



# U.S. Citizenship and Immigration Services

## Orphan Adoption: Process

*- USCIS Orphan Training 2009 -*

# How to Adopt an Orphan

## Two Tracks:

- When a child has been identified
- When a child has NOT been identified

## Three Ways:

- Adoption Agency
- Adoption Attorney
- Do it Yourself

# I-600A: 8 CFR 204.3(c)

- Form I-600A, *Application for Advance Processing of Orphan Petition*
- For determination of eligibility/suitability of prospective adoptive parents (PAPs) to adopt

## **I-600: 8 CFR 204.3(d)**

- *Form I-600, Petition to Classify an Orphan as Immediate Relative*
- To establish eligibility of the child as an orphan already adopted or coming to the U.S. for adoption

# **Form I-604: 8 CFR 204.3 (k)**

## ***I-604, Determination on Child for Adoption*** **(Internal Form)**

- For purposes of verifying the facts of the eligibility for orphan
- For purposes of verifying the documentary evidence submitted with I-600
- Can be solely documentary review, or full field inquiry when warranted.

# Classic Case Process

- PAP(s) decides to adopt
- PAP(s) files I-600A and obtains home study
- I-600A approved
- Child overseas identified (by agency)
- PAP(s) travels overseas and adopt child
- I-600 filed on behalf of child (usually overseas)
- I-600 approved if child is an orphan
- Child immigrates to U.S.
- May automatically become U.S. citizen.

# I-600A

- I-600A application is for the parent.
  - At least one parent must be a USC.
- If unmarried USC must be at least 24 years of age at time of filing I-600A.
- Married couple of any age.
  - One person of married couple may not file without the other spouse. If only one spouse is a USC, USC must be the primary applicant.

# I-600A

- USSCIS has exclusive jurisdiction over adjudication of Form I-600A
- Filed with USSCIS office having jurisdiction over P APs residence or proposed residence

# Where to file I-600A

## 8 CFR 204.3(g)(1)

USCIS Exclusive Jurisdiction over I-600A

- *PAP resides in U.S*
  - Filed with USCIS Field Office where the PAP(s) lives
- *PAP resides in Canada*
  - Files with USCIS field office where PAP intends to live\*\*
- *PAP resides abroad (other)*
  - Files with CIS overseas office or may send to USCIS field office of proposed place of residence in U.S

# I-600A Documents

- PAP Identity Documents
  - Proof of U.S citizenship of PAP, citizenship or lawful immigration status of spouse (if residing in U.S.), marital status and termination of any previous marriages of either PAP.
- FINGERPRINTS:
  - *Domestic*: Through ASC
  - *Foreign*: Must be taken by USCIS, DOS or U.S.military installation abroad (No USCIS fee\*) 8 CFR 103.2(e)(3)
- Compliance w/ *STATE* Pre-Adoption Requirements, if any.

# I-600A Documents

- HOME STUDY
  - Must be filed within 12 months of I-600A submission.
  - Must be less than 6 months old at time of submission.
  - Includes complete review of suitability of PAPs and ability to properly care for child, and disclosure of history of arrest, substance or child abuse or domestic violence of PAPs or *Adult Member of Household* (over 18)

# I-600A

- I-600A Fee: \$ 670 (8 CFR 103.7(b))
- Biometric Fee: \$ 80/each PAP and Adult Member of Household (No USCIS fee for FP if residing abroad\*)
- I-600A Approval: Valid for 18 months; 8 CFR 204.3 (h)(3)
- Extension of Approval: May be extended one time; No fee for request to extend; 8 CFR 103.7(b)
- Changes after Approval: See Memo June 20, 2008 Instructions for Processing Request for Changes or Action After Approval of I-600A

# I-600: USCIS Jurisdiction

- Domestic USCIS Field office: I-600 Jurisdiction over PAPs residence
  - With I-600A, while pending or after approval of I-600A
  - In lieu of I-600A as both a determination of eligibility of PAP and child
  - PAPs not traveling to child's country to file
  - PAPs traveled to child's country but opt to file with domestic office

# **I-600: USCIS Jurisdiction**

## **Overseas USCIS office:**

- USC PAP is physically present in USCIS office jurisdiction, generally in child's country AND
- USCIS office located in that country\* AND
- I-600A approved and within period of validity of approval or extension approval when I-600 is filed and FP clearances within 15 months, OR
- I-600 as I-600A/I-600 combo may be filed if overseas office has jurisdiction over PAPA residence

# I-600: Department of State Jurisdiction

## PAP may file I-600 with DOS if:

- USC PAP is physically present at visa issuing post when filing *AND*
- There is no USCIS office in country *AND*
- I-600A approved by USCIS and within period of validity of approval (or extension of approval) *AND*
- FP clearances currently within 15 months *AND*
- I-600 is “clearly approvable.”
  - IF I-600 is not clearly approvable, refer to USCIS overseas office.

\*See 8 CFR 204.3(g) (ii) and 8 CFR 204.3(k)

# I-604: USCIS

## I-604: *Determination on Child for Adoption*

- PURPOSE: To verify facts/documents submitted w/I-600
- JURISDICTION: 8 CFR 204.3(k)

### USCIS office (Domestic):

- To request an inquiry of *overseas site* for serious concern while I-600 is pending domestically
- After approval of I-600, request that DOS verify orphan eligibility before IV issuance

### USCIS office (Overseas):

- When adjudicating an I-600 in child's country

# I-604: Department of State

## *I-604, Determination on Child for Adoption*

- When I-600 adjudicated at IV post in child's country
- Before IV issuance if I-600 approved by USCIS

\*See 8 CFR 204.3(k)

# I-600 Documents

- Child's ID Documents
  - Child's birth certificate or other evidence of age and IDENTITY (Child must be under 16 on date of filing I-600, or under 18, if natural sibling\*)
- Orphanhood
  - Evidence establishing the child meets the definition of ORPHAN
- Adoption or Custody
  - Evidence of ADOPTION or legal custody for emigration and adoption

# Orphan First

Orphan First Program: In July 2003, USCIS initiated a pilot program to allow PAPs to file I-600 to verify “orphan” status of the child to be adopted, before finalizing adoption or transfer of custody.

- Minimizes risk of I-600 denial due to non-orphan status of child
- Initial trial countries: Haiti, Honduras, Philippines, Poland, and Sierra Leone
- \* Vietnam and Guatemala: Similar program for special circumstances

# Denials

- If an I-600/I600A is not approvable, it will be denied.
  - If the denial is based on information *not previously known* to the petitioner, USCIS must issue a Notice of Intent to Deny (NOID)\*
  - PAP(s) may file a rebuttal to the NOID and USCIS may then approve, deny or issue another NOID, if necessary.

# Denial/Appeals

- Department of State may not deny or issue a NOID for I-600.
  - Must forward I-600 petition to domestic/overseas USCIS office if “not clearly approvable.”
- PAP(s) may appeal denials to Administrative Appeals Office (AAO)\*

# Approvals

- I-600 may be approved by USCIS domestic field office or at the *overseas site* (USCIS overseas office or at Consular IV post).
- IMMIGRANT VISA
  - IR-3: If full and final adoption abroad, and the parent (both if married), have seen the child prior to or during the adoption proceeding.
  - IR-4: If not full and final adoption abroad, or only one parent of married couple adopted or if each parent did not see child

# Immigration of Birth Family Members

- No natural parent or prior adoptive parent can benefit from an immigration petition filed by the adopted child. INA § 101(b)(1)(F)
- No natural sibling can benefit from an immigration petition filed by the adopted child. *Matter of Li* (BIA Int. Dec. 3207, 201 & N 700)

# Classic Problems

## *DELAYS*

- Fingerprints: 15-month validity period expires (PAPs need to be reprinted/cleared)
- I-600A approval:
  - I-600A approval (or extension of approval) expires before filing I-600.
  - HS must be amended; Amend I-600A approval

## *DENIALS*

- I-600A
  - PAP(s) cannot meet financial requirements
  - Incomplete Paperwork
  - PAPs not found suitable
- I-600
  - Child does not meet Orphan definition
  - Incomplete Paperwork
  - Evidence of Child-buying

# Resources

- USCIS: [www.uscis.gov](http://www.uscis.gov)
- DOS: [www.adoption.state.gov](http://www.adoption.state.gov)

## Title 8 CFR, Section 204.3 - Orphans.

### Sec. 204.3 Orphans.

(Revised 8/1/94; 59 FR 38876 - 38889)

(a) General.

(1) **Background.** This regulation addresses a number of issues that have arisen in the recent past because of the increased interest by United States citizens in the adoption of foreign-born orphans and is based on applicable provisions of the Act. It should be noted that this regulation was not drafted in connection with possible United States ratification and implementation of the Hague Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption.

(2) **Overview.** The processing and adjudication of orphan cases is a Service priority. A child who meets the definition of orphan contained in section 101(b)(1)(F) of the Act is eligible for classification as the immediate relative of a United States citizen. Petitioning for an orphan involves two distinct determinations. The first determination concerns the advanced processing application which focuses on the ability of the prospective adoptive parents to provide a proper home environment and on their suitability as parents. This determination, based primarily on a home study and fingerprint checks, is essential for the protection of the orphan. The second determination concerns the orphan petition which focuses on whether the child is an orphan under section 101(b)(1)(F) of the Act. The prospective adoptive parents may submit the documentation necessary for each of these determinations separately or at one time, depending on when the orphan is identified. An orphan petition cannot be approved unless there is a favorable determination on the advanced processing application. However, a favorable determination on the advanced processing application does not guarantee that the orphan petition will be approved. Prospective adoptive parents may consult with the local Service office on matters relating to an advanced processing application and/or orphan petition.

(b) **Definitions.** As used in this section, the term:

**Abandonment by both parents** means that the parents have willfully forsaken all parental rights, obligations, and claims to the child, as well as all control over and possession of the child, without intending to transfer, or without transferring, these rights to any specific person(s). Abandonment must include not only the intention to surrender all parental rights, obligations, and claims to the child, and control over and possession of the child, but also the actual act of surrendering such rights, obligations, claims, control, and possession. A relinquishment or release by the parents to the prospective adoptive parents or for a specific adoption does not constitute abandonment. Similarly, the relinquishment or release of the child by the parents to a third party for custodial care in anticipation of, or preparation for, adoption does not constitute abandonment unless the third party (such as a governmental agency, a court of competent jurisdiction, an adoption agency, or an orphanage) is authorized under the child welfare laws of the foreign-sending country to act in such a capacity. A child who is placed temporarily in an orphanage shall not be considered to be abandoned if the parents express an intention to retrieve the child, are contributing or attempting to contribute to the support of the child, or otherwise exhibit ongoing parental interest in the child. A child who has been given unconditionally to an orphanage shall be considered to be abandoned.

**Adult member of the prospective adoptive parents' household** means an individual, other than a prospective adoptive parent, over the age of 18 whose principal or only residence is the home of the prospective adoptive parents. This definition excludes any child of the prospective adoptive parents, whose principal or only residence is the home of the prospective adoptive parents, who reaches his or her eighteenth birthday after the prospective adoptive parents have filed the advanced processing application (or the advanced

processing application concurrently with the orphan petition) unless the director has an articulable and substantive reason for requiring an evaluation by a home study preparer and/or a fingerprint check.

Advanced processing application means Form I-600A (Application for Advanced Processing of Orphan Petition) completed in accordance with the form's instructions and submitted with the required supporting documentation and the fee as required in 8 CFR 103.7(b)(1). The application must be signed in accordance with the form's instructions by the married petitioner and spouse, or by the unmarried petitioner.

Application is synonymous with advanced processing application.

Competent authority means a court or governmental agency of a foreign-sending country having jurisdiction and authority to make decisions in matters of child welfare, including adoption.

Desertion by both parents means that the parents have willfully forsaken their child and have refused to carry out their parental rights and obligations and that, as a result, the child has become a ward of a competent authority in accordance with the laws of the foreign-sending country.

Disappearance of both parents means that both parents have unaccountably or inexplicably passed out of the child's life, their whereabouts are unknown, there is no reasonable hope of their reappearance, and there has been a reasonable effort to locate them as determined by a competent authority in accordance with the laws of the foreign-sending country.

Foreign-sending country means the country of the orphan's citizenship, or if he or she is not permanently residing in the country of citizenship, the country of the orphan's habitual residence. This excludes a country to which the orphan travels temporarily, or to which he or she travels either as a prelude to, or in conjunction with, his or her adoption and/or immigration to the United States.

Home study preparer means any party licensed or otherwise authorized under the law of the State of the orphan's proposed residence to conduct the research and preparation for a home study, including the required personal interview(s). This term includes a public agency with authority under that State's law in adoption matters, public or private adoption agencies licensed or otherwise authorized by the laws of that State to place children for adoption, and organizations or individuals licensed or otherwise authorized to conduct the research and preparation for a home study, including the required personal interview(s), under the laws of the State of the orphan's proposed residence. In the case of an orphan whose adoption has been finalized abroad and whose adoptive parents reside abroad, the home study preparer includes any party licensed or otherwise authorized to conduct home studies under the law of any State of the United States, or any party licensed or otherwise authorized by the foreign country's adoption authorities to conduct home studies under the laws of the foreign country.

Incapable of providing proper care means that a sole or surviving parent is unable to provide for the child's basic needs, consistent with the local standards of the foreign sending country.

Loss from both parents means the involuntary severance or detachment of the child from the parents in a permanent manner such as that caused by a natural disaster, civil unrest, or other calamitous event beyond the control of the parents, as verified by a competent authority in accordance with the laws of the foreign sending country.

Orphan petition means Form I-600 (Petition to Classify Orphan as an Immediate Relative). The petition must be completed in accordance with the form's instructions and submitted with the required supporting documentation and, if there is not an advanced processing application approved within the previous 18 months or pending, the fee as required in 8 CFR 103.7(b)(1). The petition must be signed in accordance with the form's instructions by the married petitioner and spouse, or the unmarried petitioner.

Overseas site means the Department of State immigrant visa-issuing post having jurisdiction over the orphan's residence, or in foreign countries in which the Service has an office or offices, the Service office having jurisdiction over the orphan's residence.

Petition is synonymous with orphan petition.

Petitioner means a married United States citizen of any age, or an unmarried United States citizen who is at least 24 years old at the time he or she files the advanced processing application and at least 25 years old at the time he or she files the orphan petition. In the case of a married couple, both of whom are United States citizens, either party may be the petitioner.

Prospective adoptive parents means a married United States citizen of any age and his or her spouse of any age, or an unmarried United States citizen who is at least 24 years old at the time he or she files the advanced processing application and at least 25 years old at the time he or she files the orphan petition. The spouse of the United States citizen may be a citizen or an alien. An alien spouse must be in lawful immigration status if residing in the United States.

Separation from both parents means the involuntary severance of the child from his or her parents by action of a competent authority for good cause and in accordance with the laws of the foreign-sending country. The parents must have been properly notified and granted the opportunity to contest such action. The termination of all parental rights and obligations must be permanent and unconditional.

Sole parent means the mother when it is established that the child is illegitimate and has not acquired a parent within the meaning of section 101(b)(2) of the Act. An illegitimate child shall be considered to have a sole parent if his or her father has severed all parental ties, rights, duties, and obligations to the child, or if his or her father has, in writing, irrevocably released the child for emigration and adoption. This definition is not applicable to children born in countries which make no distinction between a child born in or out of wedlock, since all such children are considered to be legitimate. In all cases, a sole parent must be incapable of providing proper care as that term is defined in this section.

Surviving parent means the child's living parent when the child's other parent is dead, and the child has not acquired another parent within the meaning of section 101(b)(2) of the Act. In all cases, a surviving parent must be incapable of providing proper care as that term is defined in this section.

(c) Supporting documentation for an advanced processing application. The prospective adoptive parents may file an advanced processing application before an orphan is identified in order to secure the necessary clearance to file the orphan petition. Any document not in the English language must be accompanied by a certified English translation.

(1) Required supporting documentation that must accompany the advanced processing application. The following supporting documentation must accompany an advanced processing application at the time of filing:

(i) Evidence of the petitioner's United States citizenship as set forth in Sec. 204.1(g) and, if the petitioner is married and the married couple is residing in the United States, evidence of the spouse's United States citizenship or lawful immigration status;

(ii) A copy of the petitioner's marriage certificate to his or her spouse, if the petitioner is currently married;

(iii) Evidence of legal termination of all previous marriages for the petitioner and/or spouse, if previously married; and (Amended effective 3/29/98; 63 FR 12979)

(iv) Evidence of compliance with preadoption requirements, if any, of the State of the orphan's proposed residence in cases where it is known that there will be no adoption abroad, or that both members of the married prospective adoptive couple or the unmarried prospective adoptive parent will not personally see the child prior to, or

during, the adoption abroad, and/or that the adoption abroad will not be full and final. Any preadoption requirements which cannot be met at the time the advanced processing application is filed because of operation of State law must be noted and explained when the application is filed. Preadoption requirements must be met at the time the petition is filed, except for those which cannot be met until the orphan arrives in the United States; and (Redesignated as (c)(1)(iv) effective 3/29/98, previously (c)(1)(v); 63 FR 12979)

(2) Home study. The home study must comply with the requirements contained in paragraph (e) of this section. If the home study is not submitted when the advanced processing application is filed, it must be submitted within one year of the filing date of the advanced processing application, or the application will be denied pursuant to paragraph (h)(5) of this section.

(3) After receipt of a properly filed advanced processing application, the Service will fingerprint each member of the married prospective adoptive couple or the unmarried prospective adoptive parent, as prescribed in § 103.2(e) of this chapter. The Service will also fingerprint each additional adult member of the prospective adoptive parents' household, as prescribed in § 103.2(e) of this chapter. The Service may waive the requirement that each additional adult member of the prospective adoptive parents' household be fingerprinted when it determines that such adult is physically unable to be fingerprinted because of age or medical condition. (Paragraph (c)(3) added effective 3/29/98; 63 FR 12979)

(d) Supporting documentation for a petition for an identified orphan. Any document not in the English language must be accompanied by a certified English translation. If an orphan has been identified for adoption and the advanced processing application is pending, the prospective adoptive parents may file the orphan petition at the Service office where the application is pending. The prospective adoptive parents who have an approved advanced processing application must file an orphan petition and all supporting documents within eighteen months of the date of the approval of the advanced processing application. If the prospective adoptive parents fail to file the orphan petition within the eighteen-month period, the advanced processing application shall be deemed abandoned pursuant to paragraph (h)(7) of this section. If the prospective adoptive parents file the orphan petition after the eighteen-month period, the petition shall be denied pursuant to paragraph (h)(13) of this section. Prospective adoptive parents who do not have an advanced processing application approved or pending may file the application and petition concurrently on one Form I-600 if they have identified an orphan for adoption. An orphan petition must be accompanied by full documentation as follows:

(1) Filing an orphan petition after the advanced processing application has been approved. The following supporting documentation must accompany an orphan petition filed after approval of the advanced processing application:

- (i) Evidence of approval of the advanced processing application;
- (ii) The orphan's birth certificate, or if such a certificate is not available, an explanation together with other proof of identity and age;
- (iii) Evidence that the child is an orphan as appropriate to the case:
  - (A) Evidence that the orphan has been abandoned or deserted by, separated or lost from both parents, or that both parents have disappeared as those terms are defined in paragraph (b) of this section; or
  - (B) The death certificate(s) of the orphan's parent(s), if applicable; or
  - (C) If the orphan has only a sole or surviving parent, as defined in paragraph (b) of this section, evidence of this fact and evidence that the sole or surviving

parent is incapable of providing for the orphan's care and has irrevocably released the orphan for emigration and adoption; and

(iv) Evidence of adoption abroad or that the prospective adoptive parents have, or a person or entity working on their behalf has custody of the orphan for emigration and adoption in accordance with the laws of the foreign-sending country:

(A) A legible, certified copy of the adoption decree, if the orphan has been the subject of a full and final adoption abroad, and evidence that the unmarried petitioner, or married petitioner and spouse, saw the orphan prior to or during the adoption proceeding abroad; or

(B) If the orphan is to be adopted in the United States because there was no adoption abroad, or the unmarried petitioner, or married petitioner and spouse, did not personally see the orphan prior to or during the adoption proceeding abroad, and/or the adoption abroad was not full and final:

(1) Evidence that the prospective adoptive parents have, or a person or entity working on their behalf has, secured custody of the orphan in accordance with the laws of the foreign-sending country;

(2) An irrevocable release of the orphan for emigration and adoption from the person, organization, or competent authority which had the immediately previous legal custody or control over the orphan if the adoption was not full and final under the laws of the foreign-sending country;

(3) Evidence of compliance with all preadoption requirements, if any, of the State of the orphan's proposed residence. (Any such requirements that cannot be complied with prior to the orphan's arrival in the United States because of State law must be noted and explained); and

(4) Evidence that the State of the orphan's proposed residence allows readoption or provides for judicial recognition of the adoption abroad if there was an adoption abroad which does not meet statutory requirements pursuant to section 101(b)(1)(F) of the Act, because the unmarried petitioner, or married petitioner and spouse, did not personally see the orphan prior to or during the adoption proceeding abroad, and/or the adoption abroad was not full and final.

(2) Filing an orphan petition while the advanced processing application is pending. An orphan petition filed while an advanced processing application is pending must be filed at the Service office where the application is pending. The following supporting documentation must accompany an orphan petition filed while the advanced processing application is pending:

(i) A photocopy of the fee receipt relating to the advanced processing application, or if not available, other evidence that the advanced processing application has been filed, such as a statement including the date when the application was filed;

(ii) The home study, if not already submitted; and

(iii) The supporting documentation for an orphan petition required in paragraph (d)(1) of this section, except for paragraph (d)(1)(i) of this section.

(3) Filing an orphan petition concurrently with the advanced processing application. A petition filed concurrently with the advanced processing application must be submitted on Form I-600,

completed and signed in accordance with the form's instructions. (Under this concurrent procedure, Form I-600 serves as both the Forms I-600A and I-600, and the prospective adoptive parents should not file a separate Form I-600A.) The following supporting documentation must accompany a petition filed concurrently with the application under this provision:

- (i) The supporting documentation for an advanced processing application required in paragraph (c) of this section; and
- (ii) The supporting documentation for an orphan petition required in paragraph (d)(1) of this section, except for paragraph (d)(1)(i) of this section.

(e) Home study requirements. For immigration purposes, a home study is a process for screening and preparing prospective adoptive parents who are interested in adopting an orphan from another country. The home study should be tailored to the particular situation of the prospective adoptive parents: for example, a family which previously has adopted children will require different preparation than a family that has no adopted children. If there are any additional adult members of the prospective adoptive parents' household, the home study must address this fact. The home study preparer must interview any additional adult member of the prospective adoptive parents' household and assess him or her in light of the requirements of paragraphs (e)(1), (e)(2)(i), (iii), (iv), and (v) of this section. A home study must be conducted by a home study preparer, as defined in paragraph (b) of this section. The home study, or the most recent update to the home study, must not be more than six months old at the time the home study is submitted to the Service. Only one copy of the home study must be submitted to the Service. Ordinarily, a home study (or a home study and update as discussed above) will not have to be updated after it has been submitted to the Service unless there is a significant change in the household of the prospective adoptive parents such as a change in residence, marital status, criminal history, financial resources, and/or the addition of one or more children or other dependents to the family prior to the orphan's immigration into the United States. In addition to meeting any State, professional, or agency requirements, a home study must include the following:

(1) Personal interview(s) and home visit(s). The home study preparer must conduct at least one interview in person, and at least one home visit, with the prospective adoptive couple or the unmarried prospective adoptive parent. Each additional adult member of the prospective adoptive parents' household must also be interviewed in person at least once. The home study report must state the number of such interviews and visits, and must specify any other contacts with the prospective adoptive parents and any adult member of the prospective adoptive parents' household.

(2) Assessment of the capabilities of the prospective adoptive parents to properly parent the orphan. The home study must include a discussion of the following areas:

(i) Assessment of the physical, mental, and emotional capabilities of the prospective adoptive parents to properly parent the orphan. The home study preparer must make an initial assessment of how the physical, mental, and emotional health of the prospective adoptive parents would affect their ability to properly care for the prospective orphan. If the home study preparer determines that there are areas beyond his or her expertise which need to be addressed, he or she shall refer the prospective adoptive parents to an appropriate licensed professional, such as a physician, psychiatrist, clinical psychologist, or clinical social worker for an evaluation. Some problems may not necessarily disqualify applicants. For example, certain physical limitations may indicate which categories of children may be most appropriately placed with certain prospective adoptive parents. Certain mental and emotional health problems may be successfully treated. The home study must include the home study preparer's assessment of any such potential problem areas, a copy of any outside evaluation(s), and the home study preparer's recommended restrictions, if any, on the characteristics of the child to be placed in the home. Additionally, the home study preparer must apply the requirements of this paragraph to each adult member of the prospective adoptive parents' household.

(ii) Assessment of the finances of the prospective adoptive parents. The financial assessment must include a description of the income, financial resources, debts, and expenses of the prospective adoptive parents. A statement concerning the evidence that was considered to verify the source and amount of income and financial resources must be included. Any income designated for the support of one or more children in the care and custody of the prospective adoptive parents, such as funds for foster care, or any income designated for the support of another member of the household must not be counted towards the financial resources available for the support of a prospective orphan. The Service will not routinely require a detailed financial statement or supporting financial documents. However, should the need arise, the Service reserves the right to ask for such detailed documentation.

(iii) History of abuse and/or violence.

(A) Screening for abuse and violence.

(1) Checking available child abuse registries. The home study preparer must ensure that a check of each prospective adoptive parent and each adult member of the prospective adoptive parents' household has been made with available child abuse registries and must include in the home study the results of the checks including, if applicable, a report that no record was found to exist. Depending on the access allowed by the state of proposed residence of the orphan, the home study preparer must take one of the following courses of action:

(i) If the home study preparer is allowed access to information from the child abuse registries, he or she shall make the appropriate checks for each of the prospective adoptive parents and for each adult member of the prospective adoptive parents' household;

(ii) If the State requires the home study preparer to secure permission from each of the prospective adoptive parents and for each adult member of the prospective adoptive parents' household before gaining access to information in such registries, the home study preparer must secure such permission from those individuals, and make the appropriate checks;

(iii) If the State will only release information directly to each of the prospective adoptive parents and directly to the adult member of the prospective adoptive parents' household, those individuals must secure such information and provide it to the home study preparer. The home study preparer must include the results of these checks in the home study;

(iv) If the State will not release information to either the home study preparer or the prospective adoptive parents and the adult members of the prospective adoptive parents' household, this must be noted in the home study; or

(v) If the State does not have a child abuse registry, this must be noted in the home study.

(2) Inquiring about abuse and violence. The home study preparer must ask each prospective adoptive parent whether he or she has a history of substance abuse, sexual or child abuse, or domestic violence, even if it did not result in an arrest or conviction. The home study preparer must include each prospective adoptive parent's response to the questions regarding abuse and violence. Additionally, the home study preparer must apply the requirements of this paragraph to each adult member of the prospective adoptive parents' household.

(B) Information concerning history of abuse and/or violence. If the petitioner and/or spouse, if married, disclose(s) any history of abuse and/or violence as set forth in paragraph (e)(2)(iii)(A) of this section, or if, in the absence of such disclosure, the home study preparer becomes aware of any of the foregoing, the home study report must contain an evaluation of the suitability of the home for adoptive placement of an orphan in light of this history. This evaluation must include information concerning all arrests or convictions or history of substance abuse, sexual or child abuse, and/or domestic violence and the date of each occurrence. A certified copy of the documentation showing the final disposition of each incident, which resulted in arrest, indictment, conviction, and/or any other judicial or administrative action, must accompany the home study. Additionally, the prospective adoptive parent must submit a signed statement giving details including mitigating circumstances, if any, about each incident. The home study preparer must apply the requirements of this paragraph to each adult member of the prospective adoptive parents' household.

(C) Evidence of rehabilitation. If a prospective adoptive parent has a history of substance abuse, sexual or child abuse, and/or domestic violence, the home study preparer may, nevertheless, make a favorable finding if the prospective adoptive parent has demonstrated appropriate rehabilitation. In such a case, a discussion of such rehabilitation which demonstrates that the prospective adoptive parent is and will be able to provide proper care for the orphan must be included in the home study. Evidence of rehabilitation may include an evaluation of the seriousness of the arrest(s), conviction(s), or history of abuse, the number of such incidents, the length of time since the last incident, and any type of counseling or rehabilitation programs which have been successfully completed. Evidence of rehabilitation may also be provided by an appropriate licensed professional, such as a psychiatrist, clinical psychologist, or clinical social worker. The home study report must include all facts and circumstances which the home study preparer has considered, as well as the preparer's reasons for a favorable decision regarding the prospective adoptive parent. Additionally, if any adult member of the prospective adoptive parents' household has a history of substance abuse, sexual or child abuse, and/or domestic violence, the home study preparer must apply the requirements of this paragraph to that adult member of the prospective adoptive parents' household.

