

**SUPPORTING STATEMENT FOR
Petition to Remove the Conditions on Residence
OMB Control No.: 1615-0038
COLLECTION INSTRUMENT(S): I-751**

A. Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

As provided for in 8 CFR part 216, and section 216 of the Immigration and Nationality Act (Act), aliens granted conditional residence through marriage to a United States citizen or permanent resident use Form I-751 to petition for removal of those conditions.

Any individual may be required to submit biometric information if the regulations or form instructions require such information or if requested in accordance with 8 CFR 103.2(b)(9). DHS may collect and store for present or future use, by electronic or other means, the biometric information submitted by an individual. DHS may use this biometric information to conduct background and security checks, adjudicate immigration and naturalization benefits, and perform other functions related to administering and enforcing the immigration and naturalization laws.

The passage of Marriage Fraud Amendments of 1986(IMFA) were enacted to deter individuals from entering into a marriage simply to obtain an immigration benefit. In addition, 8 CFR 216.4(a)(5)(i) requires individuals applying for removal of conditions on permanent residence to provide document that the marriage was not entered into for the purpose of evading the immigration laws. Such evidence may include (i) Documentation showing joint ownership or property; (ii) Lease showing joint tenancy of a common residence.... Therefore, even though the petitioners may have already submitted evidence of the relationship to USCIS when they received their conditional status, the Form I-751 is a new application to determine that the marriage was not entered solely for immigration benefit.

- 2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

The information collected on Form I-751 is used by U.S. Citizenship and Immigration Services (USCIS) to verify the petitioner's status and determine whether the conditional resident is eligible to have the conditions of his or her status removed. The Form I-751 serves the purpose of standardizing requests for benefits and ensuring that basic information required to assess eligibility is provided by applicants.

USCIS also collects biometric information from respondents to verify their identity and check or update their background information.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

The form I-751 is available online at <http://www.uscis.gov/files/form/i-751.pdf> and it can be completed and saved electronically. Currently the form is not able to be returned to USCIS electronically, but USCIS is continuing its efforts to build a system capable of allowing for fully electronic information collection, and the form I-751 will be considered for future inclusion.

- 4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

The form I-751 collects information that is unique to USCIS for consideration of removing conditions set from as a result from the review of another USCIS collection instrument. There is no other collection of information that requires the same detail; the data requested is unique to the purpose of this form. There is no duplication of information collection due to this form.

- 5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.**

There is no impact to small businesses or other small entities; the respondents are individuals.

- 6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

If this information is not collected, it would hinder USCIS's ability to gather information from respondents who otherwise would be eligible to apply for removal of the conditions on their permanent residence. USCIS would not be able to meet the requirements set forth in statute to allow removal of such conditions.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **Requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

This information collection is conducted in a manner consistent with the guidelines in 5 CFR 1320.5(d)(2).

8. If applicable, provide a copy and identify the data and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address

comments received on cost and hour burden.

On October 30, 2012 USCIS published a 60-day notice in the Federal Register at 77 FR 65708. USCIS did receive comments after publishing that notice. One comment requested copies of the table of changes for both the form and instructions and these documents were uploaded to www.regulations.gov for review. A second comment was general in nature, discussing the writer's opinions about the immigration process and that no further persons should be allowed to immigrate into the United States. USCIS reviewed the comment and found that it has not addressed the revisions made to the Form I-751 Petition and that there is no effect on the form or its instructions nor is there any modification to the program to be made as a result of the comment; therefore, no action will be taken by USCIS. A third comment regarding the required statement under penalty of perjury that a marriage was not for the purpose of procuring an immigration benefit. USCIS carefully reviewed the comment and found that the requested change is not necessary. The Immigration Marriage Fraud Amendments of 1986 was passed to discourage the use of fraudulent marriages to obtain permanent residence. Therefore, it is appropriate to request that the person signing the form certify that the marriage was not for the purpose of procuring an immigration benefit.

A fourth comment was received December 31, 2012. The following are the issues and responses from this comment: **Comment: Part 1: Information About You—Question 22, Addresses:** This question requires the applicant to provide all addresses and dates since becoming a permanent resident. A chart would assist applicants in providing this information in a clear and concise manner.

