer will notify you if the petition has been approved at the end of the interview but in some cases they will not. In any cases, after the interview is completed you should receive an approval notice in the mail within 30 days from the date of the interview. We have included a sample approval notice in the Appendix for your reference. Shortly after the approval notice and usually within 60 days you will receive your LPR card in the mail. Make sure to mark your calendar about 60 days from the date you received the approval notice to follow up with the USCIS if you have not yet received your LPR card.

Chapter Six: The Approval Notice and Post Adjudication Issues.

After the I-751 interview and assuming your petition is approved you will receive an Approval Notice in the mail indicating that your case has been approved. We have included a copy of a sample Approval Notice in the Appendix for your reference. Shortly after the approval notice arrives, the applicant should receive his or her permanent resident card in the mail. This card will be valid for a period of 10 years and must be renewed. Make sure you plan ahead and file a petition to renew your LPR card at least 180 days before it expires.

Mark your calendar 60 days out from the date of the approval notice to follow up with the USCIS if you have not received your new LPR card.

Your LPR card is very important as it serves as evidence of your right to live, work and enter the United States so make sure you keep it in a safe place and take it with you wherever you go.

Now that you have your LPR card be sure to read our [Guide to Maintaining Lawful Permanent Residency](#) so you understand your rights and obligations as a lawful permanent resident of the United States.

APPENDIX

A1. Sample Affidavit of Family Member or Friend

**Note on use of this sample. This is a sample only and should be useful to assist you with formatting and to give you an idea of the type of information that should be included in the affidavit. At a minimum the affidavit should set forth the following:*

1. Full name and address of affiant;
2. Statement as to how the affiant knows the couple and why they have personal knowledge of the relationship. It is also helpful to state how long the affiant has known the couple and state the precise nature of that relationship.
3. Statement of facts of which the affiant has personal knowledge which help evidence fact that couple is living together husband and wife.

AFFIDAVIT OF JOHN CURTIS

STATE OF MICHIGAN)
) ss
COUNTY OF JACKSON)

John Curtis, being first duly sworn deposes and says:

1. That he makes this Affidavit based upon personal knowledge.
2. That if sworn as a witness, he can testify competently to the facts stated herein.
3. I am a U.S. Citizen and currently reside at 1234 South St., Jackson, MI 49203.
4. I am the brother of Philip C. Curtis. I have known him since birth and we remain close today. I see and communicate with him on a regular basis.
5. I was the best man at his wedding and witnessed his marriage to his wife Shannon Curtis.
6. My wife Jane and I regularly socialize with my brother and his wife and have visited them in their marital home located at 555 Second St. on many occasions over the past two years.
7. This past summer my wife and I took a trip with Philip and Shannon and we vacationed together in the northern Michigan.
8. Based on my observations due to my relationship with my brother and his wife I can say without reservation that Philip and Shannon live happily together as husband and wife.

FURTHER DEPONENT SAYETH NOT.

John Curtis

Subscribed and sworn to before
me on _____, 2011.

Notary Public, Jackson Co., Michigan
My Commission Expires: _____

A2. USCIS Cover Letter

February 03, 2011

USCIS-California Service Center
Attn: I-751 Petition
P.O. Box 10751
Laguna Niguel, CA 92607-1075

Re: I-751 PETITION TO REMOVE CONDITIONS ON RESIDENCE – 1st SUBMISSION

Applicant: CURTIS, Philip
Alien Number: A09 099 999

Dear Sir/Madam:

I am a conditional permanent resident. My conditional residence expires on March 1, 2011. Please find enclosed herewith my I-751 Petition to Remove the Conditions on Residence which I am filing jointly with my wife. In support of this petition I have enclosed the following:

1. Form I-751
2. A copy of my conditional permanent resident card.
3. Copies of our 2010 joint tax returns.
4. Copies of recent bank statements and investment account statements.
5. Copies of recent phone, utility and cable bills.
6. A copy of the deed for the marital home showing joint ownership.
7. Affidavit of Philip Curtis's brother John Curtis.
8. Affidavit of Heather Smith, Shannon Curtis's close friend.
9. Birth certificate of Elizabeth Curtis
10. Check in the amount of \$590.00

Pursuant to 8 CFR §216.4(b)(1) and in consideration of the enclosed evidence we respectfully request that the interview requirement be waived.

I appreciate your prompt attention to this matter and respectfully request your favorable adjudication of this petition.

Sincerely,

Philip C. Curtis

A3. Sample Cover Letter in Response to RFE

February 4, 2011

Department of Homeland Security
USCIS—California Service Center
Attn: I-751 RFE
P.O. Box 10590
Laguna, Niguel, CA 92607-0590

Re: **RESPONSE TO REQUEST FOR EVIDENCE**

Applicant: CURTIS, Philip
Alien Number: A99999999
Receipt Number: WAC999999999

Dear Sir/Madam:

I am the applicant in the above referenced case. I write today in response to your Request for Evidence dated January 14, 2011. I have enclosed a copy of the RFE for your information and ease of reference. In response to your request, I have enclosed the following evidence:

1. Copies of my jointly filed 2010 federal tax return;
2. Copies of a lease agreement showing my wife and I as joint lessee's of the marital home.

Based on your request, I believe the enclosed evidence full satisfies your RFE.

Thank you in advance for your careful consideration of this case and I respectfully request your favorable adjudication of my petition.

Sincerely,

Philip C. Curtis