(D) Failure to disclose or cooperate. Failure to disclose an arrest, conviction, or history of substance abuse, sexual or child abuse, and/or domestic violence by the prospective adoptive parents or an adult member of the prospective adoptive parents' household to the home study preparer and to the Service, may result in the denial of the advanced processing application or, if applicable, the application and orphan petition, pursuant to paragraph (h)(4) of this section. Failure by the prospective adoptive parents or an adult member of the prospective adoptive parents' household to cooperate in having available child abuse registries checked in accordance with paragraphs (e)(2)(iii)(A)(1) and (e)(2)(iii)(A)(1)(i) through (e)(2)(iii)(A)(1)(iii) of this section will result in the

denial of the advanced processing application or, if applicable, the application and orphan petition, pursuant to paragraph (h)(4) of this section.

(iv) Previous rejection for adoption or prior unfavorable home study. The home study preparer must ask each prospective adoptive parent whether he or she previously has been rejected as a prospective adoptive parent or has been the subject of an unfavorable home study, and must include each prospective adoptive parent's response to this question in the home study report. If a prospective adoptive parent previously has been rejected or found to be unsuitable, the reasons for such a finding must be set forth as well as the reason(s) why he or she is now being favorably considered as a prospective adoptive parent. A copy of each previous rejection and/or unfavorable home study must be attached to the favorable home study. Additionally, the home study preparer must apply the requirements of this paragraph to each adult member of the prospective adoptive parents' household.

(v) Criminal history. The prospective adoptive parents and the adult members of the prospective adoptive parents' household are expected to disclose to the home study preparer and the Service any history of arrest and/or conviction early in the advanced processing procedure. Failure to do so may result in denial pursuant to paragraph (h)(4) of this section or in delays. Early disclosure provides the prospective adoptive parents with the best opportunity to gather and present evidence, and it gives the home study preparer and the Service the opportunity to properly evaluate the criminal record in light of such evidence. When such information is not presented early in the process, it comes to light when the fingerprint checks are received by the Service. By that time, the prospective adoptive parents are usually well into preadoption proceedings of identifying a child and may even have firm travel plans. At times, the travel plans have to be rescheduled while the issues raised by the criminal record are addressed. It is in the best interest of all parties to have any criminal records disclosed and resolved early in the process.

(3) Living accommodations. The home study must include a detailed description of the living accommodations where the prospective adoptive parents currently reside. If the prospective adoptive parents are planning to move, the home study must include a description of the living accommodations where the child will reside with the prospective adoptive parents, if known. If the prospective adoptive parents are residing abroad at the time of the home study, the home study must include a description of the living accommodations where the child will reside in the United States with the prospective adoptive parents, if known. Each description must include an assessment of the suitability of accommodations for a child and a determination whether such space meets applicable State requirements, if any.

(4) Handicapped or special needs orphan. A home study conducted in conjunction with the proposed adoption of a special needs or handicapped orphan must contain a discussion of the prospective adoptive parents' preparation, willingness, and ability to provide proper care for such an orphan.

(5) Summary of the counseling given and plans for post-placement counseling. The home study must include a summary of the counseling given to prepare the prospective adoptive parents for an international adoption and any plans for post-placement counseling. Such preadoption counseling must include a discussion of the processing, expenses, difficulties, and delays associated with international adoptions.

(6) Specific approval of the prospective adoptive parents for adoption. If the home study preparer's findings are favorable, the home study must contain his or her specific approval of the prospective adoptive parents for adoption and a discussion of the reasons for such approval. The home study must include the number of orphans which the prospective adoptive parents may adopt. The home study must state whether there are any specific restrictions to the adoption such as nationality, age,

or gender of the orphan. If the home study preparer has approved the prospective adoptive parents for a handicapped or special needs adoption, this fact must be clearly stated.

(7) Home study preparer's certification and statement of authority to conduct home studies. The home study must include a statement in which the home study preparer certifies that he or she is licensed or otherwise authorized by the State of the orphan's proposed residence to research and prepare home studies. In the case of an orphan whose adoption was finalized abroad and whose adoptive parents reside abroad, the home study preparer must certify that he or she is licensed or otherwise authorized to conduct home studies under the law of any State of the United States, or authorized by the adoption authorities of the foreign country to conduct home studies under the laws of the foreign country. In every case, this statement must cite the State or country under whose authority the home study preparer is licensed or authorized, the specific law or regulation authorizing the preparer to conduct home studies, the license number, if any, and the expiration date, if any, of this authorization or license.

(8) Review of home study. If the prospective adoptive parents reside in a State which requires the State to review the home study, such a review must occur and be documented before the home study is submitted to the Service. If the prospective adoptive parents reside abroad, an appropriate public or private adoption agency licensed, or otherwise authorized, by any State of the United States to place children for adoption, must review and favorably recommend the home study before it is submitted to the Service.

(9) Home study updates and amendments.

(i) Updates. If the home study is more than six months old at the time it would be submitted to the Service, the prospective adoptive parents must ensure that it is updated by a home study preparer before it is submitted to the Service. Each update must include screening in accordance with paragraphs (e)(2)(iii)(A) and (B) of this section.

(ii) Amendments. If there have been any significant changes, such as a change in the residence of the prospective adoptive parents, marital status, criminal history, financial resources, and/or the addition of one or more children or other dependents to the family, the prospective adoptive parents must ensure that the home study is amended by a home study preparer to reflect any such changes. If the orphan's proposed State of residence has changed, the home study amendment must contain a recommendation in accordance with paragraph (e)(8) of this section, if required by State law. Any preadoption requirements of the new State must be complied with in the case of an orphan coming to the United States to be adopted.

(10) "Grandfather" provision for home study. A home study properly completed in conformance with the regulations in force prior to September 30, 1994, shall be considered acceptable if submitted to the Service within 90 days of September 30, 1994. Any such home study accepted under this "grandfather" provision must include screening in accordance with paragraphs (e)(2)(iii)(A) and (B) of this section. Additionally, any such home study submitted under this "grandfather" provision which is more than six months old at the time of its submission must be amended or updated pursuant to the requirements of paragraph (e)(9) of this section.

(f) State preadoption requirements.

(1) General. Many States have preadoption requirements which, under the Act, must be complied with in every case in which a child is coming to such a State as an orphan to be adopted in the United States.

(2) Child coming to be adopted in the United States. An orphan is coming to be adopted in the United States if he or she will not be or has not been adopted abroad, or if the unmarried petitioner or both the married petitioner and spouse did not or will not personally see the orphan prior to or

during the adoption proceeding abroad, and/or if the adoption abroad will not be, or was not, full and final. If the prospective adoptive parents reside in a State with preadoption requirements and they plan to have the child come to the United States for adoption, they must submit evidence of compliance with the State's preadoption requirements to the Service.

Any preadoption requirements which by operation of State law cannot be met before filing the advanced processing application must be noted. Such requirements must be met prior to filing the petition, except for those which cannot be met by operation of State law until the orphan is physically in the United States. Those requirements which cannot be met until the orphan is physically present in the United States must be noted.

(3) Special circumstances. If both members of the prospective adoptive couple or the unmarried prospective adoptive parent intend to travel abroad to see the child prior to or during the adoption, the Act permits the application and/or petition, if otherwise approvable, to be approved without preadoption requirements having been met. However, if plans change and both members of the prospective adoptive couple or the unmarried prospective adoptive parent fail to see the child prior to or during the adoption, then preadoption requirements must be met before the immigrant visa can be issued, except for those preadoption requirements that cannot be met until the child is physically in the United States because of operation of State law.

(4) Evidence of compliance. In every case where compliance with preadoption requirements is required, the evidence of compliance must be in accordance with applicable State law, regulation, and procedure.

(g) Where to file.

(1) Where to file an advanced processing application. An advanced processing application must be filed with the Service as follows:

(i) Prospective adoptive parents residing in the United States. If the prospective adoptive parents reside in the United States, the application must be filed with the Service office having jurisdiction over their place of residence.

(ii) Prospective adoptive parents residing in Canada. If the prospective adoptive parents reside in Canada, the application must be filed with the stateside Service office having jurisdiction over the proposed place of residence of the prospective adoptive parents in the United States.

(iii) Prospective adoptive parents residing in a foreign country other than Canada. If the prospective adoptive parents reside outside of the United States or Canada, the application may be filed with the overseas Service office having jurisdiction over the current place of residence pursuant to Sec. 100.4(b) of this chapter, or with the stateside Service office having jurisdiction over the proposed place of residence of the prospective adoptive parents in the United States.

(2) Where to file an orphan petition when the advanced processing application has been approved. An orphan petition must be filed with the appropriate Service office or immigrant visa-issuing post of the Department of State as follows:

(i) Prospective adoptive parents residing in the United States who do not travel abroad to locate and/or adopt an orphan. If the prospective adoptive parents reside in the United States and do not travel abroad to locate and/or adopt an orphan, the petition must be filed with the Service office having jurisdiction over the place of residence of the prospective adoptive parents.

(ii) Prospective adoptive parents residing in the United States, with one or both members of the prospective adoptive couple, or the unmarried prospective adoptive parent,

traveling abroad to locate and/or adopt an orphan. If the prospective adoptive parents reside in the United States, and one or both members of the prospective adoptive couple, or the unmarried prospective adoptive parent, travel abroad to locate and/or adopt an orphan, the petition may be filed with the stateside Service office having jurisdiction over the place of residence of the prospective adoptive parents in the United States or at the overseas site. The petitioner may file the orphan petition at the overseas site only while he or she is physically present within the jurisdiction of the overseas site. If only one member of a married couple, which includes an alien, travels abroad to file the petition, it must be the United States citizen who travels abroad so that the overseas site will have jurisdiction over the petition.

(iii) Prospective adoptive parents residing outside the United States. Prospective adoptive parents residing outside of the United States may file the petition with the overseas site, or with the stateside Service office having jurisdiction over the proposed place of residence of the prospective adoptive parents in the United States.

(3) Where to file an orphan petition when the advanced processing application is pending. When the advanced processing application is pending, the petition must be filed at the Service office at which the application is pending.

(4) Where to file an orphan petition concurrently with the advanced processing application. When the petition is filed concurrently with the advanced processing application, it must be filed in accordance with the instructions for filing an advanced processing application in paragraphs (g)(1)(i) through (g)(1)(iii) of this section.

(h) Adjudication and decision.

(1) "Grandfather" provision for advanced processing application and/or orphan petition. All applications and petitions filed under prior regulations which are filed before and are still pending on September 30, 1994, shall be processed and adjudicated under the prior regulations.

(2) Director's responsibility to make an independent decision in an advanced processing application. No advanced processing application shall be approved unless the director is satisfied that proper care will be provided for the orphan. If the director has reason to believe that a favorable home study, or update, or both are based on an inadequate or erroneous evaluation of all the facts, he or she shall attempt to resolve the issue with the home study preparer, the agency making the recommendation pursuant to paragraph (e)(8) of this section, if any, and the prospective adoptive parents. If such consultations are unsatisfactory, the director may request a review and opinion from the appropriate State Government authorities.

(3) Advanced processing application approved. If the advanced processing application is approved, the prospective adoptive parents shall be advised in writing. The application and supporting documents shall be forwarded to the overseas site where the orphan resides. Additionally, if the petitioner advises the director that he or she intends to travel abroad to file the petition, telegraphic notification shall be sent overseas as detailed in paragraph (j)(1) of this section. The approved application shall be valid for eighteen months from its approval date. During this time, the prospective adoptive parents may file an orphan petition for one orphan without fee. If approved in the home study for more than one orphan, the prospective adoptive parents may file a petition for each of the additional children, to the maximum number approved. If the orphans are siblings, no additional fee is required. If the orphans are not siblings, an additional fee is required for each orphan beyond the first orphan. Approval of an advanced processing application does not guarantee that the orphan petition will be approved.

(4) Advanced processing application denied for failure to disclose history of abuse and/or violence, or for failure to disclose a criminal history, or for failure to cooperate in checking child abuse registries. Failure to disclose an arrest, conviction, or history of substance abuse, sexual or

child abuse, and/or domestic violence, or a criminal history to the home study preparer and to the Service in accordance with paragraphs (e)(2)(iii)(A) and (B) and (e)(2)(v) of this section may result in the denial of the advanced processing application, or if applicable, the application and orphan petition filed concurrently. Failure by the prospective adoptive parents or an adult member of the prospective adoptive parents' household to cooperate in having available child abuse registries checked in accordance with paragraphs (e)(2)(iii)(A)(1) and (e)(2)(iii)(A)(1)(i) through (e)(2)(iii)(A)(1)(iii) of this section will result in the denial of the advanced processing application or, if applicable, the application and orphan petition filed concurrently. Any new application and/or petition filed within a year of such denial will also be denied.

(5) Advanced processing denied for failure to submit home study. If the home study is not submitted within one year of the filing date of the advanced processing application, the application shall be denied. This action shall be without prejudice to a new filing at any time with fee.

(6) Advanced processing application otherwise denied. If the director finds that the prospective adoptive parents have otherwise failed to establish eligibility, the applicable provisions of 8 CFR part 103 regarding a letter of intent to deny, if appropriate, and denial and notification of appeal rights shall govern.

(7) Advanced processing application deemed abandoned for failure to file orphan petition within eighteen months of application's approval date. If an orphan petition is not properly filed within eighteen months of the approval date of the advanced processing application, the application shall be deemed abandoned. Supporting documentation shall be returned to the prospective adoptive parents, except for documentation submitted by a third party which shall be returned to the third party, and documentation relating to the fingerprint checks. The director shall dispose of documentation relating to fingerprint checks in accordance with current policy. Such abandonment shall be without prejudice to a new filing at any time with fee.

(8) Orphan petition approved by a stateside Service office. If the orphan petition is approved by a stateside Service office, the prospective adoptive parents shall be advised in writing, telegraphic notification shall be sent to the immigrant visa-issuing post pursuant to paragraph (j)(3) of this section, and the petition and supporting documents shall be forwarded to the Department of State.

(9) Orphan petition approved by an overseas Service office. If the orphan petition is approved by an overseas Service office located in the country of the orphan's residence, the prospective adoptive parents shall be advised in writing, and the petition and supporting documents shall be forwarded to the immigrant visa-issuing post having jurisdiction for immigrant visa processing.

(10) Orphan petition approved at an immigrant visa-issuing post. If the orphan petition is approved at an immigrant visa-issuing post, the post shall initiate immigrant visa processing.

(11) Orphan petition found to be "not readily approvable" by a consular officer. If the consular officer adjudicating the orphan petition finds that it is "not readily approvable," he or she shall notify the prospective adoptive parents in his or her consular district and forward the petition, the supporting documents, the findings of the I-604 investigation conducted pursuant to paragraph (k)(1) of this section, and any other relating documentation to the overseas Service office having jurisdiction pursuant to Sec. 100.4(b) of this chapter.

(12) Orphan petition denied: petitioner fails to establish that the child is an orphan. If the director finds that the petitioner has failed to establish that the child is an orphan who is eligible for the benefits sought, the applicable provisions of 8 CFR part 103 regarding a letter of intent to deny and notification of appeal rights shall govern.

(13) Orphan petition denied: petitioner files orphan petition more than eighteen months after the approval of the advanced processing application. If the petitioner files the orphan petition more

than eighteen months after the approval date of the advanced processing application, the petition shall be denied. This action shall be without prejudice to a new filing at any time with fee.

(14) Revocation. The approval of an advanced processing application or an orphan petition shall be automatically revoked in accordance with Sec. 205.1 of this chapter, if an applicable reason exists. The approval of an advanced processing application or an orphan petition shall be revoked if the director becomes aware of information that would have resulted in denial had it been known at the time of adjudication. Such a revocation or any other revocation on notice shall be made in accordance with Sec. 205.2 of this chapter.

(i) Child-buying as a ground for denial. An orphan petition must be denied under this section if the prospective adoptive parents or adoptive parent(s), or a person or entity working on their behalf, have given or will give money or other consideration either directly or indirectly to the child's parent(s), agent(s), other individual(s), or entity as payment for the child or as an inducement to release the child. Nothing in this paragraph shall be regarded as precluding reasonable payment for necessary activities such as administrative, court, legal, translation, and/or medical services related to the adoption proceedings.

(j) Telegraphic notifications.

(1) Telegraphic notification of approval of advanced processing application. Unless conditions preclude normal telegraphic transmissions, whenever an advanced processing application is approved in the United States, the director shall send telegraphic notification of the approval to the overseas site if a prospective adoptive parent advises the director that the petitioner intends to travel abroad and file the orphan petition abroad.

(2) Requesting a change in visa-issuing posts. If a prospective adoptive parent is in the United States, he or she may request the director to transfer notification of the approved advanced processing application to another visa-issuing post. Such a request shall be made on Form I-824 (Application for Action on an Approved Application or Petition) with the appropriate fee. The director shall send a Visas 37 telegram to both the previously and the newly designated posts. The following shall be inserted after the last numbered standard entry. "To: [insert name of previously designated visa-issuing post or overseas Service office]. Pursuant to the petitioner's request, the Visas 37 cable previously sent to your post/office in this matter is hereby invalidated. The approval is being transferred to the other post/office addressed in this telegram. Please forward the approved advanced processing application to that destination." Prior to sending such a telegram, the director must ensure that the change in posts does not alter any conditions of the approval.

(3) Telegraphic notification of approval of an orphan petition. Unless conditions preclude normal telegraphic transmissions, whenever a petition is approved by a stateside Service office, the director shall send telegraphic notification of the approval to the immigrant visa-issuing post.

(k) Other considerations.

(1) I-604 investigations. An I-604 investigation must be completed in every orphan case. The investigation must be completed by a consular officer except when the petition is properly filed at a Service office overseas, in which case it must be completed by a Service officer. An I-604 investigation shall be completed before a petition is adjudicated abroad. When a petition is adjudicated by a stateside Service office, the I-604 investigation is normally completed after the case has been forwarded to visa-issuing post abroad. However, in a case where the director of a stateside Service office adjudicating the petition has articulable concerns that can only be resolved through the I-604 investigation, he or she shall request the investigation prior to adjudication. In any case in which there are significant differences between the facts presented in the approved advanced processing application and/or orphan petition and the facts uncovered by the I-604 investigation, the overseas site may consult directly with the appropriate Service office. In any instance where an I-604 investigation reveals negative information sufficient to sustain a denial or revocation, the investigation report, supporting documentation, and petition shall be forwarded to

the appropriate Service office for action. Depending on the circumstances surrounding the case, the I-604 investigation shall include, but shall not necessarily be limited to, document checks, telephonic checks, interview(s) with the natural parent(s), and/or a field investigation.

(2) Authority of consular officers. An American consular officer is authorized to approve an orphan petition if the Service has made a favorable determination on the related advanced processing application, and the petitioner, who has traveled abroad to a country with no Service office in order to locate or adopt an orphan, has properly filed the petition, and the petition is approvable. A consular officer, however, shall refer any petition which is "not clearly approvable" for a decision by the Service office having jurisdiction pursuant to Sec.100.4(b) of this chapter. The consular officer's adjudication includes all aspects of eligibility for classification as an orphan under section 101(b)(1)(F) of the Act other than the issue of the ability of the prospective adoptive parents to furnish proper care to the orphan. However, if the consular officer has a well-founded and substantive reason to believe that the advanced processing approval was obtained on the basis of fraud or misrepresentation, or has knowledge of a change in material fact subsequent to the approval of the advanced processing application, he or she shall consult with the Service office having jurisdiction pursuant to Sec.100.4(b) of this chapter.

(3) Child in the United States. A child who is in parole status and who has not been adopted in the United States is eligible for the benefits of an orphan petition when all the requirements of sections 101(b)(1)(F) and 204(d) and (e) of the Act have been met. A child in the United States either illegally or as a nonimmigrant, however, is ineligible for the benefits of an orphan petition.

(4) Liaison. Each director shall develop and maintain liaison with State Government adoption authorities having jurisdiction within his or her jurisdiction, including the administrator(s) of the Interstate Compact on the Placement of Children, and with other parties with interest in international adoptions. Such parties include, but are not necessarily limited to, adoption agencies, organizations representing adoption agencies, organizations representing adoptive parents, and adoption attorneys.

**Instructions for I-600A, Application for  
Advance Processing of Orphan Petition****Instructions**

Read these instructions carefully to properly complete this form. If you need more space to complete an answer, use a separate sheet(s) of paper. Write your name and Alien Registration Number (A-Number), if any, at the top of each sheet of paper and indicate the part and number of the item to which the answer refers.

This form is used by a U.S. citizen who plans to adopt a foreign-born orphan but does not have a specific child in mind. "Advance Processing" enables U.S. Citizenship and Immigration Services (USCIS) to adjudicate the application that relates to the qualifications of the applicant(s) as a prospective adoptive parent(s).

Additionally, this form may be used in cases where the child is known and the prospective adoptive parent(s) is traveling to the country where the child is located. However, it is important that prospective adoptive parent(s) be aware that the child must remain in the foreign country where the child is located until the processing is completed.

**NOTE:** Form I-600A is not a petition to classify an orphan as an immediate relative. Form I-600, Petition to Classify Orphan as an Immediate Relative, is used for that purpose.

**1. Eligibility for advance processing application (Form I-600A)**

An application for advance processing may be filed by a married U.S. citizen and spouse. The spouse of the applicant does not need to be a U.S. citizen; however, he or she must be in a lawful immigration status. An application for advance processing may also be filed by an unmarried U.S. citizen who is at least 24 years of age provided that he or she will be at least 25 years of age at the time of adoption and the filing of an orphan petition on behalf of a child.

**2. Eligibility for orphan petition (Form I-600)**

In addition to the requirements concerning the citizenship and age of the applicant described in the above paragraph noted by Number 1 when a child is located and identified, the following eligibility requirements will apply:

**A. Child**

Under U.S. immigration law, an orphan is an alien child who has no parents because of the death or disappearance of, abandonment or desertion by, or separation or loss from both parents.

An orphan is also a child who has only one parent who is not capable of taking care of the orphan and who has, in writing, irrevocably released the orphan for emigration and adoption.

Form I-600 may not be filed on behalf of a child who is present in the United States unless that child is in parole status and has not been adopted in the United States.

The petition must be filed before the child reaches 16 years of age.

**B. Adoption abroad**

If the orphan was adopted abroad, it must be established that both the married applicant and spouse or the unmarried applicant personally saw and observed the child prior to or during the adoption proceedings. The adoption decree must show that a married prospective adoptive parent and spouse adopted the child jointly or that an unmarried prospective parent was at least 25 years of age at the time of the adoption and filing of Form I-600.

**C. Proxy adoption abroad**

If both the applicant and spouse or the unmarried applicant did not personally see and observe the child prior to or during the adoption proceedings abroad, the applicant (and spouse, if married) must submit a statement indicating the applicant's (and, if married, the spouse's) willingness and intent to readopt the child in the United States. If requested, the applicant must submit a statement by an official of the State in which the child will reside that readoption is permissible in that State. In addition, evidence must be submitted to show compliance with the preadoption requirements, if any, of that State.

**D. Preadoption requirements**

If the orphan has not been adopted abroad, the applicant and spouse or the unmarried applicant must establish that the child will be adopted in the United States by the prospective applicant and spouse jointly or by the unmarried prospective applicant, and that the preadoption requirements, if any, of the State of the orphan's proposed residence have been met.

## Step 1. Fill Out Form I-600A

1. Type or print legibly in black ink.
2. If extra space is needed to complete any item, attach a continuation sheet, indicate the item number, and date and sign each sheet.
3. Answer all questions fully and accurately. State that an item is not applicable with "N/A." If the answer is none, write "None."

## Step 2. General Requirements

### Initial Evidence

#### 1. Proof of U. S. citizenship of the prospective adoptive parent(s)

- A. If a U.S. citizen by birth in the United States, submit a copy of the birth certificate issued by the civil registrar, vital statistics office, or other civil authority. If a birth certificate is not available, submit a statement from the appropriate civil authority certifying that a birth certificate is not available. In such a situation, secondary evidence must be submitted, including:
  1. **Church records** bearing the seal of the church showing the baptism, dedication, or comparable rite occurred within two months after birth and showing the date and place of the prospective adoptive parent's birth, date of the religious ceremony, and the names of the parents;
  2. **School Records** issued by the authority (preferably the first school attended) showing the date of admission to the school, prospective adoptive parent's date of birth, or age at the time, the place of birth, and the names of the parents;
  3. **Census records** (State or Federal) showing the name, place of birth, date of birth, or age of the prospective adoptive parent listed;
  4. **Affidavits** sworn to or affirmed by two persons who were living at the time and who have personal knowledge of the date and place of birth in the United States of the prospective adoptive parent. Each affidavit should contain the following information regarding the person making the affidavit: his or her full name, address, date, place of birth, and relationship to the prospective adoptive parent, if any, and full information concerning the event and complete details of how the affiant acquired knowledge of the birth; or

5. An unexpired U.S. passport initially issued for ten years.

B. If the prospective adoptive parent was born outside the United States, submit a copy of one of the following:

1. Certificate of Naturalization or Certificate of Citizenship issued by USCIS;
2. Form FS-240, Report of Birth Abroad of a Citizen of the United States, issued by a U.S. Embassy;
3. An unexpired U.S. passport initially issued for ten years; or
4. An original statement from a U.S. consular officer verifying the applicant's U.S. citizenship with a valid passport.

**NOTE:** Proof of the lawful immigration status of the applicant's spouse, if applicable, must be submitted. If the spouse is not a U.S. citizen, proof of lawful immigration status, such as Form I-551, Permanent Resident Card; Form I-94, Arrival-Departure Record; or a copy of the biographic pages of the spouse's passport and the nonimmigrant visa pages showing an admission stamp may be submitted.

#### 2. Proof of Marriage of Applicant and Spouse

The married applicant must submit a copy of the certificate of marriage and proof of termination of all prior marriages of himself or herself and spouse. In the case of an unmarried applicant who was previously married, submit proof of termination of all prior marriages.

**NOTE:** If any change occurs in the applicant's marital status while the application is pending, immediately notify the USCIS office where the application was filed.

#### 3. Home Study

You must submit a home study prepared according to the requirements specified in 8 CFR 204.3(e) by a person who is authorized under 8 CFR 204.3(b) to prepare the home study. If you do not submit the home study with your Form I-600A, it must be submitted not more than one year after you file Form I-600A. The home study must have been completed or updated not more than six months before the date it is submitted to USCIS.

In order to prepare a home study, the person must be licensed or otherwise authorized under the law of the State of the child's proposed residence to prepare home studies for adoptions. The home study preparer may be a public agency with authority under State law for adoption matters, or a public or private adoption agency licensed in the State of the child's proposed residence. The home study preparer may also be an individual, if the person is, as an individual, licensed or otherwise authorized to prepare home studies for adoption under the law of the State of the child's proposed residence.

If you live abroad and will adopt the child abroad, the home study may be prepared by an agency or individual who is licensed or authorized to prepare home studies under the law of the country in which you reside, or under the law of any State in the United States. In addition to having a home study preparer that meets this requirement, the home study must, before it is submitted to USCIS, be reviewed and favorably recommended by a public adoption agency in any State in the United States or by a private agency licensed or otherwise authorized in any State to place children for adoption.

**NOTE:** USCIS does not enforce foreign licensing laws. So if your home study is prepared abroad by a home study preparer licensed in the United States and is reviewed and favorably recommended by a public or private adoption agency licensed in the United States, you may submit it to USCIS, and USCIS will accept it. The country in which you reside, however, may have its own laws concerning who may conduct adoption home studies in that country. You may want to verify whether a person licensed to conduct home studies in a State in the United States is permitted, under the law of the country in which you reside, to conduct home studies in that country.

The home study must provide an assessment of the capabilities of the prospective adoptive parent(s) to provide proper parental care to an adopted orphan in light of the requirements stated in 8 CFR 204.3(e). The home study must include a discussion of the following elements:

1. Personal interview(s) and home visit(s);
2. Assessment of the capabilities of the prospective adoptive parents to properly parent the orphan, including:
  - A. Assessment of the physical, mental, and emotional capabilities of the prospective adoptive parents to properly parent the orphan;
  - B. Assessment of the finances of the prospective adoptive parents;
  - C. History of abuse or violence;
  - D. Previous rejection for adoption or prior unfavorable home study;
  - E. Criminal history;

3. Living accommodations;
4. Handicapped or special needs orphan;
5. Summary of the counseling given and plans for post-placement counseling;
6. Specific approval of the prospective adoptive parents for adoption;
7. Home study preparer's certification and statement of authority to conduct home studies; and
8. Review of home study by the appropriate State agency, if required, and by a private or public adoption agency licensed in the United States, if you live abroad and will adopt abroad.

**NOTE:** You *must* include all information concerning any criminal history, even if an arrest, indictment, other criminal charge or conviction has been expunged, sealed, pardoned, or ameliorated in any other way. Having committed any crime of moral turpitude or a drug-related offense does not necessarily mean that the prospective adoptive parent(s) will be found not qualified to adopt an orphan. However, failure to disclose such information may result in denial of this application and/or any subsequent petition for an orphan.

#### Translations

Any document containing a foreign language submitted to USCIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English.

#### Copies

Unless specifically required that an original document be filed with an application or petition, an ordinary legible photocopy may be submitted. Original documents submitted when not required will remain a part of the record, even if the submission was not required.

