



IMMIGRANT VISA PROCESS FOR FOREIGN SPOUSE/FIANCÉ



How do I Bring My Foreign Citizen Spouse to the United States?

In order for a U.S. citizen to bring his/her foreign-born spouse to the U.S., the U.S. citizen must petition the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) for permission to do so. A Lawful Permanent Resident (LPR) or ("green card" resident) of the U.S. may also petition for his foreign-born spouse to enter the U.S., but the procedure and waiting times are longer in that instance. This paper focuses on U.S. citizens bringing their foreign-born spouses to the U.S.

Are there specific steps that I must take in order to petition the Department of Homeland Security for permission to bring my spouse into the U.S.?

Yes, there are two distinct phases to the Visa process: the petition phase through the U.S. Citizenship and Immigration Services of the Department of Homeland Security, and the visa application phase through the Consular Services Office of the US Embassy/Dept. of State.

Step 1- The Petition

- 1) Report your marriage in accordance with the laws of the country where you were married. In Korea, report marriage on family census registry.
- 2) Sponsor (U.S. citizen) files the Petition:
 - a) [Form I-130](#) Petition for Alien relative (for all who want to immigrate) with the USCIS office in the U.S. or at the U.S. Embassy in the country where the couple lives together. There is a [USCIS department at the US Embassy in Seoul](#). You must call or email to set up an appointment.
 - b) [Form I-129F](#) Petition for Alien fiancé. If you are a US citizen, you may bring your fiancé to the U.S. to **marry** and live there with a **Nonimmigrant Visa for fiancé (K-1)**. Please note that this form cannot be filed at a USCIS overseas office. You must file at a USCIS service center in the United States. See a USCIS website below for more details.
- 3) The fee is \$420 per I-130 petition for each person you want to immigrate (including children). The USCIS Seoul Embassy office only accepts cash or postal money orders.
- 4) Include with the I-130 Petition the following documents:
 - a) *Marriage Certificate* from the current marriage.
 - b) *Birth Certificates* on everyone, petitioner as well as all those wishing to immigrate. (If your spouse is a Korean citizen, you should submit two different Family Census Registers; one showing all of her family members including those who have been removed from there (in the case of spouses, this would be the case due to the report of present marriage); the other one is a new Family Census Register which was established due to the report of present marriage; both Family Census Registers must be accompanied with an English translation.)
 - c) *Divorce decrees* (or Death Certificates as applicable for widows) of any previous marriages by either spouse.
 - d) Color *Passport photo* of each individual including petitioner taken within last 30 days with name and SSN/Alien Registration # on back (use felt pen, not ball point pen, to avoid indentations on the photo). The photos must have a white background and be glossy unretouched and not mounted. The dimensions of the full frontal facial image should be about 1 inch from the chin to top of the hair.
 - e) [Form G-325A](#), Biographic Information, for everyone in quadruplet.
- 5) In addition to the required documentation listed above, you should submit one or more of the following types of documentation that may evidence a bona fide marriage:
 - a) Documentation showing joint ownership of property; or
 - b) A lease showing joint tenancy of a common residence; or
 - c) Documentation showing co-mingling of financial resources; or
 - d) Birth certificate(s) of child(ren) born to you, the petitioner, and your spouse together; or
 - e) Affidavits sworn to or affirmed by third parties having personal knowledge of the bona fides of the marital relationship (each affidavit must contain the full name and address, date and place of birth of the person making the affidavit, his or her relationship to the petitioner or beneficiary, if any, and complete information and details explaining how the person acquired his or her knowledge of your marriage); or

- f) Any other relevant documentation to establish that there is an ongoing marital union. (The USCIS has the right to ask for any additional documentation they see fit to validate the individual, union and intent of the petitioner.)
- 6) *English translations.* Any document which is in a foreign language will need a certified translated copy.

