



HQPRD 70/6.2.8

Interoffice Memorandum

To: Regional Directors
District Directors
Service Center Directors

From: Michael Aytes /s/
Acting Associate Director
Domestic Operations

Date: January 30, 2006

Re: Delegation of Authority for I-751, "Petition to Remove Conditions on Residence"

Purpose

The purpose of this memorandum is to delegate to the USCIS Service Center Directors the authority to deny an I-751, "Petition to Remove Conditions on Residence" where the Service Center Director is satisfied that the marriage is for the purpose of evading U.S. immigration laws. Currently, this authority resides solely with the USCIS District Directors.

In order for USCIS to achieve its mission of providing immigration benefits efficiently and accurately, delegation of authority is hereby made to the Service Center Directors to deny I-751 petitions and waive applicable interviews in cases where the Service Center Director is satisfied that the marriage is for the purpose of evading U.S. immigration laws.

Background

Pursuant to 8 CFR 216.4(b) (1), if the Service Center Director is satisfied that the marriage was not for the purpose of evading the immigration laws, the Service Center Director may waive the interview and approve the petition. If not satisfied, then the Service Center Director currently forwards the petition to the District Director having jurisdiction over the alien's place of residence so that an interview of both the alien and the alien's spouse may be conducted.

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Guidance on Delegation of Authority to Deny

If after examining the evidence submitted with an I-751 petition the Service Center Director makes a determination that there is evidence that the marriage was to circumvent the immigration laws, the Service Center Director shall forward the I-751 to the Office of Fraud Detection and National Security (FDNS) in accordance with the Fraud Detection Standard Operating Procedures. Once FDNS has completed its review, it will provide the Service Center Director a Fraud Verification Memorandum detailing the findings.

If fraud is verified, the Service Center Director shall provide the petitioner a Notice of Intent to Deny and an opportunity to examine and rebut the evidence of record. See 8 CFR 216.4(d) (2). The Service Center should then carefully examine the petitioner's response to the Notice of Intent to Deny. If the Service Center Director finds that the case presents substantial and undisputed evidence that the marriage was to circumvent the immigration laws, the Service Center Director shall deny the case.

Further, in cases where fraud is not verified by FDNS and where an interview is deemed useful for the adjudication of I-751 petitions, the Service Center Directors should continue to forward the I-751 petition to the District Director in the alien's jurisdiction.

This memorandum also serves to remind the field of prior guidance regarding the adjudication of I-751 petitions. See *"Revised Interview Waiver Criteria for Form I-751, Petition to Remove the Conditions on Residence,"* June 24, 2005 (if all requested initial evidence and requested additional evidence is not submitted by the required date provided in the RFE, the Service Center shall consider the petition abandoned, and accordingly deny the petition pursuant to 8 CFR 103.2(b)(13)) and *"Filing a Waiver of the Joint Filing Requirement Prior to Final Termination of the Marriage,"* April 10, 2003 (must have a final divorce decree to file a waiver of the joint filing requirement based on divorce).

Use

This memorandum is intended solely for the guidance of USCIS personnel in performing their duties relative to the adjudication of applications. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

Questions

Questions regarding this memorandum should be directed to Paul Pierre, Service Center Operations, via electronic mail through appropriate channels.

cc: FDNS Director