A prospective adoptive parent residing in the United States should send the completed application to the USCIS office having jurisdiction over his or her place of residence. A prospective adoptive parent residing outside the United States should consult the nearest American consulate for the overseas or stateside USCIS office designated to act on the application.

The filing fee for Form I-600A is \$670.

An additional Biometric Fee of \$80 for fingerprinting every adult person living in the household in the United States where the child will reside.

For example, if an application is filed by a married couple residing in the United States with one additional adult member in their household, the total fees that must be submitted would be \$910 (\$670 for the petition and \$240 for the biometric services fees for fingerprinting the three adults).

USCIS will allow for a one time re-fingerprinting at no-charge to the prospective adoptive parents and household members, who are at least 18 years of age upon expiration of the fingerprint validity period of 15 months. Also, if the prospective adoptive parents have not yet filed Form I-600 and make a written request to extend the approval period of a Form I-600A, it is not necessary for them to pay the biometrics fee again to be fingerprinted in connection with the extension request.

### **Biometric Services**

As part of the USCIS biometric services requirement, the following persons must be fingerprinted in connection with this application:

1. The married prospective adoptive parent and spouse, if applicable; and
2. Each additional adult member 18 years of age of the prospective adoptive parent's household. **NOTE:** Submit a copy of the birth certificate of each qualifying household member who is 18 years of age.

If necessary, USCIS may also take each person's photograph and signature as part of the biometric services.

### **Petitioners Residing in the United States**

After filing this petition, USCIS will notify each person in writing of the time and location where he or she must go to be fingerprinted. Failure to appear to be fingerprinted or for other biometric services may result in denial of this application.

### **Petitioners Residing Abroad**

Completed fingerprint cards (Forms FD-258) must be submitted with this application. Do not bend, fold, or crease the completed fingerprint cards. The fingerprint cards must be prepared by a U.S. Embassy or consulate, USCIS office, or U.S. military installation.

**NOTE:** If the prospective adoptive parent(s) and any other adult members of the household are residing abroad at the time of filing, they are exempt from paying the biometric services fee for fingerprinting. However, they may have to pay fingerprinting fees charged by the U.S. Department of State or military installation.

You may submit one check or money order for both the application and biometric fees.

Use the following guidelines when you prepare your check or money order for the Form I-600A and the biometric service fee:

1. The check or money order must be drawn on a bank or other financial institution located in the United States and must be payable in U.S. currency; and
2. Make the check or money order payable to U.S. Department of Homeland Security, unless:
  - A. If you live in Guam, make it payable to **Treasurer, Guam.**
  - B. If you live in the U.S. Virgin Islands, make it payable to **Commissioner of Finance of the Virgin Islands.**

**NOTE:** Please spell out U.S. Department of Homeland Security; do not use the initials "USDHS" or "DHS."

### **Notice to Those Making Payment by Check**

If you send us a check, it will be converted into an electronic funds transfer (EFT). This means we will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will usually take 24 hours and will be shown on your regular account statement.

You will not receive your original check back. We will destroy your original check, but we will keep a copy of it. If the EFT cannot be processed for technical reasons, you authorize us to process the copy in place of your original check. If the EFT cannot be completed because of insufficient funds, we may try to make the transfer up to two times.

### **How to Check If the Fees Are Correct**

The form and biometric fees on this form are current as of the edition date appearing in the lower right corner of this page. However, because USCIS fees change periodically, you can verify if the fees are correct by following one of the steps below:

1. Visit our website at [www.uscis.gov](http://www.uscis.gov), select "Immigration Forms," and check the appropriate fee;
2. Review the Fee Schedule included in your form package, if you called us to request the form; or
3. Telephone our National Customer Service Center at **1-800-375-5283** and ask for the fee information.

**NOTE:** If your Form I-600A requires payment of a biometric service fee for USCIS to take your fingerprints, photograph, or signature, you can use the same procedure to obtain the correct biometric fee.

If you change your address and you have an application or petition pending with USCIS, you may change your address online at [www.uscis.gov](http://www.uscis.gov). Click on "Change your address with USCIS" and follow the prompts, or you may complete and mail Form AR-11, Alien's Change of Address Card, to:

**U.S. Citizenship and Immigration Services**  
**Change of Address**  
**P.O. Box 7134**  
**London, KY 40742-7134**

For commercial overnight or fast freight services only, mail to:

**U.S. Citizenship and Immigration Services**  
**Change of Address**  
**1084-I South Laurel Road**  
**London, KY 40744**

### **What Should You Do After Locating or Identifying a Child or Children?**

Form I-600, Petition to Classify Orphan as an Immediate Relative, is filed when a child has been located and/or identified for the prospective adoptive parent(s). A new fee is not required if Form I-600 is filed within 18 months from the approval date of Form I-600A.

If approved in the home study for more than one orphan, the prospective adoptive parent(s) may file a petition for each of the additional children to the maximum number approved. If the orphans are siblings, no additional filing fee is required. However, if the orphans are not siblings, an additional filing fee is required for each orphan beyond the first orphan.

A fee of \$670 must be submitted for filing this petition. However, a fee is not required for this petition if you filed an advance processing application (Form I-600A) within the previous 18 months, and it was approved or is still pending.

**NOTE:** Approval of an advance processing application does not guarantee that the orphan petition(s) will be approved.

Form I-600 must be accompanied by all the evidence required by the instructions of that form, except where provided previously with Form I-600A.

Generally, Form I-600 should be submitted at the USCIS office where Form I-600A was filed. Prospective adoptive parent(s) going abroad to adopt or locate a child may file Form I-600 with either the USCIS office or U.S. Embassy or consulate having jurisdiction over the place where the child is residing or will be located, unless the case is being retained at the USCIS office stateside.

### **Certification**

The "Certification of Prospective Adoptive Parent" block of Form I-600A must be executed by the prospective adoptive parent. The spouse, if applicable, must execute the "Certification of Married Prospective Adoptive Parent Spouse" block on **Page 2** of the form. Failure to do so will result in the rejection of Form I-600A.

**Any Form I-600A that is not signed or accompanied by the correct fee will be rejected with a notice that Form I-600A is deficient.** You may correct the deficiency and resubmit Form I-600A. An application or petition is not considered properly filed until accepted by USCIS.

### **Initial Processing**

Once Form I-600A has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form or file it without required initial evidence, you will not establish a basis for eligibility, and we may deny your Form I-600A.

### **Requests for More Information or Interview**

We may request more information or evidence, or we may request that you appear at a USCIS office for an interview. We may also request that you submit the originals of any copy. We will return these originals when they are no longer required.

### **Decision**

The decision on Form I-600A involves a determination of whether you have established eligibility for the requested benefit. You will be notified of the decision in writing.

### **Extension of the Form I-600A Approval Period**

If USCIS has approved your Form I-600A, and you have not yet filed Form I-600 based on that approval, you may make one request, without fee, to have USCIS extend the approval period for your Form I-600A. You must submit a written request to the USCIS office that adjudicated the initial Form I-600A. The request must be received no earlier than 90 days prior to the expiration of the Form I-600A approval, but before the Form I-600A approval notice expires. For instance, if your Form I-600A approval notice is valid until December 31, you may not file the request before October 3, but must file it no later than December 31.

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The written request must explicitly request a one-time, no-charge extension to the current Form I-600A approval. You must submit an amended/updated home study and any other supporting documentation of any changes in the household. The home study amendment or update must address each issue under 8 CFR 204.3(e) and indicate whether anything has changed on any item. The home study must also address any changes to Form I-600A answers and must say whether approval is still recommended.

### Requesting a Change of Country

If you had USCIS send the approval notice for your Form I-600A to the Department of State office in a particular country, but now wish to adopt a child from a different country, you may make one request, without fee, to have a new approval notice sent to the U.S. Department of State office in the new country. You must submit a written request to the USCIS office that adjudicated the initial Form I-600A. You should also submit an updated or amended home study that addresses the change in country and whether the home study preparer recommends approval of the change and that also addresses any other changes since your Form I-600A was approved.

If you have received one free change of country, then you must submit a properly completed Form I-824, Application for Action on Approved Petitioner or Application, with the fee specified in 8 CFR 103.7(b), to obtain any additional change of country.

[REDACTED]

To order USCIS forms, call our toll-free number at **1-800-870-3676**. You can also get USCIS forms and information on immigration laws, regulations, and procedures by telephoning our National Customer Service Center at **1-800-375-5283** or visiting our Internet website at [www.uscis.gov](http://www.uscis.gov).

As an alternative to waiting in line for assistance at your local USCIS office, you can now schedule an appointment through our Internet-based system, **InfoPass**. To access the system, visit our website. Use the **InfoPass** appointment scheduler and follow the screen prompts to set up your appointment. **InfoPass** generates an electronic appointment notice that appears on the screen.

[REDACTED]

If you knowingly and willfully falsify or conceal a material fact or submit a false document with Form I-600A, we will deny Form I-600A and may deny any other immigration benefit.

In addition, you will face severe penalties provided by law and may be subject to criminal prosecution.

[REDACTED]

We ask for the information on this form and associated evidence to determine if you have established eligibility for the immigration benefit for which you are filing. Our legal right to ask for this information can be found in the Immigration and Nationality Act, as amended. We may provide this information to other government agencies. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your Form I-600A.

[REDACTED]

An agency may not conduct or sponsor an information collection and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated at 30 minutes per response, including the time for reviewing instructions and completing and submitting the form. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Regulatory Management Division, 111 Massachusetts Avenue, N.W., 3rd Floor, Suite 3008, Washington, DC 20529. OMB No. 1615-0028. **Do not mail your application to this address.**

Department of Homeland Security  
U.S. Citizenship and Immigration Services

**I-600A, Application for Advance  
Processing of Orphan Petition**

**Do not write in this block**

**For USCIS Use Only**

It has been determined that the:  
 Married  Unmarried  
 prospective adoptive parent will furnish proper care to a beneficiary orphan if admitted to the United States.  
 There:  
 are  are not  
 preadoption requirements in the State of the child's proposed residence.  
 The following is a description of the preadoption requirements, if any, of the state of the child's proposed residence:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 The preadoption requirements, if any:  
 have been met.  have not been met.

Fee Stamp

DATE OF FAVORABLE DETERMINATION  
 DD  
 DISTRICT

File number of applicant, if applicable.

Type or print legibly in black ink.

*This application is made by the named prospective adoptive parent for advance processing of an orphan petition.*

**BLOCK I - Information About the Prospective Adoptive Parent**

1. My name is: (Last) (First) (Middle)

2. Other names used (including maiden name if appropriate):

3. I reside in the U.S. at: (C/O if appropriate) (Apt. No.)  
 (Number and Street) (Town or City) (State) (Zip Code)

4. Address abroad (if any): (Number and Street) (Apt. No.)  
 (Town or City) (Province) (Country)

5. I was born on: (mm/dd/yyyy)  
 In: (Town or City) (State or Province) (Country)

6. My telephone number is: (include area code)

7. My marital status is:  
 Married  
 Widowed  
 Divorced  
 Single  
 I have never been married.  
 I have been previously married \_\_\_\_\_ time(s).

8. If you are now married, give the following information:

Date and place of present marriage (mm/dd/yyyy)

Name of present spouse (include maiden name of wife)

Date of birth of spouse (mm/dd/yyyy) Place of birth of spouse

Number of prior marriages of spouse

My spouse resides  With me  Apart from me (provide address below)  
 (Apt. No.) (No. and Street) (City) (State) (Country)

9. I am a citizen of the United States through:  
 Birth  Parents  Naturalization  
 If acquired through naturalization, give name under which naturalized, number of naturalization certificate, and date and place of naturalization.

If not, submit evidence of citizenship. See Page 2 of the Instructions.

If acquired through parentage, have you obtained a certificate in your own name based on that acquisition?  
 No  Yes  
 Have you or any person through whom you claimed citizenship ever lost United States citizenship?  
 No  Yes (If Yes, attach detailed explanation.)

Received	Trans. In	Ref'd Trans. Out	Completed



**BLOCK II - General Information**

10. Name and address of organization or individual assisting you in locating or identifying an orphan  
(Name)

(Address)

11. Do you plan to travel abroad to locate or adopt a child?  
 Yes  No

12. Does your spouse, if any, plan to travel abroad to locate or adopt a child?  
 Yes  No

13. If the answer to Question 11 or 12 is "Yes," give the following information:

- a. Your date of intended departure \_\_\_\_\_
- b. Your spouse's date of intended departure \_\_\_\_\_
- c. City, province \_\_\_\_\_

14. Will the child come to the United States for adoption after compliance with the preadoption requirements, if any, of the State of proposed residence?

Yes  No

15. If the answer to Question 14 is "No," will the child be adopted abroad after having been personally seen and observed by you and your spouse, if married?

Yes  No

16. Where do you wish to file your orphan petition?

The USCIS office located at \_\_\_\_\_

The U.S. Embassy or consulate at \_\_\_\_\_

17. Do you plan to adopt more than one child?

Yes  No

If "Yes," how many children do you plan to adopt? \_\_\_\_\_

**Certification of Prospective Adoptive Parent**

I certify, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct and that I will care for an orphan/orphans properly if admitted to the United States.

\_\_\_\_\_  
(Signature of Prospective Adoptive Parent)

Executed on (Date) \_\_\_\_\_

**Certification of Married Prospective Adoptive Parent Spouse**

I certify, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct and that my spouse and I will care for an orphan/orphans properly if admitted to the United States.

\_\_\_\_\_  
(Signature of Prospective Adoptive Parent Spouse)

Executed on (Date) \_\_\_\_\_

**Signature of Person Preparing Form, If Other Than Petitioner**

I declare that this document was prepared by me at the request of the petitioner and is based entirely on information of which I have knowledge.

\_\_\_\_\_  
(Signature)

Street Address and Room or Suite No./City/State/Zip Code \_\_\_\_\_

Executed on (Date) \_\_\_\_\_





# U.S. Citizenship and Immigration Services

Home Study Issues: Orphan

- *USCIS Orphan Training 2009* -

# HOME STUDY

- WHO: 8 CFR 204.3 (b)
- WHEN: 8 CFR 204.3 (c)(2)
- WHAT: 8 CFR 204.3 (e)

## USCIS Responsibility

- 8 CFR 204.3 (h)(2) &
- Sec. 101(b)(1)(F) INA proper care

# DEFINITIONS

## 8 CFR 204.3(b)

### ADULT MEMBER OF PROSPECTIVE ADOPTIVE PARENT HOUSEHOLD

- Over 18
- Principal/Only residence is home of prospective adoptive parent(s)
- Does not include minor who turns 18 after I-600A/I-600 is filed

# DEFINITIONS

## 8 CFR 204.3(b)

### **Home Study Preparer**

- Licensed/authorized by State of orphan's proposed residence to conduct home study
- Includes public/private adoption agencies
- Includes individuals
- IF PAPS reside abroad and adopt abroad may be licensed/authorized by ANY State or foreign authority in country of PAP residence

# USCIS

## Responsibility & Authority

- **INA Sec 101(b)(1)(F)**: Ultimate authority is USCIS for proper care of child: ...“provided that the Attorney General is satisfied that proper care will be furnished the child if admitted to the United States.”
- **8 CFR 204.3(h)(2)**: USCIS may deny I-600A when home study recommends adoptive parents, but adjudicator has serious concerns regarding fitness of parents: criminal history, abuse issues, disabilities of P APs, etc.

# USCIS Authority

- 8 CFR 204.3(h)(2): If adjudicator has reason to believe favorable home study based on inadequate/ erroneous information, should attempt to resolve issue with home study preparer/agency/adoptive parents. May request review/opinion from appropriate state government authorities.
- However, if issues cannot be satisfactorily addressed, USCIS may deny the I-600A.

# Home Study Guidelines

## When to Submit: 8 CFR 204.3(c)(2)

- Home Study must be submitted within one year of filing date of I-600A
- If home study not submitted within one year of filing of I-600A, MUST deny. 8 CFR 204.3(h)(5)
- There are no extensions of time to submit the home study.
- There is no appeal from this denial.

# Home Study Guidelines

## 8 CFR 204.3(e)

### Validity of Home Study

- HOME STUDY must have original signatures
- HOME STUDY, or most recent update, must not be more than six (6) months old at the time home study submitted to USSCIS

# Home Study Updates

- **NO UPDATE REQUIRED** if already submitted & no significant changes
- **AMENDMENT** after submission if any changes such as residence, marital status, criminal history, financial resources, and/or addition of child(ren)/other dependents/adult members to family prior to the orphan's immigration into the United States or other significant change.

# Home Study Guidelines

## Content of Home Study: 8 CFR 204.3(e)(1)

### Personal interviews and home visits

- Conduct at least one interview in person with each prospective parent.
- Conduct at least one home visit with prospective adoptive parent(s).
- Conduct at least one interview in person with any adult member of the prospective adoptive parents' household.

# Home Study Guidelines

## 8 CFR 204.3(e)(1)

### Personal Interviews and home visits

#### HOME STUDY MUST STATE

- Number of interviews conducted
- Number of home visits
- Summary of any other contact with prospective adoptive parents and any adult member of prospective adoptive parents' household.

# Home Study Guidelines

## 8 CFR 204.3(e)(2)(i)

### Assessment to Properly Parent Orphan

- INITIAL ASSESSMENT of physical, mental, and emotional capabilities of prospective adoptive parents to properly parent the orphan.
- MUST include assessment of adult household member.

# Home Study Guidelines

## 8 CFR 204.3(e)(2)(i)

### Assessment to Properly Parent Orphan

- Referral to an appropriate licensed professional for evaluation if beyond home study preparer's expertise
- Evaluations from other professionals: physician, psychiatrist, psychologist, substance abuse counselor, etc. if necessary
- Home study preparer must apply all requirements to each adult member of the prospective adoptive parents' household.

# Home Study Guidelines

## 8 CFR 204.3(e)(2)(ii)

### Financial Assessment

- Financial assessment must include description of the income, financial resources, debts, and expenses of prospective adoptive parents.
- Evidence considered to verify source/ amount of income/ financial resources **MUST** be stated.

# Home Study Guidelines

## 8 CFR 204.3(e)(2)(ii)

### Financial Assessment

- Income designated for support of children in care/custody of prospective adoptive parents or income designated for support of other household member must not be counted towards financial resources available for support of orphan.
- USCIS reserves right to request detailed financial statement or supporting financial documents.

# Home Study Guidelines

## 8 CFR 204.3(e)(2)(iii)

### History of Criminal, Abuse, Violence

CHILD ABUSE REGISTRY must be checked by home study preparer for prospective adoptive parent AND any adult household member if available

- Consent must be given if required for registry check
- If NO child abuse registry or State will not release information, must be noted in home study.

# Home Study Guidelines

## 8 CFR 204.3(e)(2)(iii)

### Criminal / Abuse History

- MUST ASK each prospective adoptive parent AND adult household member of ANY criminal arrest and /or conviction.
- MUST ASK each prospective adoptive parent AND adult household member about any history of substance abuse, sexual or child abuse, or domestic violence, even if it did not result in an arrest or conviction.
- Response to each question must be included in the home study.

# Home Study Guidelines

## 8 CFR 204.3(e)(2)(iii)

### Disclosure of Criminal / Abuse History

If there is disclosure of criminal history or abuse or violence:

- Home Study must contain an evaluation of suitability of home in light of such history.
- Information must disclose the nature of history of substance abuse, sexual or child abuse, and/ or domestic violence or arrest and date of each occurrence.

# Home Study Guidelines

## 8 CFR 204.3(2)(iii)(B)

### Criminal / Abuse History

Certified copy of final disposition of any arrest, indictment, conviction, judicial judgment or administrative action.

- Signed statement by parent or adult household member giving details, including mitigating circumstances, if any, about each incident.
- All of above must be applied to each parent & adult household member.

# Home Study Guidelines

## 8 CFR 204.3(e)(2)(iii)

### Evaluation

- Home Study may still recommend prospective adoptive parents even if criminal history or history of substance abuse, sexual or child abuse, and / or domestic violence.
- Home Study must include discussion of rehabilitation which demonstrates that prospective adoptive parent is and will be able to provide proper care for orphan.

# Home Study Guidelines

## 8 CFR 204.3(2)(iii)(C)

### Rehabilitation Evaluation Must Include:

- Number of incidents
- Length of time since last incident
- Counseling/Rehabilitation programs completed.
- Evaluation/Evidence of rehabilitation by appropriate licensed professional, if any.
- Evaluation of seriousness of arrest(s), convictions(s), or history of abuse.

## **Evidence of Rehabilitation cont.**

- Discussion of All FACTS and circumstances which were considered.
- Home study preparer's reasons for favorable home study.
- Home study preparer must apply all of requirements to any adult member of the household.

# **Failure to Disclose/Cooperate**

## **8 CFR 204.3(e)(2)(iii)(D) & 204.3(h)(4)**

- Failure to Cooperate getting Child Abuse Registry Check WILL result in Denial.
- Failure to Disclose History or Arrest, Abuse, Violence MAY result in Denial.
- If denied for these reasons: No new application/petition filed within one year may be approved.

# Home Study Guidelines

## 8 CFR 204.3(e)(2)(iv)

### Previous Rejection for Adoption/ Prior

#### Unfavorable Home Study

- MUST ASK parent & adult household member if rejected/ previous unfavorable home study:
  - If rejected or unfavorable: explanation
  - Copy of each previous rejection / unfavorable home study must accompany favorable home study.

# Home Study Guidelines

## 8 CFR 204.3(e)(3)

### Living Accommodations: Home Study Must Include

- Detailed description of current living accommodations and if moving, intended accommodations, if known.
- If PAPs reside abroad, description of living accommodations where the child will reside in U.S. if known.
- Assessment of suitability of accommodations
- State Requirements met, if any.

# Home Study Guidelines

## 8 CFR 204.3(e)(4)

### Handicapped or Special Needs Orphan

- Discussion of prospective adoptive parents' preparation, willingness, and ability to provide proper care for such an orphan IF recommending special needs orphan.

# Home Study Guidelines

## 8 CFR 204.3(e)(5)

### Summary of Counseling must include:

- Discussion of processing expenses, difficulties and delays associated with international adoptions.
- Any plans for post placement counseling.

# Home Study Guidelines

## 8 CFR 204.3(e)(6)

Approval for Adoption: Home Study must include

- Specific approval
- Discussion of reasons for approval
- Number of orphans that may be adopted
- Any specific restrictions such as: nationality, age, or gender of orphan.
- Whether approved for handicapped/ special needs adoption

# Home Study Guidelines

## 8 CFR 204.3(e)(7)

### Home Study Preparer Authority (also 8 CFR 204.3(b))

Prospective adoptive parents reside in US:

- Home study preparer must be licensed or otherwise authorized to conduct home studies in State of orphan's proposed residence.
- Statement must cite State authority or license, specific law authorizing preparer to conduct home studies, license number and or expiration date, if any.

# Home Study Guidelines

## 8 CFR 204.3(e)(7)

### Home Study Preparer's Authority (also 8 CFR 204.3(b))

#### PAPs Reside Abroad AND Child Adopted Abroad

- Home study preparer is licensed/authorized to conduct home studies under law of ANY State in US, or authorized by adoption authorities of foreign country to conduct home studies.
- Statement must cite State or country under whose authority home study preparer is licensed/ authorized, specific law/regulation authorizing preparer, and expiration date, if any.

# Home Study Guidelines

## 8 CFR 204.3(e)(8)

### Review of Home Study

- Prospective adoptive parents reside in U.S.:  
If State requires review of home study, review must occur and be documented before home study is submitted to USCIS
- Prospective adoptive parents reside abroad:  
Public or private adoption agency licensed or otherwise authorized by any State in U.S. to place children for adoption MUST review and favorably recommend home study before submitted to USCIS.

# Home Study Guidelines

## 8 CFR 204.3(e)(9)

### Home Study Update

- If home study more than six months old at time of submission to USCIS it must be accompanied by update.
- Update must include screening for child abuse and inquiry for arrest/history of substance, sex, child abuse or domestic violence and advise of any significant change such as job, residence, addition of child....

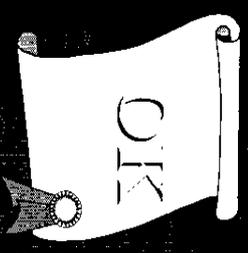
# Home Study Guidelines

## 8 CFR 204.3(e)(9)(ii)

**AMENDMENTS** - *REQUIRED* at any time if any significant changes occur, including but not limited to:

- Residence of prospective adoptive parents.
- Marital status \*\*\*
- Criminal history / abuse history
- Financial resources
- Addition of one or more children / other dependents/ adult household members.

# CERTIFICATION OF AUTHORITY TO CONDUCT HOMESTUDIES



- Requires Statement Certifying Licensure/
- Authorization from *State of Orphan's Proposed Residence.*
- Living Abroad and Adopting Abroad
  - MAY Have Home study Prepared Abroad
    - If Authorized By Foreign Country or ANY STATE *AND*
    - Subsequently Approved By Public/Private Child Placement Agency Authorized By ANY STATE

# Remember...

## Specific Recommendation to adopt:

- If adopting *Handicapped/Special Needs* orphan:
  - Home study must evaluate and recommend ability to parent a handicapped/special needs child
- Must include # of orphans PAPs may adopt
- Home study must state *RESTRICTIONS*, if any, on:
  - *Nationality*
  - *Age* or
  - *Gender*
- No restrictions = SO STATE

Questions???

Comments???



# U.S. Citizenship and Immigration Services

## **Orphan Adoption Overview**

*- USCIS Orphan Training 2009 -*

# AGENDA

- ORPHAN
  - Definition of Terms
    - Pertaining To BOTH Parents
    - Pertaining To SOLE/SURVIVING Parent
- CHILD
  - Definition of Terms
- PARENT
  - Definition of Terms

# ORPHAN

## INA 101(b)(1)(F)(i)

1. A child under the age of 16 at the time a petition is filed on his behalf and
2. Who is an Orphan because of:
  - a) Death or Disappearance of, Abandonment or Desertion by, or Separation or Loss from, Both Parents, or
  - b) for whom the Sole or Surviving Parent, is incapable of providing the Proper Care and
3. In writing irrevocably released the child for emigration and adoption.

## SEC 101(b)(1)(F) (ii)

Amended Dec. 7, 1999

- Gave additional eligibility to a child, under age of 18, at time petition is filed who is the natural sibling of a child described in the INA as an *{orphan}* OR *{adopted child}*

## SEC 101(b)(1)(F)(ii)

- NATURAL SIBLING of a child who met the under age 16 condition and is/was an
  - *Orphan*; Sec 101(b)(1)(F) or
  - *Adopted Child*; Sec 101(b)(1)(E)

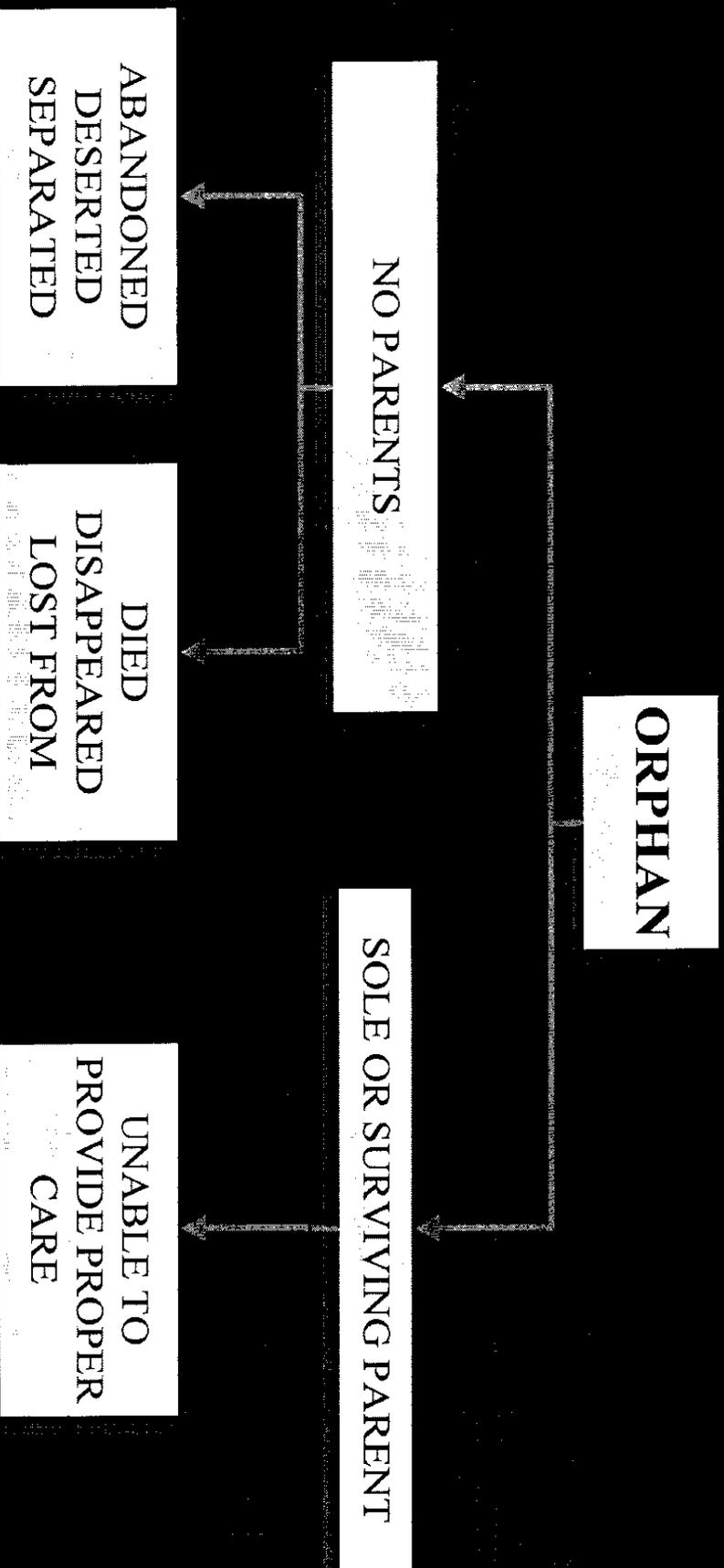
- SAME ADOPTIVE PARENTS - adopted abroad, or coming to U.S. for adoption by the same adoptive parent of the sibling *Orphan* or *Adopted Child*

\* **NOTE:** The child must be *under* the age of 18 at the time I-600 petition is filed.