Response: The current form expires January 31, 2013. Due to time constraints, this suggestion will be addressed in the next form revisions.

Comment: Part 7: Signature of Person Preparing Form: It would be helpful to add a field or series of fields here to indicate whether the preparer is an attorney, authorized representative, or other.

Response: This is not standard across any of our other Public Use forms. However, if an Attorney is preparing the form, there is a check box on the front of the form which requests this information and the Attorney must also submit Form G-28.

Comment: The form nor the instructions does not provide any guidelines as to what constitutes extreme hardship and to whom it applies. This is particularly important for unrepresented applicants.

Response: Extreme hardship within the meaning of section 244(a)(1) of the Act "is not a definable term or fixed and inflexible content or meaning." Extreme hardship is

adjudicated on a case by case basis; therefore, at this time, it is not necessary to incorporate this in the form. For a discussion of extreme hardship, please visit this website: <http://www.uscis.gov/ilink/docView/FR/HTML/FR/0-0-0-1/0-0-0-42380/0-0-0-44857/0-0-0-47481/0-0-0-47683.html>

A fifth comment was received December 31, 2012. The commenter stated that the form should remain in use, that the Federal Government should not bear the cost of translation, and that immigrants should be able to read and write English. USCIS responds that the form is going to remain in use, that the government does not bear the cost of translation but that the respondent is required to provide translated documents, and that there is a requirement to have a basic comprehension of the English language to be naturalized.

On January 24, 2013, USCIS published a 30-day notice in the Federal Register at 78 FR 5194. USCIS received 1 comment. The commenter indicated that respondents are using the form inappropriately and that persons may marry with the intent to defraud the United States. USCIS is committed in ensuring the integrity of immigration policies and regulations. USCIS uses various systems to cross check and confirm individual's identity and claims presented for benefit. In addition, USCIS can interview individuals at local District offices to further investigate claims to address fraudulent concerns.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

USCIS does not provide any payment for benefit sought.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation or agency policy.

Confidentiality is identified below. The information collected is covered under the System of Records Notice DHS-USCIS-007, Benefits Information System published at 73 FR 56596 on September 29, 2008 and DHS-USCIS-001, Alien File, Index, and National Tracking System of Records published at 76 FR 34233 on June 13, 2011. The collection is also covered in the Privacy Impact Assessment USCIS Benefits Processing of Applicants other than Petitions for Naturalization, Refugee Status, and Asylum of September 5, 2008.

INA Section 216.5(e)(2)(viii) relating to adjudication of a waiver to file joint petition to remove conditions states that, "As directed by statute, the information contained in the application and supporting documents shall not be released without a court order or the written consent of the applicant, or, in the case of a child, the written consent of the parent or legal guardian who filed the waiver application on the child's behalf. Information may be released only to the applicant, his or her authorized representative, an officer of the Department of Justice, or any federal or State law enforcement

agency...”

- 11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to person’s form whom the information is requested, and any steps to be taken to obtain their consent.**

INA 216(c)(4) (8 USC 1186a) and 8 CFR 216.5 allows certain individuals to request a waiver that will allow them to file Form I-751 without their spouse. Individuals who can request a waiver for filing Form I-751 include those who have been battered or subjected to extreme cruelty. Specifically, under 8 CFR 216.5(a)(1)(iii), “[a] conditional resident alien who is unable to meet the requirements under section 216 of the Act for a joint petition for removal of the conditional basis of his or her permanent resident status may file Form I-751, Petition to Remove the Conditions on Residence, if the alien requests a waiver, was not at fault in failing to meet the filing requirement, and the conditional resident alien is able to establish that...the qualifying marriage was entered into in good faith by the conditional resident but during the marriage the alien spouse or child was battered by or subjected to extreme cruelty committed by the citizen or permanent resident spouse or parent.” Note also that 8 CFR 26.5 (e)(3)(iii) enumerates some evidence necessary to prove physical abuse. Without asking these questions, USCIS cannot make a determination on the applicant’s request to remove conditions on his or her permanent residence status.