The processing of the petition(s) may take from two weeks to 6 months or more depending on the individuals concerned, their background information and the validity of the documentation received. **USCIS has the right to keep any and all documents they choose. This means you should get MULTIPLE originals/true copies for any documents** such as birth certificates, marriage certificates, divorce decrees, etc., that you will also need for the Immigrant Visa (IV) Application. Average cost for fees and translations is \$1,200 to \$1,500 per applicant.

Once USCIS conducts the necessary checks and approves your petition, they will send the approved packet to the U.S. Department of State, Consular Affairs Bureau, Immigrant Visa (CONS-IV) section at the Embassy. After receiving an approved petition from USCIS, CONS-IV will send your spouse a set of IV forms and instructions called **Packet 3**. When you receive this packet of materials, you will know that CONS-IV received your approved I-130. Once the petition is approved, you have one year to act upon it.

Step 2- The Application

- 1) Read Packet 3 instructions and [SEO 3.5 IV Applicants](#) guidance.
- 2) Fill out [DS-230, part 1](#) and take to U.S. Embassy for initiation of background checks.
- 3) Gather the following documents:
 - a) *Passport* for the applicant that must be valid for at least 8 months or more (note: Korea likes to issue an "Immigrant Passport" to its citizens that have expressed the wish to immigrate (i.e. no longer be a Korean citizen). Some USC-DoD personnel have reported issues their Korean national spouses have encountered. The perception is their spouse is now "a citizen without a country." (There is a possibility they may encounter difficulty in some areas of business where proof of citizenship may be required, like opening a bank account, starting utilities, etc.) The U.S. Embassy only requires that the applicant turns in a valid passport. The embassy will need to keep the passport to put the visa stamp in it once/if the IV is approved. Costs for passports from the host nations of Third Country Nationals range from \$50-\$100 in local currency
 - b) *"Passport" photos* Two front view color, 50mmx50mm, white background, taken within past 6 months, hair pulled or tucked back so both ears are showing.
 - c) *Birth, death, adoption, marriage, divorce certificates and/or family register* (the register documents should be less than 3 months old).
 - d) [SEO-97 List of Applicant's Children](#). All those over 18 must sign.
 - e) [DS-230, part 2](#), more biographical data.
 - f) [Medical exam](#) and chest x-ray from US Embassy approved clinics. Go to the medical exam section of the USCIS website to find out which local hospitals/clinics have been approved. The exam is valid for 6 months. (If there is a presence of TB, it must be inactive for previous 6 months, and the medical exam is only good for 3 months) The embassy must receive the envelope with the seal intact or it will be rejected due to possible tampering. If needing a copy for the military medical review portion of USFK Form 163, be sure to get a second copy of the medical information ahead of time. There will more than likely be an additional charge by the clinic. Cost: KRW150,000- KRW200,000 for medical exam per individual who wants to immigrate.
 - g) [Vaccination report](#) The vaccination records should be available to the physician for the medical exam. A copy of the vaccination record should also be included in the visa application.
 - h) [I-864/I-864A](#)-Affidavit of Support with proof of signer's U.S. Citizen or LPR status; current, sustained income (most commonly proven with the last 3 months of LES's); last 3 years of U.S. federal tax returns (Note: they should also contain the W2's). Read [SEO-864](#) first. The sponsor must show that he can financially support the spouse at 125% of the federal poverty line. (Military sponsors must show only 100%.)
 - i) *Police certificates* i.e. "background checks" from applicant's home country, country of residence if different, as well as any country in which the applicant has lived for more than a year after the age of 16. If there are/were any arrests or jail time, full details must be made available including court documents, outcomes, punishments/fines levied and paid, any jail time (when, where, how long), etc. Look up your country on this website. <http://travel.state.gov/visa/reciprocity/index.htm>
 - j) *Previous passports* if applicable.
 - k) *Courier service receipt.* (DHL, Llyang, or Hanjin). Applicant keeps the 1st page. If IV is approved, CONS-IV will courier the applicant's passport with IV stamp to him/her.
 - l) *Additional Immigration documents.* Applicant and Petitioner marriages that are under two years old are more "suspect" than those that have been married longer than 2 years. In such cases, applicants should be prepared to provide additional documentation showing "strength" of marriage.
- 4) *English translations.* Any document which is in a foreign language will need a certified translated copy.