# ADJUDICATION

- **How To Define An Orphan...**
- **How To Work With The Definitions...**

# Anatomy of Orphan Definition



# DEFINITION OF TERMS

## 8 CFR 204.3(b)

# Abandonment by Both Parents

## 8 CFR 204.3(b)

- ELEMENTS
  - *WILLFULLY* forsaken all parental rights
  - No longer *controls the destiny* of the child
  - *UNCONDITIONAL* surrender to orphanage or similar institution/ authority
- Does Not Include
  - RELINQUISHMENT to adoptive parents
  - DELIBERATE transfer to third party for specific adoption
  - *UNLESS*..third party is the COMPETENT AUTHORITY

# COMPETENT AUTHORITY

**Critical Component of the Following Terms:**

- **ABANDONED BY:**
- **DESERTION BY:**
- **SEPARATED FROM:**
- **DISAPPEARED:**
- **LOSS FROM:**

# COMPETENT AUTHORITY

## 8 CFR 204.3(b)

- Court or Governmental Agency of a FOREIGN-SENDING COUNTRY having jurisdiction and authority to make decisions in matters of Child Welfare, including Adoption.
- Can include entities designated by the above to act in child welfare matters.

# FOREIGN SENDING COUNTRY

8 CFR 204.3(b)

- In general:
  - Country of Child's Citizenship
  - If NOT residing in Country of Citizenship, the Country of LAST Habitual Residence
- Excludes:
  - Country orphan travels to temporarily
  - Country travels to for adoption or immigration

# DESERTED BY BOTH PARENTS

8 CFR 204.3(b)

- Willfully **FORSAKEN** the child
- **REFUSED** to carry out parental obligations
- Child becomes a ward of a **COMPETENT AUTHORITY** as a result of these actions.

# SEPARATION FROM BOTH PARENTS

## 8 CFR 204.3(b)

- Involuntary severance of child by Competent Authority
- Competent Authority takes over for good cause:
  - i.e.) Neglect, Abuse, or Incompetence of parent(s)
- Parents must have been *properly* notified
- Severance must be permanent/unconditional

# **DISAPPEARANCE BY BOTH PARENTS**

## **8 CFR 204.3(b)**

- Unaccountably missing
- Whereabouts unknown
- No reasonable hope of reappearance
- Reasonable effort to locate parents per **COMPETENT AUTHORITY** in accordance with law of **FOREIGN SENDING COUNTRY**.

# LOSS FROM BOTH PARENTS

8 CFR 204.3(b)

- *INVOLUNTARY* severance of child from parents
  - By natural disaster, civil unrest, calamitous event
  - Beyond control of parents
- Verified by **COMPETENT AUTHORITY** in accordance with law of **FOREIGN SENDING COUNTRY**.

# SURVIVING PARENT

8 CFR 204.3(b)

- One parent died.
- Surviving parent has NOT remarried
  - (2<sup>nd</sup> Marriage creates a Step-Parent relationship)
  - \* See exceptions in AFM

# SOLE PARENT

**Refers to Mother if:**

- Child born out of wedlock and not legitimated
- Child has not acquired another parent
  - \* See step parent exceptions in AFM
- Natural father
  - Unknown
  - Disappeared, abandoned/ deserted child OR
  - Irrevocably released, in writing, child for emigration and adoption

**SOLE OR SURVIVING PARENT**  
**8 CFR 204.3(b)**

– In order to qualify as an orphan, the sole or surviving parent must be

**INCAPABLE OF PROVIDING**  
**PROPER CARE**

# INCAPABLE OF PROVIDING PROPER CARE - 8 CFR 204.3(b)

- *Sole or surviving parent* is unable to provide for child's basic needs, consistent with the local standards of foreign sending country
- Determination is *NOT* limited to economic or financial concerns:
  - Medical or emotional difficulties
  - Long-term incarceration

## **Irrevocable Release by Sole or Surviving Parent**

- *IF* incapable of providing proper care, parent **MAY** irrevocably release child for emigration and adoption
- **ONLY** circumstance when a child may be released by parent **DIRECTLY** to adoptive parent
- Release not valid unless done according to law of foreign sending country... some countries do not allow release for adoption or emigration

## **Sole or Surviving Parent's Release or Relinquishment**

- **Release or Relinquishment must be:**
  - in writing
  - in a language parent can read and sign or if illiterate, was read to and understood
  - irrevocable without stipulations
- **AGAIN:**
  - A sole or surviving parent **MAY** surrender **DIRECTLY** to prospective adoptive parent(s) or for specific adoption.

## Definition of an Orphan met...

Adjudicator must determine whether:

1. Child has been adopted abroad, or
2. Child is coming to the U.S. for adoption

## Full and Final Adoption Abroad

### *Elements for a full and final adoption abroad:*

- Adoption in accordance with laws of foreign sending country
- No conditions or limits
- Evidence that adoptive parent, (and spouse, if married), adopted and saw child prior to or during adoption proceeding
- *Otherwise...*

# ADOPTION NOT FULL & FINAL

**Adoption NOT considered full and final if:**

- parent (both parents, if married) did not see child prior to or during adoption proceeding
- limited, conditional or “simple adoption” in foreign country
- adopted by only one parent of married couple

# **CHILD COMING TO BE ADOPTED or ADOPTION NOT FULL AND FINAL**

## **Required evidence**

- PAP or entity working in behalf of PAP, has custody of child according to law of Foreign Sending Country; *and*
- irrevocable release for emigration and adoption by person/entity who had immediate previous legal control of child according to law of Foreign Sending Country.

**NOTE:** Custody does not always mean legal control.

**Adoption not Full and Final *or*  
Coming to U.S. for Adoption  
8 CFR 204.3(f)**

- Evidence of compliance with any pre-adoption requirements of the State of child's proposed residence.
- Any such requirements that cannot be complied with prior to orphans arrival in U.S. must be noted and explained.

# **Related Statutes**

## **Understanding Related Statutes in Orphan Cases**

# MUST Understand Following Terms Per INA:

- CHILD      Sec 101(b)(1)
- PARENT    Sec 101(b)(2)

INA

# **DEFINITION OF CHILD**

## **Section 101(b)(1) of INA**

- **(A) In Wedlock**
- **(B) Step Child**
- **(C) Legitimated**
- **(D) Out Of Wedlock**
- **(E) Adopted**
- **(F) Orphan**
- **(G) Convention Adoptee**

**IN WEDLOCK**  
**Sec 101(b)(1)(A)**

- A child born to a married couple

## **STEP CHILD**

### **Sec 101(b)(1)(B)**

- Child born in or out of wedlock whose parent marries before child's 18th birthday

# **LEGITIMATED**

## **Sec. 101(b)(1)(C)**

- LEGITIMATED under law of the Child's /Father's residence.
- LEGITIMATION takes place before 18th birthday
- Child must be in legal custody of LEGITIMATING parent at time of LEGITIMATION.

## OUT OF WEDLOCK

### Sec. 101(b)(1)(D)

- (D) A Child born out of wedlock, by, through, whom, or on whose behalf a status, privilege, or benefit is sought by virtue of the relationship of the child to its natural mother

***OR***

To its natural father if the father has or had a bona fide parent-child relationship with the person.

# ADOPTED CHILD

## SEC 101(b)(1)(E)

- Child adopted while under 16/under 18 if sibling under 16
- Adoptive parent(s) has had legal custody for TWO YEARS
- Resided with adoptive parent(s) for TWO YEARS
- Two Years legal custody and physical residence with adoptive parent may be counted prior to or after adoption.

# DEFINITION OF PARENT

## Sec. 101(b)(2)

- **WHO IS A PARENT** is important to know when adjudicating orphan petitions
  - Did the child have two parents?
  - Did the child acquire another parent through a step relationship \*or intervening adoption?
  - \*See AFM regarding orphan exception to exclude a step-parent in certain circumstances
- **When does a child have a father?**

# PARENT

## Sec 101(b)(2) INA

- Refers to MOTHER or FATHER only where relationship exists by reason in Sec. 101(b)(1), except that for Sec. 101 (b)(1)(F) (*orphans*):
  - ... in the case of child born out of wedlock and NOT legitimated, the term “parent” does NOT include the natural father if the father has disappeared, abandoned, deserted child or in writing, irrevocably released child for emigration & adoption.

# OTHER CONSIDERATIONS

## 8 CFR 204.3(k)

- I-604 INVESTIGATION: Must confirm orphanhood and integrity of documents
- CONSULAR OFFICER:
  - Authority to approve “clearly approvable” I-600s
  - PAP must be physically present abroad when files, and
  - US Consulate/Embassy was notified of I-600A approval
- CONSULAR OFFICER has no authority to accept or adjudicate I-600A

# CHILD IN UNITED STATES

## 8 CFR 204.3(k)(3)

- Child in PAROLE STATUS and not adopted in U.S.:
  - Child *IS* eligible orphan status (Adjudication of I-600) in the U.S.
- Child is NONIMMIGRANT or ILLEGAL Status
  - Ineligible for orphan status (Adjudication of I-600)

# DENIAL for CHILD BUYING

## 8 CFR 204.3 (i)

- If PAP (or person or entity working on PAP's behalf) gave or will give money or other consideration
- To the child's parent(s), agent(s), other individuals, or entity as payment for the child or inducement to release the child.

# CHILD BUYING

## 8 CFR 204.3 (i)

### Does Not Include:

- Reasonable payment for necessary activities (provided payment was not for inducement)
  - Administrative costs
  - Court and Legal Services
  - Translations
  - Medical services related to adoption

# Conclusion

- Use The TOOLS Available:
  - STATUTE
  - REGULATIONS
  - HANDOUTS
- BE CORRECT...
- BE CONFIDENT...
- BE COMPETENT...

**Questions?**

**Comments?**



# U.S. Citizenship and Immigration Services

## I-600 Adjudication

- *USCIS Orphan Training 2009* -

# Submission of I-600

- Verify that petition has been properly completed and signed by petitioner/s.
- Has fee been paid, if applicable?
- Proof of prospective adoptive parent/s United States Citizenship.
  - The petitioner must be a USC at time of submission of petition.
- Proof a lawful status of spouse, if not USC\*

## General Requirements

- I-600 must be submitted to USCIS within 18 months of the I-600A approval\*
- Home study and any amendments submitted to USCIS with request for amended I-600A approval, if needed.
- Fingerprint clearances must be valid or within the 15-month period of validity for each PAPs and all household members.

# I-600 Supporting Documentation

- Child's Identity Documents
  - Child's birth certificate or other evidence of age and IDENTITY (Child must be under 16 on date of filing I-600, or under 18, if natural sibling\*)
- Orphanhood
  - Evidence establishing the child meets the definition of ORPHAN
- Adoption or Custody
  - Evidence of ADOPTION or legal custody for emigration and adoption

## **Proof of Identity & Date of Birth of the Adoptive Child**

- In most cases, the adoptive child would have been issued a valid passport from the place of nationality or birth.
- In all cases, the adoptive parent will need to present evidence of birth showing that the child/ren was under the age of 16 at the time of filing the I-600.

# **Proof that Child is an Orphan: Part I**

- Proof that the child has been abandoned or deserted by, separated or lost from, both parents or that both parents have disappeared or died. \*\*
- Death certificate(s) of the child's parents(s), if applicable.

## **Proof that Child is an Orphan: Part II (Sole or Surviving Parents)**

- Proof that sole or surviving parent cannot give the child proper care.\*
- Has, in writing, irrevocably released the child for emigration and adoption.
- Note proper care refers to country norms and not U.S. norms.
- Proper care refers to the living standards of the foreign country.

# **Proof that Child is an Orphan: Part III (Abandonment)**

- Proof that the child has been unconditionally abandoned to an orphanage.
  - Or competent authority.
- Sole or surviving parent may relinquish their rights to the adoptive family if allowable under the law of the sending country.

# Proof of Full and Final Adoption (or Legal Custody)

## IR-3

- The adoptive parent/s saw the child prior to or during the adoption.

## IR-4

- Adoptive parent(s) did not see the child in person prior to or during the adoption process.
- Adoption is full and final according to foreign sending country.
- Adoptive parent(s) obtained legal custody of child for purposes of emigration and adoption.
- Foreign sending country allows for a proxy adoption.

# Missing Documentation

- If the petitioner is missing supporting documents:
  - Issue an RFE (I-72) for missing documents.
  - Gives petitioner up to 12 weeks to submit missing documents. \*
- If documentation is not submitted within specified time period:
  - Petition can be denied under 8 CFR103.2(b)(8).

## Approval of the I-600 Petition

- Notify the adoptive family that the petition was approved in the form of the I-171 or I-797 depending on local policy.
- Send notification of the approval to National Visa Center for forwarding to DOS post
  - Visa-38; child adopted abroad
  - Visa-39; child coming to be adopted

# NOID, Revocations, Denials

- In some cases, USCIS must deny due to:
  - Criminal record.
  - Unable to properly provide care for adoptive child.
  - Erroneous recommendation from social worker.
  - Child does not meet the definition of an orphan.
- PAP(s) may appeal denials to Administrative Appeals Office (AAO)\*

## **I-604: Overseas Verification**

- Attach the I-604 request for investigation to all Forms I-600A and I-600!!
- Make sure you give all known information on the child.
- Some cases may be returned for revocation due to information discovered that was not shared with the USCIS field office.

# I-604: USCIS

## I-604: *Determination on Child for Adoption*

- PURPOSE: To verify facts/documents submitted w/I-600
- JURISDICTION: 8 CFR 204.3(k)

### USCIS office (Domestic):

- To request an inquiry of *overseas site* for serious concern while I-600 is pending domestically
- After approval of I-600, request that DOS verify orphan eligibility before IV issuance

### USCIS office (Overseas):

- Conducts I-604 when adjudicating I-600 in child's country

# Orphan First

Orphan First Program: In July 2003, USCIS initiated a pilot program to allow PAPs to file I-600 to verify “orphan” status of the child to be adopted, before finalizing adoption or transfer of custody.

- Minimizes risk of I-600 denial due to non-orphan status of child
- Initial trial countries: Haiti, Honduras, Philippines, Poland, and Sierra Leone
- \* Vietnam and Guatemala: Similar program for special circumstances

**Instructions for I-600, Petition to Classify  
Orphan as an Immediate Relative****Instructions**

Read these instructions carefully to properly complete this form. If you need more space to complete an answer, use a separate sheet(s) of paper. Write your name and Alien Registration Number (A-Number), if any, at the top of each sheet of paper and indicate the part and number of the item to which the answer refers.

To classify an alien orphan who is or will be adopted by a U.S. citizen as an immediate relative of the U.S. citizen to allow the child to enter the United States. The petition is filed by the U.S. citizen who is adopting the child.

**1. Eligibility****A. Child**

Under immigration law, an orphan is an alien child who has no parents because of the death or disappearance or abandonment, or desertion by, or separation or loss from both parents.

An orphan is also an alien child who has only one parent, who is not capable of taking care of the orphan, and who has in writing irrevocably released the alien for emigration and adoption.

A petition to classify an alien as an orphan may not be filed on behalf of a child in the United States, unless that child is in parole status and has not been adopted in the United States.

The petition must be filed before the child reaches 16 years of age.

**B. Parent(s)**

The petition may be filed by a married U.S. citizen and spouse or unmarried U.S. citizen at least 25 years of age. The spouse does not need to be a U.S. citizen but must be in lawful immigration status.

**C. Adoption Abroad**

If the orphan was adopted abroad, the married petitioner and spouse, or the unmarried petitioner must establish that the child was personally seen and observed prior to or during the adoption proceedings. The adoption decree must show that a married petitioner and spouse adopted the child jointly or that an unmarried petitioner was at least 25 years of age at the time of the adoption.

**D. Proxy Adoption Abroad**

If both the petitioner and spouse or the unmarried petitioner did not personally see and observe the child prior to or during the adoption proceedings abroad, the petitioner (and spouse, if married) must submit a statement indicating the petitioner's (and, if married, the spouse's) willingness and intent to readopt the child in the United States.

If requested by U.S. Citizenship and Immigration Services (USCIS), the petitioner must submit a statement by an official of the State in which the child will reside that readoption is permissible in that State. In addition, evidence of compliance with the preadoption requirements, if any, of that State must be submitted.

**E. Preadoption Requirements**

If the orphan has not been adopted abroad, the petitioner and spouse, or the unmarried petitioner, must establish that:

1. The child will be adopted in the United States by the petitioner and spouse jointly, or by the unmarried petitioner; and
2. The preadoption requirements, if any, of the State of the orphan's proposed residence have been met.

**2. Filing Petition for Known Child**

An orphan petition for a child who has been identified must be submitted on a completed Form I-600 with the certification of the petitioner executed and required fee. If the petitioner is married, Form I-600 must also be signed by the petitioner's spouse.

The petition must be accompanied by the following:

**A. Proof of U.S. Citizenship of the Petitioner**

If a U.S. citizen by birth in the United States, submit a copy of the birth certificate, issued by the civil registrar, vital statistics office, or other civil authority. If a birth certificate is not available, submit a statement from the appropriate civil authority certifying that a birth certificate is not available. In such a situation, secondary evidence must be submitted, including:

1. Church records bearing the seal of the church showing the baptism, dedication, or comparable rite

occurred within two months after birth and showing the date and place of the petitioner's birth, date of the religious ceremony, and the names of the parents;

2. **School records** issued by the authority (preferably the first school attended) showing the date of admission to the school, the petitioner's birth date, or age at the time, place of birth, and the names of the parents;
3. **Census records** (State or Federal) showing the name, place of birth, date of birth or age of the petitioner listed;
4. **Affidavits**  
If a required document cannot be obtained, you must submit either an original written statement from the governmental agency that should have the record, verifying that the record does not exist, or a citation to the U.S. Department of State Foreign Affairs Manual indicating that records are generally not available. Only then you may submit written affidavits sworn to or affirmed by two persons who were living at the time and who have personal knowledge of the event. Each affidavit must contain the affiant's full name, address, date and place of birth, and signature. The affidavit must also explain the affiant's relationship to you, full information concerning event, and complete details of how the affiant acquired the information.
5. An unexpired U.S. passport, initially issued for ten years, may also be submitted as proof of U.S. citizenship.

If the petitioner was born outside the United States, submit a copy of one of the following:

1. Certificate of Naturalization or Certificate of Citizenship issued by USCIS.
2. Form FS-240, Report of Birth Abroad of a Citizen of the United States, issued by an U.S. Embassy;
3. An unexpired U.S. passport initially issued for ten years; or
4. An original statement from a U.S. consular officer verifying the applicant's U.S. citizenship with a valid passport.

**NOTE:** Proof of lawful immigration status of the petitioner's spouse, if applicable, must be submitted. If the spouse is not a U.S. citizen, proof of the spouse's lawful immigration status, such as Form I-551, Permanent Resident Card; Form I-94, Arrival-Departure Record; or a copy of the biographic pages of the spouse's passport and the nonimmigrant visa pages showing an admission stamp may be submitted.

#### **B. Proof of Marriage of Petitioner and Spouse**

The married petitioner must submit a copy of the certificate of marriage and proof of termination of all prior marriages of himself or herself and spouse. In the case of an unmarried petitioner who was previously married, submit proof of termination of all prior marriages.

**NOTE:** If any change occurs in the petitioner's marital status while the case is pending, immediately notify the USCIS office where the petition was filed.

#### **C. Proof of Age of Orphan**

The petitioner should submit a copy of the orphan's birth certificate if obtainable; if not obtainable, submit an explanation together with the best available evidence of birth.

#### **D. Copies of the death certificate(s) of the child's parent(s) if applicable.**

#### **E. A certified copy of adoption decree together with certified translation, if the orphan has been lawfully adopted abroad.**

#### **F. Evidence that the sole or surviving parent is incapable of providing for the orphan's care and has in writing irrevocably released the orphan for immigration and adoption, providing the orphan has only one parent.**

#### **G. Evidence that the orphan has been unconditionally abandoned to an orphanage, if the orphan has been placed in an orphanage by his or her parent or parents.**

#### **H. Evidence that the preadoption requirements, if any of the State of the orphan's proposed residence have been met, if the child is to be adopted in the United States.**

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If you can not submit this evidence upon initial filing of the petition under the laws of the State of proposed residence, it may be submitted later. The petition, however, will not be approved without it.

## I. Home Study

The home study must include a statement or attachment recommending or approving the adoption or proposed adoption and be signed by an official of the responsible State agency in the State of the proposed residence or of an agency authorized by that State. In the case of a child adopted abroad, the statement or attachment must be signed by an official of an appropriate public or private adoption agency that is licensed in the United States.

The home study must be prepared by an entity (individual or organization) licensed or otherwise authorized under the law of the State of the orphan's proposed residence to conduct research and preparation for a home study, including the required personal interviews.

If the recommending entity is licensed, the recommendation must state that it is licensed, where it is licensed, its license number, if any, and the period of validity of the license.

However, the research, including the interview and the preparation of the home study, may be done by an individual or group in the United States or abroad that is satisfactory to the recommending entity.

A responsible State agency or licensed agency may accept a home study made by an unlicensed or foreign agency and use that home study as a basis for a favorable recommendation.

The home study must provide an assessment of the capabilities of the prospective adoptive parent(s) to properly parent the orphan and must include a discussion of the following areas:

1. An explanation regarding any history of abuse or violence or any complaints, charges, citations, arrests, convictions, prison terms, pardons, and rehabilitation decrees for breaking or violating any law or ordinance by the petitioner(s) or any additional adult member of the household who is 18 years of age or older.

**NOTE:** Having committed any crime of moral turpitude or a drug-related offense does not necessarily mean that a petitioner or petitioner's spouse will be found ineligible to adopt an orphan. However, failure to disclose such information may result in denial of this petition or any subsequent petition for an orphan.

2. An assessment of the financial ability of the petitioner and petitioner's spouse, if applicable.
3. A detailed description of the living accommodations where the petitioner and petitioner's spouse currently reside(s).
4. If the petitioner and petitioner's spouse are residing abroad at the time of the home study, a description of the living accommodations where the child will reside in the United States with the petitioner and petitioner's spouse, if known.
5. An assessment of the physical, mental, and emotional capabilities of the petitioner and petitioner's spouse in relation to rearing and educating the child.

## Filing Petition for Known Child Without Full Documentation on Child or Home Study

When a child has been identified but the documentary evidence relating to the child or the home study is not yet available, an orphan petition may be filed without that evidence or home study.

The evidence outlined in Instructions 2A and 2B (Proof of U.S. Citizenship of the Petitioner and Proof of Marriage of Petitioner and Spouse), however, must be submitted.

**If the necessary evidence relating to the child or the home study is not submitted within one year from the date of submission of the petition, the petition will be considered abandoned, and the fee will not be refunded. Any further proceeding will require the filing of a new petition.**

## Translations

Any document containing a foreign language submitted to USCIS will be accompanied by a full English language translation, which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English.

## Copies

Unless specifically required that an original document be filed with an application or petition, an ordinary legible photocopy may be submitted. Original documents submitted when not required will remain a part of the record, even if the submission was not required.

1. Type or print legibly in black ink.
2. If extra space is needed to complete any item, attach a continuation sheet, indicate the item number, and date and sign each sheet.

A petitioner residing in the United States must send the completed petition to USCIS office having jurisdiction over his or her place of residence. A petitioner residing outside the United States must consult the nearest U.S. Embassy or consulate designated to act on the petition.

As part of USCIS biometric services requirements, the following persons must be fingerprinted in connection with this petition:

1. The petitioner and petitioner's spouse, if applicable, and
2. Each additional adult member the petitioner's household, 18 years of age or older. **NOTE:** Submit a copy of the birth certificate of each household member over 18 years of age.

If necessary, USCIS may also take a photograph and signature of those named above as part of the biometric services.

### Petitioners Residing in the United States

After filing this petition, USCIS will notify each person in writing of the time and location where he or she must go to be fingerprinted. Failure to appear to be fingerprinted or for other biometric services may result in denial of the petition.

### Petitioners Residing Abroad

Completed fingerprint cards (Forms FD-258) must be submitted with the petition. Do not bend, fold, or crease completed fingerprint cards. Fingerprint cards must be prepared by a U.S. Embassy or consulate, USCIS office, or military installation.

A fee of **\$670** must be submitted for filing this petition. However, a fee is not required for this petition if you filed Form I-600A, Application for Advance Processing or Orphan Petition, within the previous 18 months, and it was approved or is still pending.

An additional biometric fee of **\$80** for fingerprinting every adult person living in the household in the United States where the child will reside must also be submitted.

For example, if a petition is filed by a married couple residing in the United States with one additional adult member in their household, the total fee that must be submitted would be **\$910** (**\$670** for the petition and **\$240** for biometric services for fingerprinting the three adults).

**NOTE:** If the prospective adoptive parents and any other adult members of the household reside abroad at the time of filing, they are exempt from paying the USCIS biometric services fee. However, they may have to pay the fingerprinting fee charged by the U.S. consular office or military installation.

When more than one petition is submitted by the same petitioner on behalf of orphans who are siblings, only one fee for Form I-600 and biometric services is required, unless re-fingerprinting is ordered. If the orphans are not siblings, a separate filing fee must be submitted for each additional Form I-600.

The fee will not be refunded whether the petition is approved or not. **Do not mail cash.** All checks or money orders, whether U.S. or foreign, must be payable in U.S. currency at a financial institution in the United States. When a check is drawn on the account of a person other than yourself, write your name on the face of the check. If the check is not honored, USCIS will charge you **\$30**.

Pay by check or money order in the exact amount. Make the check or money order payable to the **U.S. Department of Homeland Security**, unless:

- A. If you live in Guam, make it payable to **Treasurer, Guam.**
- B. If you live in the U.S. Virgin Islands, make it payable to **Commissioner of Finance of the Virgin Islands.**

### How to Check If the Fees Are Correct

Form I-600 and biometric fees are current as of the edition date appearing in the lower right corner of this page. However, because USCIS fees change periodically, you can verify if the fees are correct by following one of the steps below:

1. Visit our website at [www.uscis.gov](http://www.uscis.gov), select "Immigration Forms," and check the appropriate fee;
2. Review the Fee Schedule included in your form package, if you called us to request the form; or
3. Telephone our National Customer Service Center at 1-800-375-5283 and ask for the fee information.

**NOTE:** If your Form I-600 requires payment of a biometric service fee for USCIS to take your fingerprints, photograph, or signature, you can use the same procedure to obtain the correct biometric fee.

If you change your address and you have an application or petition pending with USCIS, you may change your address on-line at [www.uscis.gov](http://www.uscis.gov), click on "Change your address with USCIS," and follow the prompts, or you may complete and mail Form AR-11, Alien's Change of Address Card, to:

U.S. Citizenship and Immigration Services  
Change of Address  
P.O. Box 7134  
London, KY 40742-7134

For commercial overnight or fast freight services only, mail to:

U.S. Citizenship and Immigration Services  
Change of Address  
1084-I South Laurel Road  
London, KY 40744

### Submitting Advance Processing Application for Orphan Child Not Yet Identified

A prospective petitioner may request advance processing when the child has not been identified or when the prospective petitioner or spouse are going abroad to locate or adopt a child.

If unmarried, the prospective petitioner must be at least 24 years of age, provided that he or she will be at least 25 years of age at the time of the adoption and the completed petition on behalf of a child is filed.

The request must be on Form I-600A, Application for Advance Processing of Orphan Petition, and accompanied by the evidence requested on that form.

A separate Form I-600 must be filed for each child after a child(ren) is located or identified. If only one Form I-600 is filed, a new fee is not required, provided the form is filed while Form I-600A is pending or within 18 months of the approval of Form I-600A.

### Child(ren) is Located or Identified

A separate Form I-600, Petition to Classify Orphan as an Immediate Relative, must be filed for each child.

Generally, Form I-600 should be submitted at the USCIS office where Form I-600A was filed.