In addition, INA Section 245(a)(2)(A)(i)(I) states that “...The status of an alien who was inspected and admitted or paroled in to the United States or the status of any other alien having an approved petition or classification as a VAWA self-petitioner may be adjusted by Attorney General, in his discretion and under such regulations as he may prescribe to that of an alien lawfully admitted for permanent residence if ...(2)the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence.” Further, INA Section 212(a) states that “...Except as otherwise provided in this Act, aliens who are inadmissible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States...any alien convicted of, or who admits having committed or who admits committing acts which constitute the elements of –a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime...is inadmissible.” Because the Petition to Remove Conditions on Permanent Residence is a continuation of the application for lawful permanent residence, questions about arrests are necessary to determine continuous eligibility.

- 12. Provide estimates of the hour burden of the collection of information. The statement should:**

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14**

Type of Respondent	Form Name / Form Number	No. of Respondents	No. of Responses per Respondent	Avg. Burden per Response (in hours)	Total Annual Burden (in hours)	Avg. Hourly Wage Rate	Total Annual Respondent Cost
Individuals or households	I-751 / Petition to Remove Conditions on Residence	140,513	1	3.333	468,330	\$30.44	\$14,255,960
Individuals or households	Biometric processing	140,513	2	1.17	328,800	\$30.44	\$10,008,672
Total		140,513			797,130		\$24,264,632

The above Average Hourly Wage Rate is calculated from the [May 2011 Bureau of Labor Statistics](#) average wage for “All Occupations” of \$21.74 times the wage rate benefit multiplier of 1.4 equaling \$30.44. The occupation “All Occupations” has been chosen as there is no single occupation of worker targeted by this collection of information; a respondent can be of any occupation.

NOTES ON BURDEN:

Translations. Respondents might incur burden for translations of documents in foreign languages. USCIS is currently evaluating the estimated burden associated with this activity. USCIS will seek comments on how long this requires and provide estimates in its next submission to OMB based on the results of public comments it receives and information that can be found from other resources.

Preparers. Respondents may hire third parties for form completion so there may be a burden for a preparer to assist in the form completion process. USCIS will request public comment on burden required for preparers on the preparation and submission of this form. USCIS will include the results of the public comments and its own analysis in the next submission following this emergency request.

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

- **The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or**

keep records for the government or (4) as part of customary and usual business or private practices.

There are no capital or start-up costs, no are there any operational or maintenance costs associated with this collection.

For informational purposes, there is a fee of \$505 for the filing of the form and a fee of \$85 for the biometric processing.

- 14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.**

Annualized Cost Analysis:

a. Printing Cost	\$ 15,000
b. Collecting and Processing Cost	\$ 82,902,670
c. Total Cost to Program	\$ 82,917,670

The costs to the Federal Government are based upon the fees charged to respondents. These fees represent the cost per form and were reported by USCIS in its last fee study. The fee for the I-751 is \$505, and the fee for the biometric processing is \$85 for a total of \$590 x the total number of respondents of 140,513 equals \$82,902,670, which is added to the printing costs for the collection.

- 15. Explain the reasons for any program changes or adjustments reporting in Items 13 or 14 of the OMB Form 83-I.**

Data collection Activity/Instrument	Program Change (hours currently on OMB Inventory)	Program Change (New)	Difference	Adjustment (hours currently on OMB Inventory)	Adjustment (New)	Difference
I-751				609,939	468,330	(141,609)
Biometric Processing				0	382,800	382,800
Total(s)				609,939	797,130	187,191

There is a change to the hour burden for form I-751 from 609,939 hours to 468,330, a

difference of -141,609 hours due to better estimation of the number of respondents expected to submit the form. There is an increase in the total hour burden for the collection due to the capturing of the burden associated with the biometric processing. The total hour burden for the biometric processing of 164,440 and the decrease of 141,609 hours burden for the form equals a total increase of 22,831 hours.

There are changes to the form and instructions, and these are listed on the separate Table of Changes for both documents.

- 16. For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

This information collection will not be published for statistical purposes.

- 17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

USCIS will display the expiration date for OMB approval of this information collection.

- 18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-I.**

USCIS does not request an exception to the certification of this information collection.

B. Collections of Information Employing Statistical Methods.

There is no statistical methodology involved with this collection.