- 5) Fees: \$335 IV fee, \$45 IV Surcharge, The CONS-IV office accepts cash US\$ or KRW equivalent, as well as major credit cards.
- 6) Contact CONS-IV for an appointment on-line at http://www.asktheconsul.org/iv_appt.html. It will take 2-4 weeks to post your appointment on the website: http://korea.usembassy.gov/appointment_dates2.html

The application appointment is a two part appointment. The first part is a document review by a CONS-IV agent which normally takes about an hour. If your paperwork appears to be in order from the preliminary review, your case will be referred to an officer for interview. The applicant and U.S. citizen spouse need to be at the first part together. This gives the CONS-IV agent a good “look” at the couple. This is not a “walk in/walk out” appointment. You may have to wait to see the interviewing officer so give yourselves plenty of time to spend the day at the embassy.

The U.S. citizen spouse does not need to be at the second part/interview; though, it is preferred. In fact, the U.S. citizen spouse may be asked not to say anything, may be asked to step out, or may even be interviewed separately. Remember, it is the CONS-IV’s job to “validate” the marriage and intent of the U.S. citizen person and immigrant/applicant. Expect some personal questions. Sometimes that “validation” may be a subjective decision.

What do I do once I receive the Visa?

After the visa process has been completed, and the visa is issued, the foreign-born spouse/fiancé can travel to the United States. Upon entry into the U.S., the foreign-born spouse will be processed as a Lawful Permanent Resident (LPR) at the Port of Entry (Airport or Land Border). The officer there will forward the case to a USCIS and a LPR card (“green card”) will be mailed to the foreign-born spouse within 2 months. A fiancé must apply to adjust the status to a LPR using form I-485 after entering the U.S. and getting married to the petitioner.

The maximum validity of the Visa period is 6 months. This time period may be shorter if any item with a designated expiration mentioned above would “expire” before the visa is used. For example: the applicant’s medical exam is only good for 12 months, and let’s say it took 8 months to get the IV approved. This would leave the immigrant only 4 months to use the Visa before it expires, not the full 6 months. If the U.S. citizen spouse was proactive, started the process early, and everything went through and you have an extended time period before PCSing, and this was brought to the attention of the interviewing officer, he/she can put the issuance of the visa on hold up to a maximum of one year by using [Optional Form 194](#).

Note: The Optional Form 194 is the same form you may receive if the application for visa is denied, so read it carefully. If found ineligible, the applicant may be able to obtain a waiver under certain conditions. See the web-sites below for more details. If you receive a denial letter, it will most likely reference ineligibility under Section 221(g).

If your marital status falls into the “conditional” status (i.e. less than two years), be sure to check with your CONS-IV representative because if you immigrate under the conditional status, you may have to file a [I-751](#) near your two year marriage point. This status is determined at the port of entry. The complete process can take anywhere from 6 months to 2 years!

USEFUL WEBSITES:

- a. http://travel.state.gov/visa/visa_1750.html (U.S. Department of State, Visa Information)
- b. http://seoul.usembassy.gov/iv_general_info.html (U.S. Embassy Seoul)
- c. http://www.asktheconsul.org/IV_category.html#CRIR (General Checklists for IVs)
- d. <http://www.uscis.gov/portal/site/uscis> (U.S. Citizenship and Immigration Services home page).
- e. <http://www.state.gov/> (U.S. Department of State home page)
- f. <http://seoul.usembassy.gov/> (U.S. Embassy, Seoul home page)

**** This handout is for general informational purposes only. For specific questions concerning individual circumstances, or for questions in general, contact the Client Legal Services Office.
Helpline for military members- (877) CIS-4MIL; (877-247-4645)***

Yongsan Client Legal Services Division, Office of the Staff Judge Advocate, Eighth US Army
Bldg 4106, room 229 (ACS building). Please call 738-8111 for an appointment.
Office hours: M, Tu, W, F 0900-1630 and Th 1300-1530.