If a prospective petitioner goes abroad to adopt or locate a child in one of the countries noted below, he or she should file Form I-600 at the USCIS office having jurisdiction over the place where the child is residing or will be located, unless the case is retained in a USCIS office in the United States.

USCIS has offices in the following countries: Austria, China, Cuba, the Dominican Republic, El Salvador, Germany, Ghana, Great Britain, Greece, Guatemala, Haiti Honduras, India, Italy, Jamaica, Kenya, Korea, Mexico, Pakistan, Panama, Peru, the Philippines, Russia, South Africa, Thailand, and Vietnam.

If a prospective petitioner goes abroad to any country not listed above to adopt or locate a child, he or she should file Form I-600 at the U.S. Embassy or consulate having jurisdiction over the place where the child is residing or will be located, unless the case is retained in a USCIS office in the United States.

**Any Form I-600 that is not signed or accompanied by the correct fee will be rejected with a notice that Form I-600 is deficient.** You may correct the deficiency and resubmit Form I-600. Form I-600 is not considered properly filed until accepted by USCIS.

### Initial Processing

Once Form I-600 has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form or file it without required initial evidence, you will not establish a basis for eligibility, and we may deny your Form I-600.

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## Requests for More Information or Interview

We may request more information or evidence, or we may request that you appear at a USCIS office for an interview. We may also request that you submit the originals of any copy. We will return these originals when they are no longer required.

### Decision

The decision on Form I-600 involves a determination of whether you have established eligibility for the requested benefit. You will be notified of the decision in writing.

[REDACTED]

If you knowingly and willfully falsify or conceal a material fact or submit a false document with your Form I-600, we will deny your Form I-600 and may deny any other immigration benefit.

In addition, you will face severe penalties provided by law and may be subject to criminal prosecution.

[REDACTED]

We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit for which you are filing. Our legal right to ask for this information can be found in the Immigration and Nationality Act, as amended. We may provide this information to other government agencies. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your Form I-600.

[REDACTED]

An agency may not conduct or sponsor an information collection and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated at 30 minutes per response, including the time for reviewing instructions and completing and submitting the form. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Regulatory Management Division, 111 Massachusetts Avenue, N.W., 3rd Floor, Suite 3008, Washington, DC 20529. OMB No. 1615-0028. **Do not mail your application to this address.**

Department of Homeland Security  
U.S. Citizenship and Immigration Services

**I-600, Petition to Classify Orphan  
as an Immediate Relative**

**Do not write in this block.**

**(For USCIS Use Only)**

**TO THE U.S. SECRETARY OF STATE:**

The petition was filed by:

- Married petitioner       Unmarried petitioner

The petition is approved for orphan:

- Adopted abroad       Coming to U.S. for adoption.  
Preadoption requirements have been met.

Remarks:

Fee Stamp

File number

DATE OF ACTION  
DD  
DISTRICT

**Type or print legibly in black ink. Complete a separate petition for each child.**

*Petition is being made to classify the named orphan as an immediate relative.*

**Block I - Information About Petitioner**

1. My name is: (Last)      (First)      (Middle)

2. Other names used (including maiden name if appropriate):

3. I reside in the U.S. at:      (c/o if appropriate)      (Apt. No.)  
\_\_\_\_\_  
(Number and Street)      (Town or City)      (State)      (Zip Code)

4. Address Abroad (if any): (Number and Street)      (Apt. No.)  
\_\_\_\_\_  
(Town or city)      (Province)      (Country)

5. I was born on: (mm/dd/yyyy)  
\_\_\_\_\_  
In: (Town or City)      (State or Province)      (Country)

6. My telephone number is: (include area code)

7. My marital status is:

- Married  
 Widowed  
 Divorced  
 Single  
     I have never been married.  
     I have been previously married \_\_\_\_\_ time(s).

8. If you are now married, give the following information:

Date and place of present marriage (mm/dd/yyyy)

Name of present spouse (include maiden name of wife)

Date of birth of spouse (mm/dd/yyyy) Place of birth of spouse

Number of prior marriages of spouse

My spouse resides  With me  Apart from me  
(provide address below)

(Apt. No.) (No. and Street) (City) (State) (Country)

9. I am a citizen of the United States through:

- Birth       Parents       Naturalization

If acquired through naturalization, give name under which naturalized, number of naturalization certificate, and date and place of naturalization:

If not, submit evidence of citizenship. See page one of the instructions.

If acquired through parentage, have you obtained a certificate in your own name based on that acquisition?

- No       Yes

Have you or any person through whom you claimed citizenship ever lost your U.S. citizenship?

- No       Yes (If Yes, attach detailed explanation.)

Received	Trans. In	Ret'd Trans. Out	Completed



## Block II - Information About Orphan Beneficiary

<p>10. Name at Birth (First) (Middle) (Last)</p> <hr/> <p>11. Name at Present (First) (Middle) (Last)</p> <hr/> <p>12. Any other names by which orphan is or was known.</p> <hr/> <p>13. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female</p> <p>14. Date of birth (mm/dd/yyyy)</p> <hr/> <p>15. Place of Birth (City) (State or Province) (Country)</p> <hr/> <p>16. The beneficiary is an orphan because (check one):  <input type="checkbox"/> He or she has no parents.  <input type="checkbox"/> He or she has only one parent who is the sole or surviving parent.</p> <p>17. If the orphan has only one parent, answer the following:  a. State what has become of the other parent:  <hr/> <p>b. Is the remaining parent capable of providing for the orphan's support? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>c. Has the remaining parent in writing irrevocably released the orphan for emigration and adoption? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>18. Has the orphan been adopted abroad by the petitioner and spouse jointly or the unmarried petitioner? <input type="checkbox"/> Yes <input type="checkbox"/> No  If yes, did the petitioner and spouse or unmarried petitioner personally see and observe the child prior to or during the adoption proceedings? <input type="checkbox"/> Yes <input type="checkbox"/> No  Date of adoption (mm/dd/yyyy)  <hr/> Place of adoption  <hr/> </p> <p>19. If either answer in Question 18 is "No," answer the following:  a. Does the petitioner and spouse jointly or does the unmarried petitioner intend to adopt the orphan in the United States? <input type="checkbox"/> Yes <input type="checkbox"/> No  b. Have the preadoption requirements, if any, of the orphan's proposed State of residence been met? <input type="checkbox"/> Yes <input type="checkbox"/> No  c. If b is answered "No," will they be met later? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> </p>	<p>20. To petitioner's knowledge, does the orphan have any physical or mental affliction? <input type="checkbox"/> Yes <input type="checkbox"/> No  If "Yes," name the affliction.</p> <hr/> <p>21. Who has legal custody of the child?</p> <hr/> <p>22. Name of child welfare agency, if any, assisting in this case.</p> <hr/> <p>23. Name of attorney abroad, if any, representing petitioner in this case.  Address of above.  <hr/> <p>24. Address in the United States where orphan will reside.</p> <hr/> <p>25. Present address of orphan.</p> <hr/> <p>25. If orphan is residing in an institution, give full name of institution.</p> <hr/> <p>26. If orphan is not residing in an institution, give full name of person with whom residing.</p> <hr/> <p>27. Give any additional information necessary to locate orphan, such as name of district, section, zone, or locality in which orphan resides.  <hr/> <hr/> <hr/> <hr/> </p> <p>28. Location of U.S. Embassy or consulate where application for visa will be made.  (City in Foreign Country) (Foreign Country)</p> </p>
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### Certification of Petitioner

I certify, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct and that I will care for an orphan or orphans properly if admitted to the United States.

(Signature of Petitioner)

Executed on (Date)

### Certification of Married Prospective Petitioner's Spouse

I certify, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct and that my spouse and I will care for an orphan or orphans properly if admitted to the United States.

(Signature of Petitioner)

Executed on (Date)

### Signature of Person Preparing Form, If Other Than Petitioner

I declare that this document was prepared by me at the request of the petitioner and is based entirely on information of which I have knowledge.

(Signature)

Street Address and Room or Suite No./City/State/Zip Code

Executed on (Date)

**Use of Form I-604:**

**A Form I-604 must be completed in every orphan case. A consular officer must complete a Form I-604 prior to issuance of an immigrant visa if one has not already been completed prior to the approval of the Form I-600.**

**Block 1 must always be completed.**

**If the petitioner files the Form I-600, Petition to Classify Orphan as an Immediate Relative, with a stateside USCIS office, the stateside USCIS office may, for an articulable reason, before adjudicating the Form I-600, submit Form I-604 to an overseas site so that the site can conduct an inquiry to verify that the child qualifies as an orphan under the Immigration and Nationality Act, as amended.**

- The stateside USCIS office must complete blocks 2 and 4, and sign and date Form I-604, in the Referring Officer Section on **Page 4**. Photocopies of all pertinent documents, a copy of the Form I-600 petition and a memorandum explaining the reason for requesting the inquiry prior to adjudication must be included with the completed Form I-604.
- The stateside USCIS office must send the Form I-604 and accompanying documents to the overseas site through the National Visa Center (NVC).
- Once the overseas site completes the requested inquiry, the overseas site must complete all applicable blocks on the Form I-604. If any block does not apply at the time the inquiry is conducted, please specify in block 15 which block does not apply, and the reason for this conclusion. The officer should sign and date the form in the Officer Performing Inquiry Section on **Page 4** and return the completed Form I-604, with any documentary evidence collected, directly to the requesting USCIS office.

**If the stateside USCIS office approves a Form I-600, Petition to Classify Orphan as Immediate Relative, the stateside USCIS office forwards the approved petition along with the Form I-604 to the consular post through the National Visa Center (NVC) for verification that the child qualifies as an orphan.**

- The stateside USCIS office must complete block 2 and sign the Form I-604 in the Referring Officer Section on **Page 4**.
- Prior to issuance of the immigrant visa, the consular officer ensures that blocks 3 through 15 of the Form I-604 are completed, and the form is signed and dated in the Officer Performing Inquiry Section on **Page 4**.
- If the Form I-604 inquiry does not reveal any adverse evidence, the completed Form I-604 shall be included in the orphan's immigrant visa packet.
- If the Form I-604 inquiry yields evidence that may warrant revocation of the Form I-600 approval, the consular officer completes blocks 3 through 13 and 15, signs and dates the form in the Officer Performing Inquiry Section on **Page 4**, and sends the Form I-604, the Form I-600 petition, and any accompanying evidence to the National Visa Center (NVC) to return to USCIS for review and possible revocation.

**If the petitioner files the Form I-600, Petition to Classify Orphan as an Immediate Relative, with an overseas USCIS office:**

- If the overseas USCIS office has jurisdiction over the child's residence, that office may not adjudicate the Form I-600 petition until the Form I-604 inquiry is completed. The USCIS office must complete blocks 3 through 13 and 15 on Form I-604 and sign the form in the Officer Performing Inquiry Section on **Page 4**.
- If the overseas USCIS office has jurisdiction only over the petitioner's residence, and not the child's residence, the overseas USCIS office must complete block 3 and sign the Form I-604 in the Referring Officer Section on **Page 4**. The approved petition, supporting documentation and the Form I-604 must be forwarded to the consular post having jurisdiction over the child's residence through the National Visa Center (NVC). The consular post must complete, sign and date the Form I-604 in the Officer Performing Inquiry Section on **Page 4** prior to issuance of an immigrant visa. If the Form I-604 inquiry yields evidence that may warrant revocation of the Form I-600 approval, the consular officer completes blocks 3 through 13 and 15, signs and dates it in the Officer Performing Inquiry Section on **Page 4**, and sends Form I-604, Form I-600 and any accompanying evidence to the National Visa Center (NVC) to return to USCIS for review and possible revocation.

**If the petitioner files the Form I-600 with a consular post, the post may not adjudicate the Form I-600 until after completing the Form I-604 inquiry to verify that the child qualifies as an orphan.**

- If the Form I-604 inquiry confirms that the child qualifies as an orphan, the consular officer must complete blocks 3 through 15 and sign and date the form in the Officer Performing Inquiry Section on **Page 4**. The completed Form I-604 shall be included with the approved Form I-600 as part of the orphan's immigrant visa packet.
- If the Form I-604 inquiry yields evidence that may warrant denial of the Form I-600 as not clearly approvable, the consular post shall complete blocks 3 through 13 and 15 and sign and date the form in the Officer Performing Inquiry Section on **Page 4**. The consular post shall send the completed Form I-604, the Form I-600 and supporting documentation to the overseas USCIS office having jurisdiction over the consular post. The evidence sent by the consular post may be used by the overseas USCIS office as the basis for serving the petitioner with a request for evidence or a notice of intent to deny the Form I-600.

Alien Registration Number

A - \_\_\_\_\_

**1. Information on child.** *(This block must always be completed.)*

Child's Current Legal Name and Date of Birth <i>(mm/dd/yyyy)</i>	Child's Name in Passport (If known)
------------------------------------------------------------------	-------------------------------------

Any other names by which the orphan is or was known (Example: Birth name, if different than current or passport name)

**2. For stateside USCIS Officers:** *(Check all that apply.)*

- Form I-600A (Application for Advance Processing of Orphan Petition) has been approved.
- Form I-600 (Petition to Classify Orphan as an Immediate Relative) has been approved.
- Form I-600 (Petition to Classify Orphan as an Immediate Relative) filed and pending. Requesting Form I-604 determination for articulable reason prior to decision.

**3. For overseas USCIS/Consular Officer:** *(Check at least one.)*

- Form I-600 (Petition to Classify Orphan as an Immediate Relative) filed at overseas site having jurisdiction over the child's residence during validity period of approved Form I-600A. Petitioner is physically present in jurisdiction of overseas site.
- Form I-600 (Petition to Classify Orphan as an Immediate Relative) has been approved by USCIS.
- Neither of the above. Officer cannot approve Form I-600 and/or immigrant visa cannot be issued.

(Approval should be documented with the original stamped approved Form I-600A and/or Form I-600 and/or Visas 37/38/39 cable transmission sent by USCIS.)

**4. Petitioner(s) are:**

- U.S. citizen and spouse jointly. (NOTE: If spouse is residing in the United States, the spouse must be a U.S. citizen or national or hold a lawful immigration status.)
- Unmarried U.S. citizen at least 25 years of age at the time of filing the Form I-600.
- Neither of the above. (Officer cannot approve Form I-600 and/or immigrant visa cannot be issued.)

**5. Does the intended child fit suitability criteria noted in the home study/Visa 37/ approval notice for Form I-600A or approved I-600 as appropriate (age, gender, special needs, number of children, etc.)?**

- Yes.
- No. (If not, officer cannot approve Form I-600 and/or the immigrant visa cannot be issued.) Refer to USCIS office for review.

A -

**6. Was the Form I-600 filed before the intended child's 16<sup>th</sup> birthday (or the 18<sup>th</sup> birthday, if the intended child is the natural sibling of another child who qualified for immigration as an adopted child under INA 101(b)(1)(E) or as an orphan under INA 101(b)(1)(F) based on the other child's adoption or proposed adoption by the same adoptive parent(s))?**

- Yes.  No. (If not, officer cannot approve the Form I-600 and/or immigrant visa cannot be issued.)

*NOTE: Note that if the Form I-600 was filed before the intended child's 16<sup>th</sup> birthday, (or before the intended child's 18<sup>th</sup> birthday, per above, then under INA 201(f)(1), the intended child is deemed to be the same age that the intended child was on the date of filing, for purposes of approval of the petition, even if the I-600 will not be approved or the immigrant visa issued until after the intended child's 21<sup>st</sup> birthday.*

**7. Is the intended child currently married or unmarried?**

- Intended child is unmarried.  
 Intended child is married. (If married, the officer cannot approve the Form I-600 and/or immigrant visa cannot be issued.)

**8. Are the fingerprint clearances for the petitioner, the petitioner's spouse (if any) and all adult members of the household still valid and unexpired?**

- Yes.  No. (If not, the officer cannot approve the Form I-600 until new fingerprint clearances are completed.)

**9. Intended child is an orphan because:** (8 CFR 204.3 provides definitions of abandonment, desertion, loss, separation, disappearance, sole parent, surviving parent, incapable of providing proper care.)

Intended child has no parents. Indicate below what happened to each parent as verified by documentary evidence or through a competent authority.

- Mother -  Deceased  Abandoned  Deserted  Lost  Separated  Disappeared  
 Father -  Deceased  Abandoned  Deserted  Lost  Separated  Disappeared

State what became of the parent(s), if known:

- Intended child has a sole /surviving parent who, in writing, irrevocably released the child for emigration to the United States and for adoption and the sole or surviving parent is incapable of providing proper care for the child according to the standards of the foreign sending country.  
 None of the above. (Intended child is not an orphan and the officer cannot approve the Form I-600 and/or immigrant visa cannot be issued. Please document in comments section and/or attached memorandum.)

**10. Has evidence of eligibility of a child for adoption as an orphan been presented?** (All boxes must be checked for child to be eligible.)

- Proof of age  Proof of identity  Proof of orphanhood (pursuant to criteria in Number 9)

A -

**11. Legal effect of foreign court or administrative order: (One block must be selected.)**

- Creates under the relevant foreign law the full legal relationship of parent and child between the petitioner and the intended child, to the same extent as exists between a birth parent and birth child. (Full legal adoption has occurred abroad).
- The foreign court order or other legal documents do not create under the foreign law the same full legal relationship between a birth parent and child. Petitioner or person or entity working on their behalf has secured custody of the orphan in accordance with the law of the foreign sending country AND obtained an irrevocable release of the orphan for emigration and adoption from the person, organization or competent authority which had the immediately previous legal custody and control over the orphan. **This is not a full and final adoption.**
- No adoption abroad. Petitioner or person or entity working on their behalf has secured custody of the orphan in accordance with the law of the foreign sending country AND obtained an irrevocable release of the orphan for emigration and adoption from the person, organization or competent authority which had the immediately previous legal custody and control over the orphan.
- None of the above. (If so, officer cannot approve Form I-600 and/or immigrant visa cannot be issued.)

**12. Are there allegations or indications of fraud, child buying or other non-bona fide intent?**

- Yes. (If "Yes," attach report and results of anti-fraud investigation to Form I-604 when complete.)
- No.

**13. As a result of review/investigation:**

- Facts affirmed. Orphan classification appropriate.
- Petition is returned to USCIS for possible denial/revocation.

**14. If petition and visa approved, classification is: (Check one.)**

- IR-3 - Full and final adoption completed abroad by unmarried petitioner or by both parents (if petitioner is married), and unmarried petitioner or both parents (if the petitioner is married) saw child prior to or during the adoption proceeding.
- IR-4 - Adoption was completed abroad, but at least one parent did not see child prior to or during adoption proceedings and release for custody and emigration and adoption was provided according to competent authority; **OR\***
- IR-4 - Adoption was not full or final but release for custody and emigration and adoption was provided according to competent authority; **OR\***
- IR-4 - Adoption was not in both parents' names (if petitioner married) but release for custody and emigration and adoption was provided according to competent authority.\*
- IR-4 - Adoption not completed abroad but release for custody and emigration and adoption was provided according to competent authority.\*

\* State pre-adoption requirements have been met. If not indicated, contact USCIS adjudicating office.

A -

15. Comments. (Please provide full details of any negative findings.) Attach a separate sheet of paper if necessary. A memorandum providing complete details of the inquiry must also be provided if referring case to USCIS office for denial or revocation.

Signature of Referring Officer		Printed Name of Referring Officer	Date (mm/dd/yyyy)
Agency (USCIS)		Office Location	
E-Mail Address	Telephone Number (area/country code)	Fax Number (area/country code)	
Signature of Officer Performing Inquiry		Printed Name of Officer Performing Inquiry	Date (mm/dd/yyyy)
Agency (USCIS or DOS)		Office Location	
E-Mail Address	Telephone Number (area/country code)	Fax Number (area/country code)	



# U.S. Citizenship and Immigration Services

## Comparison of Orphan and Hague Convention Adoptions

- *USCIS Orphan Training 2009* -

**This presentation provides a general overview of key elements of the USCIS Hague Adoption Convention rule. It is not a substitute for the actual laws and regulations, nor is it a comprehensive summary of the laws and regulations. In the case of any inconsistencies between this presentation and the laws and regulations, the language of the laws and regulations for the Hague Adoption Convention governs.**

*Convention on Protection of Children and  
Co-operation in Respect of Intercountry  
Adoption (Hague Adoption Convention)*

The goal of the Convention is to protect the children, birth parents and adoptive parents involved in intercountry adoptions.

# The Hague Adoption Convention

Hague Adoption Convention establishes:

- internationally agreed upon rules and procedures for adoptions between countries that have a treaty relationship under the Convention
- a Central Authority in each country to ensure one authoritative source of information and point of contact
  - U.S. Department of State is the U.S. Central Authority
  - DHS was delegated central authority functions relating to immigration applications and petitions

# Relevant Timeline of Events

- March 31, 1994: United States signed the Hague Adoption Convention.
- October 6, 2000: The Intercountry Adoption Act (IAA) became public law. The IAA acts as the U.S. implementing legislation for the ratification of the Hague Convention.
- October 4, 2007: USCIS published in the *Federal Register* an interim rule entitled “Classification of Aliens as Children of United States Citizens Based on Intercountry Adoptions Under the Hague Convention” (Hague interim rule)

# Relevant Timeline of Events

- December 12, 2007: U.S. Department of State (DOS) deposited the instrument of ratification with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.
- December 18, 2007: DOS published a written notice in the *Federal Register* that the Hague Adoption Convention will enter into force for the United States on April 1, 2008.
- April 1, 2008: The Hague Adoption Convention entered into force in respect to the United States.

# April 1, 2008

- All intercountry adoption cases filed on or after April 1, 2008, by a U.S. citizen habitually resident in the United States seeking to adopt and bring to the United States a child habitually resident in any Convention country\* must follow the Hague process, as specified in the Hague interim rule.
- Grandfather provisions may apply

\* *Any country that has a treaty relationship with the U.S. under the Convention.*

## Grandfathering for Transition Cases

- The Hague Adoption Convention will not apply:
  - If PAPs filed Form I-600A or Form I-600 prior to April 1, 2008, or
  - Or if the adoption took place prior to April 1, 2008
- *Provided* the child's Convention country permits continuation under current U.S. orphan regulations

*Otherwise...the Hague Adoption Convention applies if:*

- Child is habitually resident in one Convention country AND
- Prospective adoptive parent (PAP) is habitually resident in another Convention country AND
- The child will immigrate or move to the PAP(s)' country as a result of, or for purposes of, the adoption.

# *Orphan or Convention Adoption?*

**Tracks of Intercountry  
Adoption**

Determine where  
child is habitually  
residing.

**Not a  
Convention  
country**

**Orphan**

**Convention  
Country**

**Hague**

# Convention Adoptee - INA 101(b)(1)(G)

*By statute, the classification of a child as a Convention adoptee requires the following criteria:*

1. Child is under the age of 16 on filing date of petition
2. Child is habitually resident in a Convention country
3. U.S citizen is habitually resident in U.S *and either*
  - Adopts child in Convention country *or*
  - Brings child from a Convention country to U.S for adoption
4. Adoption abroad or custody abroad for U.S. adoption must be by
  - U.S. citizen and spouse jointly or
  - Unmarried U.S. citizen at least 25 years old on filing date of petition

## **Convention Adoptee cont.**

5. Child was released by the last legal custodian:
  - a) If two birth parents, they must be incapable of providing proper care;
  - b) If Sole or surviving parent;
    - Other parent has died (surviving parent);
    - Other parent has disappeared, abandoned or deserted the child (sole parent); *or*
  - c) Other person or institution that retains legal custody.
6. Release must be freely given and verified by the Central Authority of the child's country.

# Convention Adoptee

## *Other relevant requirements:*

- If the child has not been adopted:
  - The competent authority of the Convention country must approve the child's emigration to the U.S. for the purpose of adoption by the prospective adoptive parent(s) ("PAP(s)").
  - PAP(s) must comply with any pre-adoption requirements of the State of the child's proposed residence.
- USCIS must be satisfied that:
  - Proper care will be furnished to the child if admitted to U.S. *and*
  - Purpose of the adoption is to form a bona fide parent-child relationship, and the parent-child relationship of the child and the birth parents has been terminated.

# Convention Adoptee

## *Other relevant requirements:*

- USCIS may consider whether there is a petition pending to confer immigrant status on one or both of such birth parents.
- No natural (birth) parent or prior adoptive parent shall thereafter by virtue of such parentage be accorded any right, privilege, or status under the Immigration and Nationality Act (INA).

# Convention Adoptee

## INA sec 204(d)(2)

- Intercountry Adoption Act (2000) also amended Section 204(d) of the Immigration and Nationality Act to read:
  - (d)(2) No petition may be approved for a Convention adoptee unless the U.S. Secretary of State has certified that the U.S. citizen has effected a final adoption or has been granted custody of the child for purposes of emigration and adoption in the U.S.

# Orphan vs. Hague Convention: *Parents*

## ORPHAN

- Married or unmarried
- Unmarried: at least 24 at time of advance processing application and 25 at time of filing petition for orphan
- May apply for advance processing without knowing country of prospective adoption but must know that prospective adoption will not be a Convention country

## HAGUE CONVENTION

- Married or unmarried
- Habitually resident in U.S.
- Unmarried: at least 24 at time of application for determination of suitability to adopt and 25 at time of filing of petition for Convention adoptee
- Child's Convention country must be known at time of filing application to determine suitability of prospective adoptive parents

# Orphan vs. Hague Convention: *Home Study*

## ORPHAN

- Home study preparer:  
8 CFR 204.3(b)
- Orphan home study content:  
8 CFR 204.3 (e)

## HAGUE CONVENTION

- Home study preparer:  
8 CFR 204.301 & 22 CFR 96
- Home study must be approved by accredited agency unless completed by public domestic authority
- Convention home study content: 8 CFR 204.311
- Specific requirement:  
Eligibility of parents to meet special requirements of child's Convention country

# Orphan vs. Hague Convention: *Child*

## ORPHAN

- Under 16, or under 18 if a sibling on filing date of I-600 petition
- Both parents died, disappeared, deserted, separated or lost from or abandoned
- Sole Parent: Unwed mother only who is incapable of providing proper care of child
- Surviving parent incapable of providing proper care

## CONVENTION ADOPTEE

- Under 16 on filing date of I-800 petition \*
- Two living birth parents may release directly if incapable of providing proper care
- Sole/Surviving Parent: Other parent has died, disappeared, abandoned or deserted
- No requirement to show sole/surviving parent incapable of providing proper care

# Orphan vs. Hague Convention: *Adoption*

## ORPHAN

- Child may be adopted abroad or come to the U.S. for adoption
- Full and Final Adoption requires parent, or if married, both parents, to see child prior to or during adoption

## HAGUE CONVENTION

- Child may be adopted abroad or come to U.S. for adoption
- Full and Final Adoption does NOT require parent(s) to see child prior to or during the adoption proceeding
- Adoption or custody abroad requires certification by the U.S. Department of State

# Orphan vs. Hague Convention: *Citizenship*

## ORPHAN

- IR-3 Admitted under age 18 and residing in U.S. with USC parent: Automatic citizenship

- IR-4 Admitted and adopted in U.S. while under age 18: Automatic citizenship on date of adoption in U.S. by PAP

## CONVENTION ADOPTEE

- IH-3 Admitted under age 18 and residing in U.S. with USC parent: Automatic citizenship

- IH-4 Admitted and adopted in U.S. while under age 18: Automatic citizenship on date of adoption in U.S. by PAP

# Orphan vs. Hague Convention: *Vaccinations*

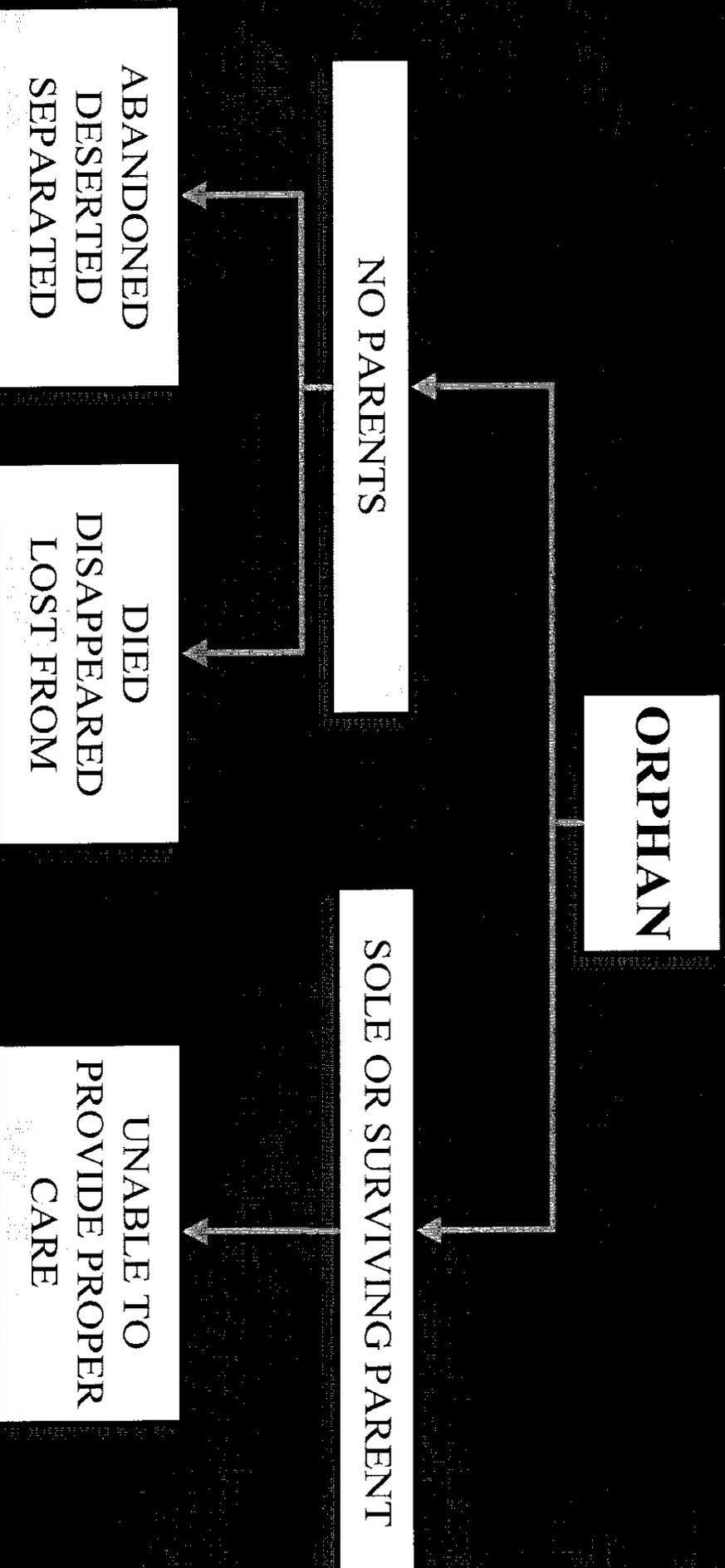
## ORPHAN

- Vaccination exception for child age 10 years of age and under
- PAP must sign affidavit that child will receive required vaccinations within 30 days of admission to U.S. or earliest time medically appropriate

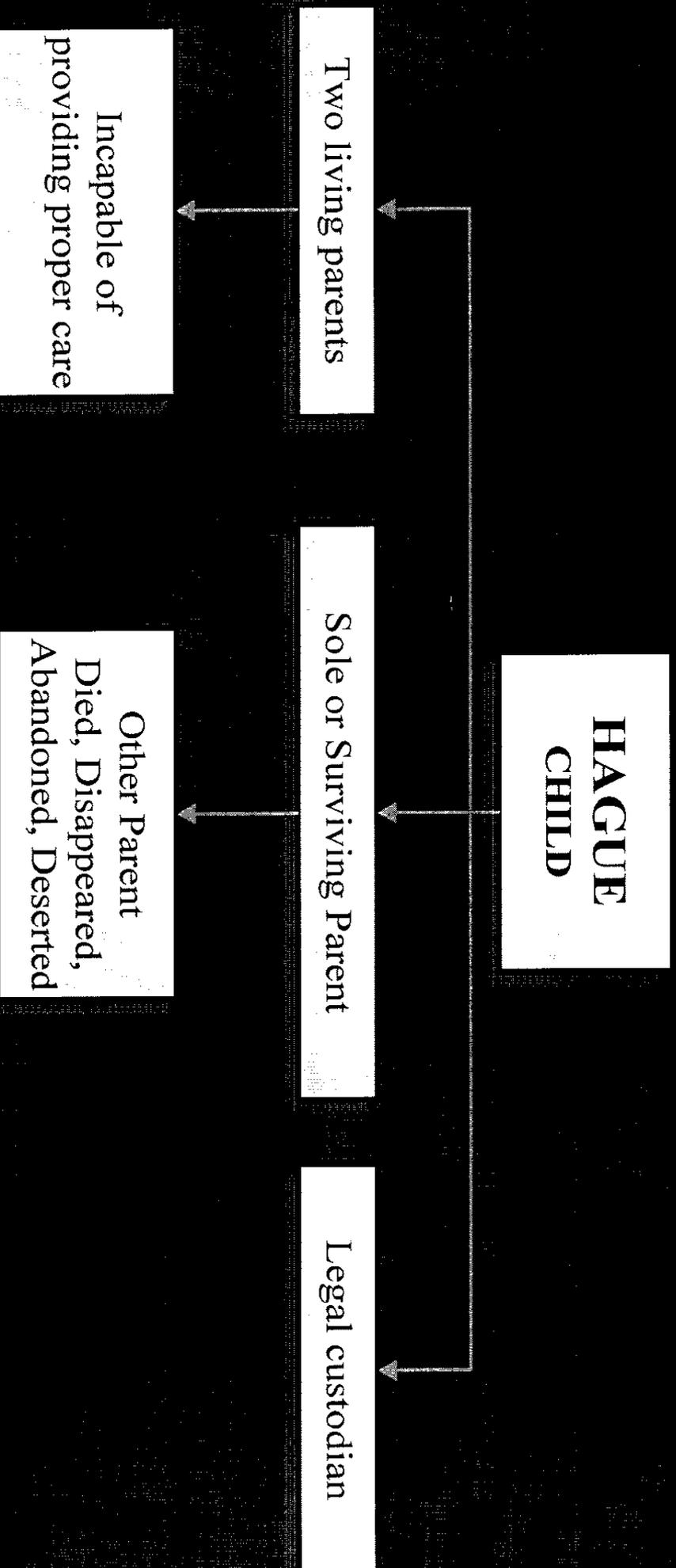
## CONVENTION ADOPTEE

- No vaccination exception for Convention Adoptee
- Child must have all required vaccinations regardless of age

# Anatomy of Orphan Definition



# Anatomy of Hague Definition



# Hague Adoption Forms

I-800A: Application for Determination of Suitability to Adopt a  
Child from a Convention Country

Supplement 1: Listing of Adult Member of the Household

Supplement 2: Consent to Disclose

Supplement 3: Request for Action on Approved

Form I-800A

I-800: Petition to Classify Convention Adoptee as an  
Immediate Relative

Supplement 1: Consent to Disclose

# Hague Adoption Forms

- Form I-800A must be filed in every case to begin the immigration process in a Convention adoption.
- Home study must be filed with Form I-800A unless State of residence forwards it directly to USCIS after its review.
- USCIS must approve Form I-800A before a child is *entrusted* into the care of PAPs and before Form I-800 in behalf of a Convention adoptee may be filed.
- *Why?* - The Convention requires prospective adoptive parents to be found suitable and eligible to adopt a child from a Convention country before a placement for adoption may be made.

# Centralization

## National Benefits Center (NBC)

- A special unit at NBC processes *ALL* Hague adoption applications and petitions.
- NBC provides customer service support to PAPs who have filed Form I-800A or Form I-800
- Email: [NBC.Hague@dhs.gov](mailto:NBC.Hague@dhs.gov)
- Phone: (877) 424-8374  
(816) 251-2770

# Filing Instructions

## Lockbox:

- As of September 25, 2008, all Forms I-800A, I-800 and related supplements, must be filed at the Chicago Lockbox Facility.

*Forms and materials must be filed at:*

- USCIS  
P.O. Box 805695  
Chicago, IL 60680-4118

*For non-Postal deliveries:*

- USCIS  
Attn: Hague  
131 South Dearborn - 3rd Floor  
Chicago, IL 60603-5517

# Hague Convention Process Overview

<b>ACTORS</b>	<b>PAP/ ASP Suitability</b>	<b>USCIS</b>	<b>PAP/ ASP C of O</b>	<b>PAP</b>
<b>ACTION</b>	Home Study completed  File Form I-800A and Home Study with USCIS	Adjudicates Form I-800A to determine eligibility and suitability of PAP	PAP gets notice of I-800A approval  ASP transmits I-800A approval and same home study to C of O  C of O accepts PAP  Match established  C of O transmits report on child to PAP	Files Form I-800 w/Art. 16 report & other evidence relating to child (b/c, releases, necessary reports verified by C of O)  PAP statement of no improper contact nor custody/adoption



**Index:**

- ASP – Adoption Service Provider
- C of O – Country of Origin
- DHS – Department of Homeland Security
- DOS – Department of State
- PAP – Prospective Adoptive Parent
- USCIS – U.S. Citizenship & Immigration Services

# Hague Convention Process Overview

<u>ACTORS</u>	USCIS	PAP/ DOS	DOS	C of O/ PAP
<u>ACTION</u>	Adjudicate Form I-800 (prior to adoption or custody order)  I-800 Provisionally approved if child appears eligible as Convention adoptee  Waiver application filed if needed	IV application submitted for child  Initial review of visa application for visa eligibility  If child eligible, DOS "annotates" visa application	"Article 5 letter": Notification to C of O of determination of parental suitability, counseling, ability of child to enter or reside  Art. 5 letter transmitted to C of O	Adoption or custody scheduled by C of O  PAP completes adoption or custody in C of O  Article 23 Notification



Index:

- ASP – Adoption Service Provider
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- CBP – Customs and Border Protection
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- DOS – Department of State
- PAP – Prospective Adoptive Parent
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# Hague Convention Process Overview

<u>ACTORS</u>	PAP/ Child	DOS	PAP/ Child	DHS-CBP
<u>ACTION</u>	<p>Visa application interview at DOS post abroad, with adoption or custody decree</p>	<p>Issuance of Convention Certificate to adoption or custody order</p> <p><i>Final approval</i> of Form I-800 &amp; visa application</p> <p>Visa issuance (IH-3, IH-4, or B-2)</p>	<p>Child travels to U.S. as:</p> <p>IH-3: Convention Child adopted abroad or</p> <p>IH-4: Convention Child coming to be adopted</p> <p>B-2: Sec 322 interview</p>	<p>Inspection &amp; Admission</p> <p>IH-3: usually auto U.S. citizen</p> <p>IH-4: LPR until adoption complete</p> <p>B-2: admitted for Sec 322 interview, natz and departure</p>



Index:

- ASP – Adoption Service Provider
- C of O – Country of Origin
- CBP – Customs and Border Protection
- DHS – Department of Homeland Security
- DOS – Department of State
- PAP – Prospective Adoptive Parent
- USCIS – U.S. Citizenship & Immigration Services

## HAGUE ADOPTION CONVENTION COUNTRIES \*

Number of countries party to the Hague Adoption Convention: 78

Number of countries with signatory status only; *NOT* Hague countries: 2 (Ireland, Russia)

	<i>Country</i>	<i>Dated Signed</i>	<i>Entry into Force</i>
1.	Albania	2000	2001
2.	Andorra	1997	1997
3.	Armenia		2007
4.	Australia	1998	1998
5.	Austria	1998	1999
6.	Azerbaijan		2004
7.	Belarus	1997	2003
8.	Belgium	1999	2005
9.	Belize		2006
10.	Bolivia	2000	2002
11.	Brazil	1993	1999
12.	Bulgaria	2001	2002
13.	Burkina Faso	1994	1996
14.	Burundi		1999
15.	Cambodia		2007
16.	Canada	1994	1997
17.	Chile	1999	1999
18.	China	2000	2006
19.	Colombia	1993	1998
20.	Costa Rica	1993	1996
21.	Cuba		2007
22.	Cyprus	1994	1995
23.	Czech Republic	1999	2000
24.	Denmark	1997	1997
25.	Dominican Republic		2007
26.	Ecuador	1994	1996
27.	El Salvador	1996	1999
28.	Estonia		2002
29.	Finland	1994	1997
30.	France	1995	1998
31.	Georgia		1999
32.	Germany	1997	2002
33.	Guatemala		2003
34.	Guinea		2004
35.	Hungary	2004	2005
36.	Iceland		2000
37.	India	2003	2003
38.	Ireland	1996	Not in force

\*HCCH: Status Table, available at [http://www.hcch.net/index\\_en.php?act=conventions.status&cid=69](http://www.hcch.net/index_en.php?act=conventions.status&cid=69) (last visited March 5, 2009).

	<i>Country</i>	<i>Dated Signed</i>	<i>Entry into Force</i>
39	Israel	1993	1999
40	Italy	1995	2000
41	Kenya		2007
42	Latvia	2002	2002
43	Liechtenstein	2009	May 1, 2009
44	Lithuania		1998
45	Luxembourg	1995	2002
46	<i>The Former Yugoslav Republic of Macedonia</i>	2008	2009
47	Madagascar	2004	2004
48	Mali		2006
49	Malta		2005
50	Mauritius		1999
51	Mexico	1993	1995
52	Moldova		1998
53	Monaco		1999
54	Mongolia		2000
55	Netherlands	1993	1998
56	New Zealand		1999
57	Norway	1996	1998
58	Panama	1999	2000
59	Paraguay		1998
60	Peru	1994	1996
61	Philippines	1995	1996
62	Poland	1995	1995
63	Portugal	1999	2004
64	Romania	1993	1995
65	Russia	2000	Not in force
66	San Marino		2005
67	Seychelles		2008
68	Slovakia	1999	2001
69	Slovenia	2002	2002
70	South Africa		2003
71	Spain	1995	1995
72	Sri Lanka	1994	1995
73	Sweden	1996	1997
74	Switzerland	1995	2003
75	Thailand	2004	2004
76	Turkey	2001	2004
77	United Kingdom	1994	2003
78	United States	1994	2007
79	Uruguay	1993	2004
80	Venezuela	1997	1997

\*HCCH: Status Table, available at [http://www.hcch.net/index\\_en.php?act=conventions.status&cid=69](http://www.hcch.net/index_en.php?act=conventions.status&cid=69) (last visited March 5, 2009).



# U.S. Citizenship and Immigration Services

**USCIS Policy and Field Guidance**

**- *USCIS Orphan Training 2009* -**

## Extension Memo (July 2007) – Part I

- Permits PAPs to request a *one-time, no-fee* extension of the I-600A approval for an additional 18 months
  - Request must be made in writing
  - No earlier than 90 days before expiration
  - Must include an updated or amended home study
  - Includes a one-time, no-fee re-fingerprinting
- PAPs are **NOT** required to file a new I-600A in order to request the *one-time, no-fee* extension.
- After the expiration of the *one-time* extension, the PAP must file a new I-600A with fee. \*

## Extension Memo (August 6, 2007) –Part II

- Permits P APs to make one request for a change of country notification without fee
  - Request must be made in writing
  - Request must include any supporting evidence for a change of country request (i.e. home study recommendation)
  - Any subsequent change of country requests; P APs must file Form I-824 (*Application for Action on an Approved Application or Petition*) with fee
- Permits P APs to make one request for no-fee biometrics
- NOTE: The request for no-fee extension, no-fee biometrics, and change of country may be made at the same time; however, not required. Separate requests ok.

# Significant Changes Memo (June 20, 2008)- Part I

- Standardization of requests after I-600A approval
  - Provides notice to include with I-600A approval
  - Provides check-list for PAPs
- Request a Change in Notification of Overseas site
  - One-time, no-fee request (see Extension Memo)
  - Any subsequent changes of country → I-824 with fee
  - \*Both methods require an amended home study
  - Changes from non-Hague to Hague country: only for PАПs who filed I-600A before April 1, 2008

# **Significant Changes Memo (June 20, 2008) - Part II**

- Request an Amended I-600A Approval Notice due to a Significant Change in Household
  - PAP may make unlimited requests to amend the I-600A approval
  - NO FEE, unless there is a “change” in marital status\*
  - If there is a change in marital status, then a new I-600A must be filed. \*
  - Requires an amended home study

# Significant Changes Memo (June 20, 2008)- Part III

- Approval of Request
  - Does not change the validity period of the original I-600A approval unless an extension was requested/granted
  - Send notification of approval to NVC
    - NO EMAIL
    - See NVC Cover Letter Memo
- Denial of Request
  - Explanation of reasons for denial (not a denial of application or petition)
  - No appeal rights
  - Denial of request is not revocation of previous approval

# Significant Changes Memo (June 20, 2008)- Part IV

- **Duplicate Approval Notice**
  - A PAP may request a duplicate notice at any time
  - File I-824 (*Application for Action on an Approved Application or Petition*) with fee

## Preliminary Hague Guidance (March 28, 2008)

- Field offices were instructed to accept Forms I-800A and I-800 (and required fees) for forwarding to NBC.
  - UPDATE: All Forms I-800A or I-800 are now filed at Lockbox. (See Lockbox Memo; Aug. 26, 2008)\*
- I-600A filed on or after April 1, 2008 indicating the applicant's intent to adopt a child from a Hague Convention country → Reject
- Grandfathered I-600A approvals for Hague Convention countries

# Hague Clarification Memo

## (July 14, 2008)

- Permits a Form I-600 to be filed on behalf of a child from a Hague Convention country IF the *adoption* took place prior to April 1, 2008.

- EXAMPLE:

- PAP did not file I-600A or I-600 prior to April 1, 2008.
- However, the PAP adopted a child from a Hague Convention Country in March 2008.
- Since the Convention was not in force for the US at the time of adoption, a Form I-600 may still be filed for the child AFTER April 1, 2008.

**Intercountry Adoption under the Hague Adoption Convention and the USCIS Hague rule at 8 CFR 204, 213a, and 322 - AFM Update (October 31, 2008)**

- I-130 distinctions under the Hague interim rule
- Grandfathered Cases for Hague Convention Countries (Section 21.5)
  - **UPDATE**: permits PAPs to file a second I-600A if the initial grandfathered I-600A will expire prior to the completion of the adoption. (FAQs)
  - *See also* Grandfathered Memo - Jan 22, 2009

## **“Grandfather Memo” (January 22, 2009)**

- Provides procedural guidance for a second I-600A filed for a grandfathered orphan case in a Hague Convention country.
- FAQs outline several scenarios for PAPs with a grandfathered I-600A approval
  - PAP may change to a Hague country at any time
  - PAP may increase the number of children reflected an I-600A approval, but the additional child/ren cannot be from a Hague Convention country
  - Sibling Exception applies
  - Etc.

# NVC Notification Memo

## (October 23, 2008)

- Change in procedure to notify NVC of I-600A approvals
- New coversheet for EACH case forwarded to the NVC.
- Country of adoption must be clearly annotated on the NVC coversheet and I-604.
- *Stay tuned for more details...*

## Country Specific Memos

- Vietnam Warning Notice Memo (August 28, 2008)
- Cambodia Warning Notice Memo (*forthcoming*)



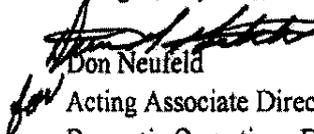
U.S. Citizenship  
and Immigration  
Services

## Interoffice Memorandum

To: Regional Directors  
District Directors  
Field Office Directors

From: Lori Scialabba  
Associate Director  
Refugee, Asylum, and International Operations Directorate

A handwritten signature in black ink, appearing to read "Joseph E. L. J.", written over the name "Lori Scialabba".

  
Don Neufeld  
Acting Associate Director  
Domestic Operations Directorate

Date:

Re: Extensions of Application for Advance processing of Orphan Petition, Form I-600A

On May 30, 2007 USCIS published a final rule, Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule. See 72 FR 29851 (May 30, 2007), amending 8 CFR 103.7. Pursuant to the rule, effective July 30, 2007, the fee for filing an Application for Advance processing of Orphan Petition, Form I-600A will be \$670.

This final fee rule also provides that prospective adoptive parents may make *one* request for an extension of the Form I-600A approval, regardless of the number of children authorized to adopt, if the prospective adoptive parent(s) are not able to file a Form I-600 before the Form I-600A approval expires. The request must be made in writing and must be received no earlier than 90 days prior to the expiration of the Form I-600A approval, but before the approval expires. For instance, if an I-600A expires on April 1, the request cannot be filed prior to January 1 but must be filed on or before April 1. An updated or amended home study must accompany the request. No fee will be charged for this request. There is no biometrics charge for the extension request and officers also will not collect another biometric fee for fingerprints expired after 15 months but within the 18 month validity period of the initial I-600A.

Prospective adoptive parents may also make *one* request for a change of country notification with no fee. This change of country request may be made along an extension request, but may also be made independently of an extension request. The request must be made in writing and must be accompanied by

any supporting evidence for a change of country request. Prospective adoptive parents must file Form I-824, Application for Action on an Approved Application or Petition, with the appropriate fee, for subsequent requests for change of country notifications.

Questions regarding this memorandum may be directed via email through appropriate supervisory channels to Lisa Lopez, International Operations Division, or Leah Torino, Field Operations Division.

**Frequently Asked Questions:**

**When do prospective adoptive parent(s) have to pay a biometrics/ fingerprint fee?**

Prospective Adoptive Parents and household members who are over 18 years age must pay the initial biometric fee for fingerprinting related to the initial filing of form I-600A. However, USCIS will allow for a one time re-fingerprinting at no-charge to the prospective adoptive parents and household members who are at least 18 years of age, if the fingerprints expire before the I-600A approval does. There is also no biometrics charge when the prospective adoptive parent requests an extension of the I-600 approval.

**When does the ability to file for a no-charge extension begin?**

The no-charge extension ability became effective on July 30, 2007; the date on which the fee rule became effective.

**Who can request a no-charge extension of Form I-600A?**

Prospective Adoptive Parent(s) can request a "no charge" extension to any Form I-600A filed on or after July 30, 2007. The extension is also available for any Form I-600A that has already been approved, *provided* that the approval expires on or after July 30, 2007, regardless of the number of children the prospective adoptive parent(s) has been authorized to adopt. For instance, if a prospective adoptive parent(s) has obtained an I-600A approval to adopt two children, but has only filed one I-600, the prospective adoptive parent(s) can request an extension in order to have sufficient time to file the second I-600.

No extension is available in any case, however, in which the Form I-600A approval expires before July 30, 2007.

**How can prospective adoptive parent(s) request an extension to an I-600A?**

Prospective adoptive parent(s) must submit a written request to the USCIS office that adjudicated the initial I-600A. The written request must explicitly request a one-time, no-charge extension to the current I-600A approval. Prospective adoptive parent(s) must submit an amended/updated home study and any other supporting documentation of any changes in the household. The home study amendment/update must address each issue under 8 CFR 204.3(e) and indicate whether anything has changed on any item. The home study must also address any changes to the I-600A answers and must say whether approval is still recommended.

**When should prospective adoptive parent(s) send the request for an extension to an I-600A?**

The request must be received no earlier than 90 days prior to the expiration of the Form I-600A approval, but before the Form I-600A approval notice expires. For instance, if an I-600A approval notice is valid until December 31, the request cannot be filed prior to October 2, but must be filed no later than December 31.

**What does it mean to file an extension request "before" the I-600A approval expires?**

Under 8 CFR 204.3(h)(3)(i), approval of an I-600A is "valid for 18 months from its approval date." An I-600A approved on January 31, 2006, for example, is valid until July 31, 2007. Since the I-600A approval is still valid on July 31, 2007, an extension request that is received on July 31, 2007, will have been received before the I-600A approval expired. That is, an extension request will be timely so long as it is received no later than the very last day on which the Form I-600A approval is still valid.

**What is the basis on which USCIS will decide whether to extend the approval of the Form I-600A?**  
USCIS will extend the I-600A approval only if USCIS continues to be satisfied, based on the amended or updated home study and all other evidence in the case, that the prospective adoptive parent(s) continue to meet the requirements of eligibility and ability to provide "proper care" standard.

Because the final fee rule did not take effect until July 30, 2007, USCIS will deny any extension request that may be made in any case in which the Form I-600A expired before July 30, 2007.

**How can prospective adoptive parents request a change of country notification?**

Prospective adoptive parents may make *one* request for a change of country notification with no fee. The request must be made in writing and must be accompanied by any supporting evidence for a change of country request. Prospective adoptive parents should *not* use Form I-824, Application for Action on Approved Application or Petition, when making this *one* request for a change of country.

Prospective adoptive parents must, however, file Form I-824, with the appropriate fee, for subsequent requests for change of country notifications.

**When does the ability to request a no-charge change of country notification begin?**

The no-charge change of country notification became effective on July 30, 2007, the date on which the fee rule became effective.



U.S. Citizenship  
and Immigration  
Services

## Interoffice Memorandum

To: Field Leadership

From: Lori Scialabba *Lori Scialabba* for  
Associate Director  
Refugee, Asylum & International Operations Directorate

Donald Neufeld *Donald Neufeld*  
Acting Associate Director  
Domestic Operations

Date: JUN 20 2008

Re: Instructions for Processing Requests for Changes or Action After Approval of Form I-600A, *Application for Advance Processing of Orphan Petition*

### I. Introduction

The purpose of this memorandum is to provide field guidance on the processing of requests from prospective adoptive parents to amend or take action on an approved Form I-600A. Such amendments or actions may include transfer of the Form I-600A approval to a different overseas site, amendment of an approved Form I-600A to reflect a significant change to the household, as well as other actions discussed below. In order to standardize USCIS processing of requests for changes or action after a Form I-600A approval, all field offices should adhere to the following guidance.

## II. Standard Notice and Checklist

Prospective adoptive parents may request amendments to, or request action on, an approved Form I-600A, and certain such requests may be processed without an additional fee. These include requesting an initial change in notification of overseas site; requesting an updated approval notice due to a significant change to the household; making an initial request for re-fingerprinting; and requesting one extension of the Form I-600A approval. Currently, USCIS requires prospective adoptive parents to submit a letter to the office which adjudicated the Form I-600A in order to request any of the actions described above. To assist offices in identifying and processing these requested actions, prospective adoptive parents will be provided a standard notice and checklist at the time the Form I-600A approval is issued (see Attachment 1). Field offices must attach this standard notice to the Form I-600A approval notice, as well as to any updated or extended approval notices. The notice directs prospective adoptive parents to attach a copy of the standard notice to their letter requesting any of the changes noted above. If a prospective adoptive parent submits a request without the standard notice, however, USCIS should not reject the request and should continue to process the request.

## III. Requesting a Change in Notification of Overseas Site<sup>1</sup>

Pursuant to 8 CFR, Part 204.3(j)(2), a prospective adoptive parent who requests a transfer of Form I-600A approval from one overseas site to a different overseas site generally must file Form I-824, *Application for Action on an Approved Application or Petition*. However, recent policy guidance titled, *Extensions of Application for Advance processing of Orphan Petition, Form I-600A* advises offices that prospective adoptive parents may make the first request to transfer notification to another overseas site by submitting a letter requesting the change, with no fee. The letter must be sent to the USCIS office which originally approved the Form I-600A. Any second or subsequent request to transfer the Form I-600A approval must be filed on Form I-824 with the office that originally approved the Form I-600A, and must be accompanied by the appropriate fee. In addition to the request to change overseas sites, the prospective adoptive parent must submit a copy of the current valid Form I-171H/Form I-797C. An amended home study<sup>2</sup> containing a new recommendation will be required with a request to change overseas sites only if the original home study contained a country-specific recommendation.

Form I-600A does not require that a prospective adoptive parent designate a specific country of adoption at the time of filing. A prospective adoptive parent may request that USCIS retain the approved Form I-600A in the local field office. The prospective adoptive parent may decide on a specific country at a later date and may request that USCIS notify the overseas site of the approval. USCIS will honor the request without an additional fee. This request does not

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<sup>1</sup> Title 8 Code of Federal Regulations, Part 204.3(b) defines overseas site as "the Department of State immigrant visa-issuing post having jurisdiction over the orphan's residence, or in foreign countries in which the Service has an office or offices, the Service office having jurisdiction over the orphan's residence".

<sup>2</sup> An amended home study should be a complete home study reflecting the changed information and should include a new recommendation in light of those changes. The new information should be included in the body of the home study and should not be attached as an addendum to the original home study. Prospective adoptive parents should submit a copy of the original home study along with the amended version.

eliminate the ability of the prospective adoptive parent to request a one time no-charge change of overseas site notification.

The USCIS regulation implementing the Hague Adoption Convention allows for grandfathering of orphan adoption cases in process before April 1, 2008. Included in this grandfathering provision is the ability for a prospective adoptive parent to change his/her Form I-600A approval from a non-Convention country to a Convention country, as long as the Form I-600A was filed prior to April 1, 2008, and continues to be valid at the time the request for change of overseas site notification is submitted. For a prospective adoptive parent who filed Form I-600A before April 1, 2008, but did not designate a specific country at the time of filing Form I-600A, he/she may designate a Convention country at a later time.

#### IV. Requesting an Updated Approval Notice due to a Significant Change in Household

Under Title 8 Code of Federal Regulations (8 CFR), Part 204.3(e) and (e) (9)(ii), an amended home study is required whenever a significant change in the household of the prospective adoptive parent occurs after the submission of a home study to USCIS. A prospective adoptive parent may make unlimited requests to update a Form I-600A approval notice due to significant changes in the household. A significant change includes, but is not limited to, the following:

- 1.) Change in the number of children the prospective adoptive parent intends to adopt
- 2.) Change of residence of prospective adoptive parent
- 3.) Change in the type of child (health, gender, age or nationality)
- 4.) Change in the number of children or adult members residing in the household
- 5.) Change in criminal history, abuse history or other derogatory information

If a prospective adoptive parent requires an updated approval notice, he/she must submit a copy of the standard notice (Attachment 1), a copy of the current valid Form I-600A approval notice, a letter explaining the exact nature of the specific change to the household, and an amended home study.

If a prospective adoptive parent requests an updated approval notice due to the addition of a household member over the age of 18, the request must contain the adult's name and date of birth and also be accompanied by the requisite biometrics (fingerprinting) fee for that household member.

If a prospective adoptive parent requests an updated approval notice due to a change in marital status, USCIS should advise the prospective adoptive parent to file a new Form I-600A with fee.

#### V. Decision and Validity Period of Updated Form I-600A Approval Notice

##### Approval of Request

If the officer determines that the change requested for the Form I-600A should be granted, then a new Form I-171H or Form I-797C should be issued to the prospective adoptive parent. Please note that an amended or updated approval notice does not change the validity period of Form I-171H or Form I-797C, unless the prospective adoptive parent also requested an extension of the Form I-600A approval period. Once a request for an updated I-600A has been approved, the Form I-171H or Form I-797C will continue to be valid for the original validity period stipulated

**Instructions for Processing Requests for Changes or Action After Approval of Form I-600A,  
Application for Advance Processing of Orphan Petition  
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on the original approval notice. If a request for an extension has been granted, then the validity period should be 18 months from the date of the expiration of the initial Form I-171H or Form I-797C. For example, if Form I-171H or Form I-797C expired January 1, 2008 the extension should be valid until July 1, 2009.

USCIS offices must notify the prospective adoptive parent and the National Visa Center (NVC) of the updated or extended approval notice. Updated Form I-600A approvals must be sent via mail to the NVC.<sup>3</sup> USCIS offices must maintain a log of all updated Form I-600A approvals sent to the NVC. The log must include the name of the applicant, date of issuance of the updated Form I-600A approval, date the updated Form I-600A approval was forwarded to the NVC and the appropriate mail tracking number. Packets containing updated Form I-600A approvals must be forwarded to the following address:

National Visa Center  
ATTN.: PR  
32 Rochester Avenue  
Portsmouth, NH 03801

All updated Form I-600A approvals forwarded to the NVC must be accompanied by a completed Visas 37 template, updated Form I-171H or Form I-797C, as well as any additional documentation submitted with the request for updating, such as an updated or amended home study.

#### **Denial of Request**

If an officer determines that the request for an updated approval notice cannot be granted, the officer must issue a letter to the prospective adoptive parent explaining the reasons why the updated approval notice will not be issued. Please note that a denial of a request for an updated approval notice is not a denial of an application or petition. Therefore, there are no appeal or motion rights to this decision. The denial of the request to issue an updated approval should advise that if the prospective adoptive parent disagrees with the decision, he or she may file a new Form I-600A with fee.

A denial of a request to issue an updated approval notice is not a revocation of the original approval notice. If an officer receives information at the time of notification of a significant change that potentially affects the original Form I-600A decision, the officer may pursue revocation on notice according to 8 CFR 205.2.

#### **VI. Duplicate Approval Notice**

A prospective adoptive parent may request a duplicate approval notice by filing a Form I-824 with fee.

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<sup>3</sup> USCIS field offices should not electronically transmit Visas 37 templates, Form I-600A approval notices or any other documents containing privacy act information.

**VII. Performance Analysis System (PAS)**

Starting in fiscal year 2009, a request for a no fee updated Form I-171H based on a significant change should be counted in PAS as an initial receipt on PAS line 158A, Column "B" on the field office's "O" record. If an officer grants the request, he/she should count the approval on PAS line 158A, Column "G". If an officer reviews a request for an updated approval notice and determines that the request cannot be granted, he/she should account for it on PAS line 158A, Column "H" or "I" as appropriate. A request to be fingerprinted should not be counted for PAS purposes, unless it is filed in conjunction with a request for an update due to a significant change, change of overseas site notification or extension. Requests for no fee extensions should be counted on PAS line 158, as appropriate.

# **ATTACHMENT 1**



**U.S. Citizenship  
and Immigration  
Services**

**Dear Prospective Adoptive Parent,**

USCIS would like to congratulate you on your Form I-600A, *Application for Advance Processing of Orphan Petition* approval and for completing the first step in the adoption immigration process. USCIS would like to make you aware of some services available to you, should you need to update the information on your approved I-600A. Most of these services do not require a fee and may be necessary in order to continue the immigration processing for your intended child.

You may request, without fee, one extension of your Form I-600A approval notice, one re-fingerprinting, one transfer of approval from one overseas site to another, and an amended approval notice based on a significant change of circumstances. In order to request any of these services, please submit a copy of the attached notice, a letter explaining the details surrounding your request, a copy of your Form I-600A approval notice, and an updated or amended home study (if required), to the USCIS office that previously approved your Form I-600A.

In addition to the above services, you may also make additional requests to be re-fingerprinted and to request a second transfer of your approved Form I-600A from one overseas site to another. These services both require fees. In order to request to be re-fingerprinted a second time, please check the appropriate box and submit the items indicated below. In order to request a second change of overseas site, please file Form I-824 with fee with the USCIS office having previously approved your Form I-600A.

**U.S. Citizenship and Immigration Services**

Applicant's Name: \_\_\_\_\_

Form I-600A Approval Date: \_\_\_\_\_

**Failure to submit this notice along with your request may result in processing delays.**

Please mark all blocks that apply below:

I am requesting a no-charge extension of Form I-600A. I have attached the following:

- ✓ A letter requesting the extension
- ✓ A copy of my current valid Form I-600A approval notice
- ✓ An updated home study

I am requesting to be re-fingerprinted. This is my first request for re-fingerprinting. I have attached the following:

- ✓ A letter listing the names and dates of birth of all adult members of my household
- ✓ A copy of my current valid Form I-600A approval notice

I am requesting that an amended I-600A approval notice be issued due to the fact that certain circumstances have changed. I have attached the following:

- ✓ A letter explaining the nature of these changes
- ✓ An amended home study
- ✓ A copy of my current valid Form I-600A approval notice

Circumstances have changed due to the addition of an adult member of the household since my original approval. I have attached the following:

- ✓ A letter listing the name and date of birth of each additional adult household member
- ✓ The \$80.00 biometrics fee for each additional adult household member.
- ✓ An amended home study
- ✓ A copy of my current valid Form I-600A approval notice

I am requesting that my Form I-600A approval notice be transferred to a different overseas site than originally indicated on my Form I-600A.

This is my first request for a change of overseas site.

My original Form I-600A did not list a specific country and I now need to have an overseas site notified of my approval

I have attached the following:

- ✓ A letter indicating from which country I intend to adopt and which overseas site I would like notified
- ✓ An amended home study (Required only if your original home study specifically recommended your adoption for a child from a different country.)
- ✓ A copy of my current valid Form I-600A approval notice

I am requesting to be re-fingerprinted. This is my second or subsequent request to be re-fingerprinted. I have attached the following:

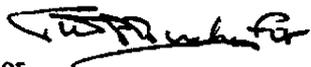
- ✓ A letter listing the names and dates of birth of all adult members of my household
- ✓ The \$80.00 fingerprint fee for each adult household member.
- ✓ A copy of my current valid Form I-600A approval notice



U.S. Citizenship  
and Immigration  
Services

## Interoffice Memorandum

To: Field Leadership

From: Lori Scialabba   
Associate Director  
Refugee, Asylum & International Operations Directorate

for: Mike Aytes   
Associate Director  
Domestic Operations

Date: March 28, 2008

Re: Preliminary Guidance for USCIS Field Offices regarding  
Implementation of the Hague Intercountry Adoption Convention

### I. Introduction

This constitutes preliminary guidance for use in intercountry adoption cases under the *Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption* (Hague Adoption Convention). The Hague Adoption Convention enters into force with respect to the United States on April 1, 2008.

The Convention's entry into force creates significant changes in intercountry adoption cases which occur between Convention countries. As of this date, there are 75 nations where the Hague Adoption Convention is in force. A list of Convention countries is attached.

### II. Implementation of the Hague Adoption Convention

In 2000, Congress passed the implementing legislation, the Intercountry Adoption Act (IAA), Pub. L. 106-279. Section 302 of the IAA enacted new section 101(b)(1)(G) of the Immigration

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and Nationality Act (Act). Section 101(b)(1)(G) of the Act, provides for the classification of a Convention adoptee as the child of a U.S. citizen. The Secretary of Homeland Security published the USCIS regulation implementing the Hague Adoption Convention and section 101(b)(1)(G) of the Act in the *Federal Register* on October 4, 2007, at 72 *Fed. Reg.* 56832 (2007). This regulation establishes a new subpart C to 8 CFR part 204. Subpart C governs the adjudication of petitions (Forms I-800) and applications (Forms I-800A) filed by U.S. citizens seeking to adopt children from Convention countries.

The Hague Adoption Convention enters into force for the United States on April 1, 2008. 72 *Fed. Reg.* 71730 (2007). Subpart C to 8 CFR part 204 enters into force on the same day. 8 CFR 204.300(a). Thus, USCIS can expect that the first Hague Adoption Convention cases will be filed on April 1, 2008, or very soon thereafter.

The USCIS regulation implementing the Hague Adoption Convention and section 101(b)(1)(G) of the Act and the Form I-800A and Form I-800 are available on both the internet and intra-net versions of [www.uscis.gov](http://www.uscis.gov).

### III. Hague versus Orphan

Classification of a child as a Convention adoptee under section 101(b)(1)(G) of the Act is similar to classification as an orphan under section 101(b)(1)(F) of the Act. First, the child's adoption must be sought either by a U.S. citizen and the U.S. citizen's spouse, jointly, or by an unmarried U.S. citizen who is at least 25 years old. The visa petition must be filed before the child's sixteenth birthday. As with orphan cases, the two year legal custody and joint residence requirements of section 101(b)(1)(E) of the Act will not apply to Hague Adoption Convention cases. Finally, as with orphans, a Convention adoptee may be adopted abroad, but may also be brought to the United States for the purpose of adoption.

There are, however, some notable differences. In order for a child to meet the definition of child under section 101(b)(1)(G) of the Act, the adopting parent must be *habitually resident* in the United States (which may include some U.S. citizens who are currently residing abroad under 8 CFR 204.303), and the child must be *habitually resident* in another country that is a party to the Convention as defined by 8 CFR 204.303. Second, unlike sections 101(b)(1)(E) and (F) of the Act, section 101(b)(1)(G) applies only if the visa petition is filed before a child's sixteenth birthday, with no provision to allow the immigration of an older sibling adopted by the same parent(s). Third, the child does not have to be an "orphan," as defined in 101(b)(1)(F) of the Act. Fourth, there is no requirement for the adoptive parent(s) to see the child prior to or during the adoption proceeding in order for an adoption to be considered a Convention child adopted abroad.

The primary criteria for classification under section 101(b)(1)(G) of the Act are:

1. The child's birth parents (or parent, in the case of a child who has one sole or surviving parent because of the death or disappearance of, or the child's abandonment or desertion by, the other parent), or other persons or institutions that retain legal custody of the child, must have freely given their written

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irrevocable consent to the termination of their legal relationship with the child,  
and to the child's emigration and adoption; and

2. In the case of a child placed for adoption by his or her two living birth parents,  
the birth parents must be incapable of providing proper care for the child.

The Hague Adoption Convention also introduces the role of a Central Authority in each member country. The Central Authority in each Convention country is responsible for regulating the intercountry adoption process and certifying actions in individual cases. The Central Authority of a Convention country also accredits adoption service providers, coordinates communication with the Central Authorities of other Convention countries and certifies that the final adoption or legal custody is in compliance with the Convention. The U.S. Department of State is the Hague Adoption Convention Central Authority for the United States. However, Central Authority functions relating to the adjudication of immigration applications and petitions in Hague Adoption Convention cases have been delegated to USCIS through the Intercountry Adoption Act of 2000.

#### IV. Adoption Service Providers

A distinct difference between a Hague Adoption Convention case and an orphan adoption case is that, in a Hague Adoption Convention case, an individual or entity must be authorized under Department of State regulations at 22 CFR Part 96 in order to provide certain adoption services. The adoption services that must be performed by an authorized adoption service provider are identified in section 3(3) of the IAA and 22 CFR 96.2. A list of the adoption service providers that have been accredited or approved by the Department of State to provide these six adoption services can be found at [http://www.travel.state.gov/family/adoption/convention/convention\\_4169.html](http://www.travel.state.gov/family/adoption/convention/convention_4169.html). Since this list is updated regularly by the Department of State, prospective adoptive parents (PAPs) should be advised to check this list to ensure that they have selected an accredited or approved adoption service provider.

For the purposes of a Hague Adoption Convention adoption, a home study preparer is defined as an individual or agency authorized to conduct home studies for Convention adoption cases, either as a public domestic authority, an accredited agency, a temporarily accredited agency, an approved person, a supervised provider, or exempted provider as those terms are defined in 22 CFR Part 96. A home study submitted in support of Form I-800A must be completed by one of the adoption service providers authorized by the Department of State and must always be approved by an accredited agency, or a temporarily accredited agency, unless the home study is completed by a public domestic authority

#### V. Non-Hague Countries

The Hague Adoption Convention will not affect intercountry adoption processing of an orphan child who is habitually resident in a non-Hague country. Intercountry adoptions of orphans from those countries will continue to be processed on Forms I-600A, I-600 and I-604 under existing orphan regulations at 8 CFR 204.3 and related guidance.

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VI. Hague Convention Countries

Effective April 1, 2008, the Hague Adoption Convention significantly changes intercountry adoption processing between Hague Adoption Convention countries. The immigration processing of Convention adoptees (unless the Department of State determines that the Hague Adoption Convention is not in force with a particular country) will be processed on new Form I-800A, *Application for Determination of Suitability to Adopt a Child from a Convention Country* and Form I-800, *Petition to Classify Convention Adoptee as an Immediate Relative*.

Form I-800A also contains three (3) Supplements:

Supplement 1, Listing of Adult Member of the Household,  
Supplement 2, Consent to Disclose Information and  
Supplement 3, Request for Action on Approved Form I-800A.

Form I-800 contains one (1) Supplement: Supplement 1, Consent to Disclose Information

The Forms I-800A and I-800 will be adjudicated under the new controlling regulations established by the Hague interim rule and codified at 8 CFR 204.300. See 72 FR 56854.

Forms I-600A and I-600 may not be filed for a child who habitually resides in a Convention country on or after April 1, 2008. However, some Forms I-600A and I-600 filed before April 1, 2008 will be grandfathered under the grandfathering provision described in Section XI of this guidance.

VII. Centralized Adjudication of Hague Adoption Convention Cases

All Hague Adoption Convention cases will be adjudicated at the National Benefits Center (NBC) in Lee's Summit, Missouri. Field offices are not authorized to adjudicate Forms I-800A and I-800.

VIII. Domestic Filing of Hague Adoption Convention Cases

The NBC does not currently have the capability to fee receipt Hague Adoption Convention cases. Until that capacity is established by the implementation of a lockbox, Form I-800A must be filed with a domestic USCIS field office having jurisdiction over the prospective adoptive parent(s) place of residence. The local field office will fee receipt Form I-800A and any filing and biometrics (fingerprint) fees and forward the application to the NBC for adjudication. Upon receipt at the NBC, an acknowledgement letter will be generated.

A biometrics (fingerprint) fee of \$80 is required for each prospective adoptive parent and adult member of the household. A Form I-800A, Supplement 1, *Listing of Adult Member of the Household* should be submitted with Form I-800A for each adult member of the household. Form I-800A, Supplement 1 must be signed by both the applicant and the adult member of the household. An Application Support Center (ASC) appointment will be scheduled and a notice

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will be sent to the PAP(s) by the NBC. If any required biometrics fees are missing, the field office may still receipt the Form I-800A and forward the application to the NBC. The NBC will send a request for evidence to the prospective adoptive parent(s) to request the biometrics fee before scheduling at an ASC. Any case forwarded to the NBC without complete biometrics will be held in suspense until the biometrics fee has been paid.

IX. Specific Filing Instructions for the Domestic Field Offices

Form I-800A

Until the lockbox address is implemented, there are two methods by which prospective adoptive parents can file a Form I-800A. They can appear in person or file through the mail with the local office having jurisdiction over their place of residence. Since these are new applications and this is a new process for the prospective adoptive parent(s), it is important that we provide them with the best information possible. Although the fee for the Form I-800A is the same as the fee for the Form I-600A, the fee is not transferable. Therefore, it is crucial that we make every effort to ensure that we only accept a Form I-800A from a U.S. citizen (and spouse, if married) adopting from countries where the Hague Adoption Convention is in force.

Before accepting a Form I-800A in person, USCIS staff will perform the following reviews:

- 1.) Verify that the prospective adoptive parent(s) are adopting from a Hague Convention country.  
(If the country shown on the application is not on the list provided with this memorandum please go to [http://www.travel.state.gov/family/adoption/convention/convention\\_2963.html](http://www.travel.state.gov/family/adoption/convention/convention_2963.html) to see whether this country has been added as a new Hague Adoption Convention country.)
- 2.) Review the application to determine if a Form I-800A, Supplement 1 has been submitted.
- 3.) Verify that the petition has been submitted with the correct fee.  
Form I-800A - \$670.00  
Fingerprints - \$80.00 for each prospective adoptive parent and any adult members of the household for whom a Form I-800A, Supplement 1 has been completed.
- 4.) Verify that the application and attached Supplement(s) contain the required signatures.
- 5.) Review the application to verify that the application is complete and that there are no pages missing (1-9).
- 6.) Verify that a home study was submitted, if filing in person at the local USCIS office.<sup>1</sup>

As a general rule, if requirements #1-5 are not met, the Form I-800A should not be accepted. If an application is rejected, a standard rejection notice (see Attachment 1 to this memorandum) is to be provided to the PAPs. In the event that a prospective adoptive parent insists on filing Form

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<sup>1</sup>A complete original home study must accompany Form I-800A, unless indicated on Form I-800A application (Part 3, item 1). In most cases home studies will be submitted with Form I-800A; however, some States of the United States require that the home study be reviewed by State authorities prior to submission to USCIS (currently Alabama, Colorado, Guam, Illinois, Mississippi, North Carolina, South Carolina, Puerto Rico, U.S. Virgin Islands). In those cases, the application should be accepted without the home study. (I-800A Instructions, page 6)

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I-800A in person without the required home study or fingerprint fee, the USCIS office shall accept the application. USCIS officers should advise prospective adoptive parents that failure to provide all required information at the time of filing will delay the processing of their application.

If filed through the mail and the home study or the biometrics fee is not included with the Form I-800A, the application should be accepted as an initial receipt. The NBC will send a request for further evidence and the case will be held in suspense until the biometrics fee and home study are submitted.

The NBC will issue a request for evidence requesting that the prospective adoptive parent appear at the local field office to pay the required fees for biometrics (fingerprinting). Once the local field office accepts and processes the biometrics fee, the local field office will notify the NBC within one business day that the fee has been paid. Once the NBC has been notified, they will issue a biometrics notice to the prospective adoptive parent(s). A method of notifying the NBC is currently under development.

If the requirements above are met, the PAPs must be given or mailed a receipt as proof of payment as well as the informational handout (see Attachment 2 of this memorandum). Initial fee received Forms I-800A will be transferred out daily to the NBC from the field. Applications should be sent overnight express mail within one business day of receipt to:

**NATIONAL BENEFITS CENTER  
ATTENTION: HAGUE ADOPTIONS  
DEPARTMENT OF HOMELAND SECURITY  
850 N.W. CHIPMAN ROAD, SUITE 5000  
LEE'S SUMMIT, MO 64063**

The PAPs and adult members of the household must not be scheduled for fingerprints by the local field office. Therefore, fingerprint appointment notice(s) will not be provided on the date of filing. Once the NBC receives the applications from the field offices, a USCIS account number, receipt number and case number will be assigned. Once these numbers have been assigned, the NBC will schedule the appropriate fingerprint appointments and notice of those appointments will be generated.

Form I-800

Since there is no provision for Form I-800 to be filed concurrently with Form I-800A, Form I-800 may not be filed until the Form I-800A has been approved. Upon approval of Form I-800A, the NBC will provide the PAPs with specific filing instructions for the Form I-800. At this time, local field offices will not be receiving Form I-800 filings. In the event that a prospective adoptive parent submits Form I-800 with the local office, it should be manifested and forwarded to the NBC. The local field office will not issue a receipt for these cases.

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Form I-800A, Supplement 3

Form I-800A, Supplement 3 will also be filed at the local field office. The Form I-800A, Supplement 3 can be filed in order to request an extension of a Form I-800A approval or to request action on a previously approved Form I-800A. Some actions requested on Form I-800A, Supplement 3 require a fee, while others do not. In each case where a fee is required the fee is \$340.00. In addition to the \$340.00 fee, if Form I-800A, Supplement 3 is filed because an additional adult household member has been added to the home since the original Form I-800A approval, the Form I-800A, Supplement 3 will also be accompanied by a Form I-800A, Supplement 1 and an \$80.00 fee for biometrics processing. Likewise, if the prospective adoptive parent files Form I-800A, Supplement 3 for a second or subsequent extension, the biometrics fee of \$80.00 per adult household member must be included. Prior to accepting Form I-800A, Supplement 3 at the field office, the field office must first determine whether a fee is necessary.

The following actions require a fee:

- 1.) Second or subsequent extension of Form I-800A approval
- 2.) Request for a new approval notice based on changes in circumstances since Form I-800A was approved
- 3.) Second or subsequent change in Convention country
- 4.) Request for a duplicate approval notice

The following actions do not require a fee:

- 1.) First time extension of Form I-800A approval
- 2.) First time change in a Convention country

If a fee is necessary, the local field office must verify that the proper fee has been submitted.<sup>2</sup> If the proper fee has been submitted and the application has been properly signed, the local field office will fee receipt Form I-800A, Supplement 3. The local office will then provide the prospective adoptive parent with a receipt as proof of payment. Once the local office has initially receipted Form I-800A, Supplement 3, they will transfer out Form I-800A, Supplement 3 to the NBC. Like Form I-800A the local office will track and notify the NBC of all Form I-800A, Supplement 3 filings. Upon receipt at the NBC, an acknowledgement notice will be produced and sent to the prospective adoptive parent.

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<sup>2</sup> If filed through the mail and the biometrics fee is not included with the Form I-800A, Supplement 3, the application should be accepted as an initial receipt. The NBC will send a request for further evidence and the case will be held in suspense until the biometrics fees are submitted.

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If a fee is necessary for Form I-800A, Supplement 3, and the application was submitted in person without the fee, the local field office will reject the application (see Attachment 1 of this memorandum).

Form I-600A

Since Form I-600A, *Application for Advance Processing of Orphan Petition*, is still being used for countries where the Hague Adoption Convention is not in force, Form I-600A must also be pre-screened to ensure proper filing. A standard notice is to be provided to all prospective adoptive parents filing Form I-600A (see Attachment 3 of this memorandum). If a Form I-600A is filed and the prospective adoptive parent clearly indicates that he/she will be pursuing an adoption from a Convention country (Item 16), this application should be rejected. If the prospective adoptive parent indicates that he/she intends to file Form I-600, *Petition to Classify Orphan as an Immediate Relative* with the local office, and it is unclear as to whether he/she will be adopting from a Convention country, the local office should make every effort to clarify the intention of the adoptive parent. Where clarification is not possible, the Form I-600A should be accepted and the standard notice should be provided with proof of receipt. See Grandfathering provisions for Form I-600A and Form I-600 in Section XI.

X. Overseas Filing of Hague Cases

U.S. citizens residing abroad will continue to have the option of filing Form I-800A with the domestic USCIS field office having jurisdiction over the proposed place of the child's residence in the US. In these cases, the Form I-800A will be accepted by the domestic field office and transferred out to the NBC, as outlined above. The applicant should expect to receive an ASC appointment notice from the NBC and can present the notice for fingerprint collection at a domestic ASC.

U.S. citizens residing abroad may also continue to file Form I-800A with an overseas USCIS field office having jurisdiction over their residence. Additionally, a United States consulate may accept the application and filing fee for USCIS where there is no USCIS presence in the country. Overseas USCIS field offices are instructed to accept Form I-800A as an initial receipt using the same criteria as above, fingerprint the prospective adoptive parent(s), and any adult members of the household identified on Supplement 1 of Form I-800A, on Form FD-258. The application fee of \$670 should be fee processed and a copy of the fee receipt attached to the application. When filing abroad with an overseas USCIS office, the PAP(s) and any adult member of the household are exempt from paying the USCIS biometrics services fee for fingerprinting. United States consulates abroad will also accept the filing fee and are requested to fingerprint the prospective adoptive parent(s) and any adult member of the household listed on Form I-800A Supplement 1.<sup>3</sup> United States consulates and USCIS offices abroad should take two sets of fingerprints for each

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<sup>3</sup> U.S. consulates abroad do not have the capability to count Form I-800A as an initial receipt or Form I-800A as transferred out in PAS. As a result, NBC will be required to count all Form I-800As fee received by the U.S. consulates abroad as initial receipts upon receiving them at the NBC for processing. USCIS offices abroad will count all fee received Form I-800As as initial receipts and as transfers out as appropriate.

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prospective adoptive parent and any adult member of the household. The entire application package should then be express mailed to the NBC at:

**NATIONAL BENEFITS CENTER  
ATTENTION: HAGUE ADOPTIONS  
DEPARTMENT OF HOMELAND SECURITY  
850 N.W. CHIPMAN ROAD, SUITE 5000  
LEE'S SUMMIT, MO 64063**

Once the direct filing procedures and lockbox are established, all Hague Adoption Convention forms will be mailed to the lockbox at its new address and thereafter forwarded to NBC for processing. It is anticipated that the lockbox will be operational in the near future.

All field offices should maintain a log of all cases forwarded to the NBC. A method of notifying NBC of cases forwarded is currently under development.

#### XI. Grandfathering of Orphan Cases in Hague Adoption Convention Countries

The Hague interim rule amended 8 CFR 204.3 to provide for the grandfathering of orphan adoption cases in process prior to April 1, 2008 in the case of adoption of a child who is habitually residing in a Convention country. An orphan adoption case is considered in process if Form I-600A or Form I-600 was filed prior to April 1, 2008.<sup>4</sup> Once an orphan case is grandfathered, the prospective adoptive parent may request one free extension of Form I-600A, and/or one free change of country request. A Form I-600, in conjunction with a grandfathered Form I-600A, may still be filed on or after April 1, 2008 for a child habitually resident in a Convention country.

It is important to note that some Convention countries may require that the adoption proceed under the rules of the Hague Adoption Convention, regardless of the fact that a Form I-600A or Form I-600 was filed prior to April 1, 2008. In such cases, the adoption must be processed under the Hague procedures. This may require the filing of the Form I-800A and adjudication by the NBC.

#### XII. Secure Information Management Service (SIMS)

As part of the centralization of Hague Adoption Convention cases, the NBC will be piloting the Secure Information Management Service (SIMS). Currently, SIMS allows users to establish person-centric accounts, link multiple cases to individual accounts, reuse data to reduce

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<sup>4</sup> For the purposes of determining whether a Form I-600A qualifies for grandfathering under 8 CFR 204.3, 8 CFR 103.2(a)(7)(i) should be used. Under 8 CFR 103.2(a)(7)(i) an application is considered to be received by USCIS if it arrives with the proper fee and signatures and is stamped by the USCIS office. I-600A applications seeking to adopt a child from a Convention country, which are postmarked prior to April 1, 2008, but not received until after April 1, 2008, shall not be grandfathered and should be rejected. Likewise, I-600A applications, seeking to adopt a child from a Convention country, which were rejected prior to April 1, 2008, due to insufficient fees, should not be accepted as properly filed if returned to USCIS after April 1\*.

Preliminary Guidance for USCIS Field Offices regarding  
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duplicative data entry, share information instantly with other SIMS users, select standard correspondence fields to construct letters, retrieve case-specific tracking and reporting information, and record case-related notes electronically. The ultimate goal of SIMS is to allow for the complete electronic adjudication of Hague adoption applications. Since SIMS is a pilot system and is not linked with Claims-3, applicants inquiring about their case will need to contact the NBC directly and will be required to reference the SIMS number referenced on their acknowledgement notice.

### XIII. Contact Information

The Form I-800A and Form I-800A Supplement 3 will be acknowledged as received by the NBC. In the event that a prospective adoptive parent did not receive an acknowledgement notice or fingerprint notice from the NBC, the field office may advise the prospective adoptive parent to contact the NBC by e-mail at [nbc.hague@dhs.gov](mailto:nbc.hague@dhs.gov), by fax at 816-251-2810, or by telephone at 1-877-424-8374.

### XIV. Additional Instructions

#### PAS

In anticipation of Form I-800A, Form I-800 and Form I-800A, Supplement 3 filings, PAS lines 159, 159A and 159B are being added to PAS for fiscal year 2009. Until such time as PAS is updated, each office will need to report these items on their monthly Production Reporting Tool (PRT). The updated PRT will be available for use by the field no later than April 21, 2008.

All USCIS field offices will count a fee received Form I-800A as an "Initial Receipt" on PAS line 159 on their office's "O" Record in PAS. Field offices will then count Form I-800A forwarded to the NBC as Form I-800A "Transferred Out" on PAS line 159 on their office's "O" Record in PAS.

All USCIS field offices will count a Form I-800A, Supplement 3 filing, regardless of whether a fee was required, as an "Initial Receipt" on PAS line 159B on their office's "O" Record in PAS. Field offices will then count a Form I-800A, Supplement 3 filing forwarded to the NBC as Form I-800A, Supplement 3 "Transferred Out" on PAS line 159B on their office's "O" Record in PAS.

The NBC will count a Form I-800A forwarded from USCIS field offices as "Transferred In" on PAS line 159 on their office's "S" record in PAS. In order to ensure consistency in the transfer of cases from the field offices to the NBC, the NBC must reconcile the number of cases "Transferred In" on PAS line 159 with the actual number of cases "Transferred Out" from the field offices, regardless of whether they physically receive those applications at the NBC by the end of the month.

#### Application Support Center

Prospective adoptive parents and adult members of the household will be receiving notices to appear for fingerprinting by the NBC. Please do not process any prospective adoptive parents,

**Preliminary Guidance for USCIS Field Offices regarding  
Implementation of the Hague Inter-country Adoption Convention**

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who have filed Form I-800A, or adult members of the household, unless they have a fingerprint notice issued by the NBC. In the event that there is an adult member of the household that is unable to appear for fingerprinting because he/she is homebound, you must process the manual prints as per the current policy and forward the fingerprint cards to the NBC at:

**NATIONAL BENEFITS CENTER  
ATTENTION: HAGUE ADOPTIONS  
DEPARTMENT OF HOMELAND SECURITY  
850 N.W. CHIPMAN ROAD, SUITE 5000  
LEE'S SUMMIT, MO 64063**

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FIELD OFFICE DIRECTORS (including foreign)  
NATIONAL BENEFITS CENTER DIRECTOR**

# Attachment 1



U.S. Citizenship  
and Immigration  
Services

Dear Prospective Adoptive Parent:

You submitted your Form I-800A to the \_\_\_\_\_ on \_\_\_\_\_. We are unable to accept your application for one or more of the following reasons:

- The enclosed Form I-800A, did not include the original signature of the applicant as required in Part 4. Please resubmit the application package with the original signature of the applicant in Part 4 to the USCIS address below.
- You indicated on Form I-800A that you were married, however, the application did not include the signature of the identified spouse as required in Part 4. Please resubmit the application package, with the signature of your spouse in Part 4 of the application, to the USCIS address below.
- The enclosed Form I-800A, Supplement 1, *Listing of Adult Member of the Household*, did not include the original signature of the applicant and/or adult member of the household as required in Part 2. Please resubmit the application package with the original signature of the applicant and the adult member of the household in Part 2 of Form I-800A, Supplement 1 to the USCIS address below.
- The country identified on Form I-800A is not a Hague Adoption Convention country. As such, you are not eligible to file an I-800A. **If you intend to adopt a child from a country other than a Hague Adoption Convention country, see the instructions provided on Form I-600A, *Application for Advance Processing of Orphan Petition*.**
- The enclosed Form I-800A is missing pages. Please resubmit ensuring that pages 1-9 are submitted with the appropriate fee and original signature(s) to the USCIS address below.
- The check amount is incorrect, or has not been provided. The correct filing fee is \$670.00. Each prospective adoptive parent and adult member of the household, 18 years of age or older, residing in the U.S. must also include an additional \$80.00 biometrics fee. Please review the Form I-800A instructions for additional details. Please resubmit the application package with the appropriate fees to the USCIS address below.
- You provided a biometrics fee for an adult member of the household without a signed and completed Form I-800A, Supplement 1.
- The enclosed Form I-800A, Supplement 3, *Action Requested on Your Previously Approved Form I-800A*, did not include the original signature of the applicant as required in Part 3. Please resubmit the application package with the original signature of the applicant in Part 3 to the USCIS address below.
- The enclosed Form I-800A, Supplement 3, *Action Requested on Your Previously Approved Form I-800A*, did not include the original signature of the identified spouse as required in Part 3. Please resubmit the application package with the original signature of the identified spouse in Part 3 to the USCIS address below.

You submitted Form I-800A, Supplement 3, *Action Requested on Your Previously Approved Form I-800A*.  
On the Form I-800A, Supplement 3 you indicate that

- You are requesting a new approval based on changes in circumstances
- You are requesting a second or subsequent extension of your approved Form I-800A
- You are requesting a second or subsequent change in a Convention country
- You are requesting a duplicate approval notice.

Each of the actions above requires the payment of an additional fee. The check amount is incorrect, or has not been provided. The fee for each action is \$340.00. Please resubmit the application with the appropriate fee to the USCIS address below.

Please resubmit your application to:

U.S. Citizenship and Immigration Services

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Sincerely,

U.S. Citizenship and Immigration Services

## Attachment 2



U.S. Citizenship  
and Immigration  
Services

Dear Prospective Adoptive Parent:

We thank you for filing your Form I-800A, *Application for Determination of Suitability to Adopt a Child from a Convention Country* with U.S. Citizenship and Immigration Services (USCIS). We realize that this is the start of many new beginnings for you and your family, and we hope to make your journey through the immigration process as straightforward as possible.

The *Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption* (Hague Adoption Convention) entered into force with respect to the United States on April 1, 2008. USCIS has taken this opportunity to provide a more streamlined procedure for filing and processing Form I-800A and Form I-800, *Petition to Classify Convention Adoptee as an Immediate Relative* for Hague Adoption Convention adoptions. In the near future, prospective adoptive parent(s) will be required to file all I-800A applications at one centralized mailing address for processing by the National Benefits Center (NBC). In the interim, prospective adoptive parents must file the Form I-800A with their local field office with the required fees. The local USCIS field office will process the filing and biometrics fees, and then forward the application to the NBC for completion.

In order to facilitate a smooth transition, we would like to provide you with some important information to ensure that you know what to expect while going through this important process.

Once your local USCIS office has initially processed your Form I-800A application fees, the application will be forwarded to the NBC. NBC will then send you a formal acknowledgement notice, which will contain three (3) USCIS reference numbers: an account number, a receipt number, and a case number. These are important reference numbers for case tracking.

Once your Form I-800A has been received at the NBC, the NBC will then schedule you (and your spouse if married), and any adult member(s) of the household you identified on Form I-800A, Supplement 1, *Listing of Adult Member of the Household*, for a biometrics (fingerprint) appointment at your local USCIS Application Support Center. You will receive a biometrics appointment notice, which will provide instructions on when and where to have your fingerprints taken. If your Form I-800A was accepted without the required biometric fingerprinting fee(s), the NBC will send you a request for the fee. NBC will be unable to schedule a biometrics appointment until the biometrics fee is submitted to the local USCIS office.

If the NBC determines that additional information or a biometrics fingerprinting fee is needed in order to complete your I-800A application, NBC will send you a request for evidence. The request for evidence will provide detailed instructions on what evidence is needed and where to submit the requested information.

Please note that once your Form I-800A has been forwarded to the NBC, the local USCIS office will no longer be able to provide specific information regarding the status of the application. If you have any questions regarding your application, please contact the NBC at:

**NBC.Hague@dhs.gov or 1-877-424-8374**

When inquiring about your application, please include your USCIS account number, receipt number and case number.

Thank you so much for your cooperation and patience while we perfect our processes.

U.S. Citizenship and Immigration Services

## Attachment 3



U.S. Citizenship  
and Immigration  
Services

Dear Prospective Adoptive Parent,

You filed Form I-600A, *Application for Advance Processing of Orphan Petition* on \_\_\_\_\_.

The *Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption* (Hague Adoption Convention) entered into force with respect to the United States on April 1, 2008. The Hague Adoption Convention's entry into force created significant changes in intercountry adoption cases, which occur between Convention countries. As of this date, there are 75 nations where the Hague Adoption Convention is in force.

In order to adopt a child from a Convention country, prospective adoptive parents must first file Form I-800A, *Application for Determination of Suitability to Adopt a Child from a Convention Country*, and not Form I-600A. Cases under the Hague Adoption Convention are governed by different regulations than those which govern orphan cases. Thus, USCIS is unable to accept I-600A applications in lieu of I-800A applications. Any I-600A application, filed on or after April 1, 2008 on behalf of a prospective adoptive parent seeking to adopt in a Convention country, must be rejected. Similarly, a Form I-600A approval cannot be used to support Form I-800, *Petition to Classify Convention Adoptee as an Immediate Relative*.

- In reviewing your I-600A application, it is noted that you do not intend to adopt a child from a Convention country. If you decide to adopt a child from a Convention country at a later time, you may not use your Form I-600A approval to support Form I-800 and will need to file a Form I-800A with the appropriate fee.
- In reviewing your I-600A application, it is noted that you do not list a specific country from which you intend to adopt. This notice is to inform you that this office will continue to process your I-600A application as if you intend to adopt from a non-Convention country. Please be advised that your Form I-600A fee cannot be transferred to a Form I-800A. If you decide to pursue an adoption from a Convention country, you will be required to file an I-800A with the appropriate fee.
- In reviewing your I-600A application, it is noted that you are planning to adopt from a country where the Hague Adoption Convention is in force. In order to pursue an adoption from this country, you must file a Form I-800A with the appropriate fee.

For more information about the Hague Adoption Convention, including the list of Convention countries, please refer to the following web sites: [www.uscis.gov](http://www.uscis.gov) and [www.travel.state.gov](http://www.travel.state.gov).

Sincerely,

U.S. Citizenship and Immigration Services

## HAGUE ADOPTION CONVENTION COUNTRIES \*

Number of countries party to the Hague Convention: 75

Number of countries with signatory status only; *NOT* Hague countries: 2 (Ireland, Russia)

	<i>Country</i>	<i>Dated Signed</i>	<i>Entry into Force</i>
1.	Albania	2000	2001
2.	Andorra	1997	1997
3.	Armenia		2007
4.	Australia	1998	1998
5.	Austria	1998	1999
6.	Azerbaijan		2004
7.	Belarus	1997	2003
8.	Belgium	1999	2005
9.	Belize		2006
10.	Bolivia	2000	2002
11.	Brazil	1993	1999
12.	Bulgaria	2001	2002
13.	Burkina Faso	1994	1996
14.	Burundi		1999
15.	Cambodia		2007
16.	Canada	1994	1997
17.	Chile	1999	1999
18.	China	2000	2006
19.	Colombia	1993	1998
20.	Costa Rica	1993	1996
21.	Cuba		2007
22.	Cyprus	1994	1995
23.	Czech Republic	1999	2000
24.	Denmark	1997	1997
25.	Dominican Republic		2007
26.	Ecuador	1994	1996
27.	El Salvador	1996	1999
28.	Estonia		2002
29.	Finland	1994	1997
30.	France	1995	1998
31.	Georgia		1999
32.	Germany	1997	2002
33.	Guatemala		2003
34.	Guinea		2004
35.	Hungary	2004	2005
36.	Iceland		2000
37.	India	2003	2003

\*HCCH: Status Table, available at [http://www.hcch.net/index\\_en.php?act=conventions.status&cid=69](http://www.hcch.net/index_en.php?act=conventions.status&cid=69) (last visited March 27, 2008).

	<i>Country</i>	<i>Dated Signed</i>	<i>Entry into Force</i>
38.	Ireland	1996	Not in force
39.	Israel	1993	1999
40.	Italy	1995	2000
41.	Kenya		2007
42.	Latvia	2002	2002
43.	Lithuania		1998
44.	Luxembourg	1995	2002
45.	Madagascar	2004	2004
46.	Mali		2006
47.	Malta		2005
48.	Mauritius		1999
49.	Mexico	1993	1995
50.	Moldova		1998
51.	Monaco		1999
52.	Mongolia		2000
53.	Netherlands	1993	1998
54.	New Zealand		1999
55.	Norway	1996	1998
56.	Panama	1999	2000
57.	Paraguay		1998
58.	Peru	1994	1996
59.	Philippines	1995	1996
60.	Poland	1995	1995
61.	Portugal	1999	2004
62.	Romania	1993	1995
63.	Russia	2000	Not in force
64.	San Marino		2005
65.	Slovakia	1999	2001
66.	Slovenia	2002	2002
67.	South Africa		2003
68.	Spain	1995	1995
69.	Sri Lanka	1994	1995
70.	Sweden	1996	1997
71.	Switzerland	1995	2003
72.	Thailand	2004	2004
73.	Turkey	2001	2004
74.	United Kingdom	1994	2003
75.	United States	1994	2007
76.	Uruguay	1993	2004
77.	Venezuela	1997	1997

\*HCCH: Status Table, available at [http://www.hcch.net/index\\_en.php?act=conventions.status&cid=69](http://www.hcch.net/index_en.php?act=conventions.status&cid=69) (last visited March 27, 2008).



U.S. Citizenship  
and Immigration  
Services

## Interoffice Memorandum

To: Field Leadership

From: Lori Scialabba   
Associate Director  
Refugee, Asylum & International Operations Directorate

Donald Neufeld   
Acting Associate Director  
Domestic Operations

Date: JUL 14 2008

Re: Acceptance of an I-600A and I-600 after 4/1/2008 for a child habitually resident in a Hague Adoption Convention country – adoptions and grants of custody obtained before April 1, 2008

This memorandum contains further information concerning adoptions completed prior to April 1, 2008 for a child habitually residing in a Convention country. The information following will clarify when Form I-600A/I-600 can still be filed and should be considered along with the previously issued memorandum titled, *Preliminary Guidance for USCIS Field Offices regarding Implementation of the Hague Intercountry Adoption Convention*, issued March 28, 2008.

### I. Background

The United States signed the *Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption* (Hague Adoption Convention) on March 31, 1994. In October 2000, Congress passed the Intercountry Adoption Act (IAA), Pub. L. 106-279. Section 302 of the IAA provided new section 101(b)(1)(G) of the Immigration and Nationality Act (Act). As a result of the Hague Adoption Convention and the IAA, USCIS published an Interim Rule amending relating sections of 8 CFR. 72 *Fed. Reg.* 56,832. The Hague Adoption Convention

**Acceptance of an I-600A and I-600 after 4/1/2008 for a child habitually resident in a Hague country -- adoptions and grants of custody obtained before April 1, 2008**

Page 2

entered into force for the United States on April 1, 2008. 72 *Fed. Reg.* 71,730. The IAA and the Interim Rule became effective on the same day. *Cf.* 8 CFR 204.300. On March 28, 2008, a memorandum titled *Guidance for USCIS Field Offices regarding Implementation of the Hague Intercountry Adoption Convention* was issued to all field offices describing the process for accepting applications under the Hague Adoption Convention. This guidance did not address instructions on the filing procedures for a prospective adoptive parent who adopted a child prior to April 1, 2008 in what is now a Convention country and whose case was not otherwise "grandfathered" by the filing of an I-600A or I-600 prior to April 1, 2008. This memorandum is to provide clarification to the field on this issue.

A "Convention adoptee" is defined as "a child habitually resident in a Convention country who is eligible to immigrate to the United States on the basis of a Convention adoption." 8 CFR 204.301. Furthermore, a "Convention adoption" is defined as an "adoption, on or after the Convention effective date, of an alien child habitually resident in a Convention country by a U.S. citizen habitually resident in the United States, when in connection with the adoption the child has moved, or will move, from the Convention country to the United States." *Id.* The Convention effective date is April 1, 2008. An adoption that was completed before April 1, 2008, is *not* a Convention adoption. The Hague Convention Adoption Rules at 8 CFR 204.300, *et seq.*, therefore, do not apply, in the case of a child adopted before April 1, 2008, even if the adoptive parents did not file a Form I-600A or Form I-600 before April 1, 2008.

## **II. Clarification of prior Guidance**

### **A. Adoptions completed before April 1, 2008**

As described above, a Convention adoption means an adoption that occurred on or after April 1, 2008, the effective date of the U.S. implementation of the Hague Adoption Convention. A prospective adoptive parent who plans to pursue a Convention adoption must follow the Hague Adoption Convention process, including the filing of Form I-800A and Form I-800, in any case in which the child is adopted on or after April 1, 2008, *unless* the adoptive parents filed a Form I-600A or Form I-600 before April 1, 2008.

In most cases, a Form I-600A<sup>1</sup> that indicates that the prospective adoptive parent plans to adopt from a Convention country should be rejected if the adoption occurred or will occur on or after April 1, 2008. The guidance issued on March 28, 2008 states, "Forms I-600A and I-600 may not be filed for a child who habitually resides in a Convention country on or after April 1, 2008."<sup>2</sup>

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<sup>1</sup> Form I-600A also includes Form I-600 filed concurrently with Form I-600A.

<sup>2</sup> The guidance issued on March 28, 2008 does not preclude the filing of Form I-600 on behalf of a child habitually residing in a Convention country after April 1, 2008 if Form I-600A was filed prior to April 1, 2008.

**Acceptance of an I-600A and I-600 after 4/1/2008 for a child habitually resident in a Hague country – adoptions and grants of custody obtained before April 1, 2008**

Page 3

Additionally, if the prospective adoptive parent files Form I-600A and indicates that he/she will pursue an adoption from a Convention country, field offices have been instructed to reject the application.

However, full and final adoptions that were completed prior to the Convention effective date of April 1, 2008, are not Convention adoptions. Therefore, prospective adoptive parents who adopted a child prior to April 1, 2008, are still eligible to file under the orphan process, even if they did not file an initial Form I-600A or Form I-600 prior to April 1, 2008. For this reason, field offices should continue to accept Form I-600A and Form I-600 on behalf of a child who was adopted prior to April 1, 2008 in a Convention country.

***B. Custody granted before April 1, 2008, but adoption not completed***

Some prospective adoptive parents may have obtained some form of legal custody other than adoption before April 1, 2008, with the actual adoption occurring on or after April 1, 2008. Any adoption completed on or after April 1, 2008, is a Convention adoption. 8 CFR 204.301. The Hague Convention Adoption rules apply to any adoption, on or after April 1, 2008, of a child from a Convention country *unless* a Form I-600A or Form I-600 was filed before April 1, 2008. Thus, Form I-600A/I-600 should not be accepted if the prospective adoptive parent only had legal custody of the child prior to April 1, 2008, but completed the adoption (or intends to adopt) on or after April 1, 2008.

Cases involving a grant of custody before April 1, 2008, with the adoption completed on or after April 1, 2008, present a special concern with respect to 8 CFR 204.309(b)(1). This provision requires denial of a Form I-800 if the prospective adoptive parents adopted the child, or acquired custody for purposes of adoption, before the provisional approval of the Form I-800. This provision, however, was not in force before April 1, 2008. A prospective adoptive parent who obtained custody before this date would not have been under any obligation to defer the acquisition of custody. If a Form I-800 petitioner establishes, therefore, that he or she obtained custody for purposes of adoption *before* April 1, 2008, USCIS will not deny the Form I-800 based solely on the basis of a regulation, 8 CFR 204.309(b)(1), that was not in force at the time of the grant of custody. The child's adoption on or after April 1, 2008, would still, however, be a Convention adoption. For this reason, even if custody was granted before April 1, 2008, the prospective adoptive parents must defer completion of the adoption until after provisional approval of the Form I-800.

Note that "custody for purposes of adoption" is defined in 8 CFR 204.301, and requires a formal grant of custody by the court or administrative entity with authority to make the formal grant. A proposed adoption placement or "match" that did not include a formal grant of custody is not within the scope of the definition. Thus, if there was an informal match, but not a formal grant of

**Acceptance of an I-600A and I-600 after 4/1/2008 for a child habitually resident in a Hague country – adoptions and grants of custody obtained before April 1, 2008**  
**Page 4**

custody before April 1, 2008, then a grant of custody on or after April 1, 2008, would be contrary to 8 CFR 204.309(b)(1), unless USCIS has provisionally approved the Form I-800.

**III. Implementation**

In order to assist field offices in screening these applications and to address Forms I-600A/I-600 that have been erroneously rejected, the previously issued I-600A rejection notice has been updated to advise parents to resubmit Form I-600A along with a copy of the full and final adoption decree and a copy of the rejection notice.

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**U.S. Citizenship  
and Immigration  
Services**

Dear Prospective Adoptive Parent,

You filed Form I-600A, *Application for Advance Processing of Orphan Petition* on \_\_\_\_\_.

The *Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption* (Hague Adoption Convention) entered into force with respect to the United States on April 1, 2008. The Hague Adoption Convention's entry into force created significant changes in intercountry adoption cases, which occur between Convention countries. As of this date, the Hague Adoption Convention is in force in 75 countries.

In order to adopt a child from a Convention country, prospective adoptive parents must first file Form I-800A, *Application for Determination of Suitability to Adopt a Child from a Convention Country*, and not Form I-600A. Cases under the Hague Adoption Convention are governed by different regulations than those which govern orphan cases. Thus, USCIS is unable to accept I-600A applications in lieu of I-800A applications for Convention adoptions. Any I-600A application, filed on or after April 1, 2008 on behalf of a prospective adoptive parent seeking to adopt in a Convention country, must be rejected. Similarly, a Form I-600A approval cannot be used to support Form I-800, *Petition to Classify Convention Adoptee as an Immediate Relative*.

- In reviewing your I-600A application, it is noted that you do not intend to adopt a child from a Convention country. If you decide to adopt a child from a Convention country at a later time, you may not use your Form I-600A approval to support Form I-800 and will need to file a Form I-800A with the appropriate fee.
- In reviewing your I-600A application, it is noted that you do not list a specific country from which you intend to adopt. This notice is to inform you that this office will continue to process your I-600A application as if you intend to adopt from a non-Convention country. Please be advised that your Form I-600A fee cannot be transferred to a Form I-800A. If you decide to pursue an adoption from a Convention country, you will be required to file an I-800A with the appropriate fee.
- In reviewing your I-600A application, it is noted that you are planning to adopt from a country where the Hague Adoption Convention is in force. Your application is being rejected. In order to pursue an adoption from this country, you must file a Form I-800A with the appropriate fee.

**If you are filing Form I-600A or Form I-600 for a child from a Convention Country, and believe you are eligible to do so because you completed a full and final adoption of the child before April 1, 2008, please resubmit your application or petition along with a copy of the full and final adoption decree and a copy of this notice. Note that, for this purpose, a grant of custody *other than an adoption* before April 1, 2008, does not permit you to file Form I-600A or Form I-600.**

For more information about the Hague Adoption Convention, including the list of Convention countries, please refer to the following web sites: [www.uscis.gov](http://www.uscis.gov) and [www.travel.state.gov](http://www.travel.state.gov).

Sincerely,

U. S. Citizenship and Immigration Services



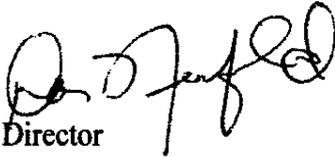
U.S. Citizenship  
and Immigration  
Services

JAN 22 2009

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## Memorandum

TO: Field Leadership

FROM: Donald Neufeld   
Acting Associate Director  
Domestic Operations Directorate

Lori Scialabba   
Associate Director  
Refugee, Asylum and International Operations Directorate

SUBJECT: Procedural Guidance for Processing "Grandfathered" Forms I-600A, Application for Advance Processing of Orphan Petition Filed Prior to April 1, 2008

### Purpose:

This memorandum provides guidance for the acceptance and adjudication of a second Form I-600A, *Application for Advance Processing of Orphan Petition*, commonly referred to as a "Grandfathered" Form I-600A. In this instance, a "grandfathered" Form I-600A is used to extend the validity of an approved Form I-600A that was filed prior to April 1, 2008 when the one-time, no fee extension is expiring. This memorandum offers procedural guidance in connection with the policy memorandum titled *Intercountry adoption under the Hague Adoption Convention and the USCIS Hague Adoption Convention rule at 8 CFR 204, 213a, and 322* dated October 31, 2008. Guidance on the notification of approval and the transfer of approved cases to the National Visa Center (NVC) procedures are also provided. For Secure Information Management Service (SIMS) pilot participating offices- to include Newark, New Jersey; Memphis, Tennessee; Mexico City, Mexico; Frankfurt, Germany; and Bangkok, Thailand- this memorandum provides guidance on case intake and management using SIMS.

### Background:

In keeping with the August 7, 2007, memorandum titled *Extensions of Application for Advance Processing of Orphan Petition, Form I-600A*, the current policy does not allow an applicant to file a Form I-600A for the adoption of a child who is habitually resident in a Hague Convention country (Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption) filed on or after April 1, 2008, the date on which the Convention entered

Procedural Guidance for Processing “Grandfathered” Forms I-600A, Application for Advance Processing of Orphan Petition Filed Prior to April 1, 2008  
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into force for the United States. Concern has arisen that the prospective adoptive parent(s) (PAP) may not receive an adoption placement before the expiration of the approval of a Form I-600A, which was filed before April 1, 2008, due to extended wait times for adoption referrals in some countries. USCIS is extending the “grandfathered” status of a Form I-600A that was originally filed before April 1, 2008, to include a new Form I-600A filed after April 1, 2008, if all of the following requirements are met:

- (a) the new Form I-600A is filed *before* the expiration of the approval of a previous Form I-600A (including an extension of a prior approval);
- (b) the previous Form I-600A that is about to expire was itself filed before April 1, 2008; and,
- (c) no Form I-600, *Petition to Classify Orphan as an Immediate Relative*, has been filed on the basis of the previous Form I-600A that was filed before April 1, 2008.

If this later filed Form I-600A is approved, and the PAP receives an adoption placement while the approval is still valid (including one possible extension), the PAP will be able to complete their case by filing a Form I-600 under the orphan rules. This arrangement will give them an additional period, potentially as long as an additional three years, to receive a placement and file a Form I-600, rather than having to begin the Hague Adoption Convention process. While USCIS has determined that the case can be processed under the orphan rule, and thereby be considered a “grandfathered” application, the sending country may at any time choose to refuse completion of the adoption if the PAP did not comply with Hague Adoption Convention requirements.

### **Field Guidance:**

Effective as of the date of this memorandum, USCIS domestic and international field offices are directed to begin accepting second, “grandfathered” Forms I-600A, with appropriate fee(s), upon receipt of all the required initial evidence. The applications should continue to be processed in compliance with the current Standard Operating Procedure (SOP), policy memoranda, and local policy. While applying the current procedures, the additional steps as outlined below are to be followed.

#### *Accepting an Application as Properly Filed*

##### *Requirements to accepting an application for an adoption in a Hague Convention country*

In addition to the initial evidence that is currently mandatory for the Form I-600A to be accepted, the applicant filing a second “grandfathered” Form I-600A *must* establish he/she meets the requirements listed in the background section above that allows the filing of the application. This is accomplished by submitting evidence that demonstrates the applicant has a valid “grandfathered” case. Such evidence may include, but is not limited to a copy of the:

- Valid *Form I-600A Approval Notice* for a Form I-600A filed prior to April 1, 2008 (Form I-171H, or Form I-797c),
- Approval notice of extension of a Form I-600A filed prior to April 1, 2008,
- Acknowledgement Notice for a Form I-600A filed prior to April 1, 2008 and/or
- Fee receipt.

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It is also necessary to ascertain that the total number of corresponding Forms I-600 have not been filed. If the family has elected to file the Form I-600 overseas, it is necessary for the PAP to submit a written statement, signed under penalty of perjury, attesting that a Form I-600 has not yet been filed on the basis of the approved Form I-600A application. Where the original approval of Form I-600A (filed prior to April 1, 2008) has been issued for more than one child, the PAP would attest that the corresponding number of Forms I-600 had not yet been filed. For example, if the originally grandfathered Form I-600A was for the adoption of 3 children, and 2 Forms I-600 had been filed, the PAPs should indicate that, of the 3 Forms I-600 that could have been filed, two have been, and this new Form I-600A is for the remaining additional child. Also, USCIS must receive the properly filed application no more than 90 days before the expiration date of the approval of the one-time “extension” of the approved Form I-600A and *before* the validity expires.

A new Form I-600A that will be grandfathered on the basis of a prior Form I-600A may not seek to increase the total number of children to be adopted. Nor, in seeking an extension of the approval of a prior Form I-600A that is grandfathered, may the PAP(s) increase the total number of children to be adopted.

The only exception to this limit is if the applicant seeks to adopt a birth sibling of a child who the applicant has already adopted, and seeks to adopt the birth sibling at the same time as the adoption of a child whose Form I-600A is grandfathered. However, if a birth sibling is located after the total number children on the grandfathered Forms I-600A have actually immigrated, the birth sibling’s immigration would be governed by the Hague Adoption Convention and 8 CFR 204 subpart C.

**EXAMPLE:** Applicant was approved to adopt three children on a grandfathered I-600A. Applicant has filed Forms I-600 for two children, Anna and Ben, and they have immigrated. Applicant then files a new Form I-600A to “grandfather” the one remaining child covered by the earlier Form I-600A. Applicant goes abroad to adopt Chris, whose case is grandfathered. While abroad, David is located. David is Chris’s birth sibling, and Applicant wants to adopt David and Chris on the same trip. Because David is Chris’s birth sibling, and will be adopted on the same trip, Applicant may have the Form I-600A approval amended to allow one additional child.

**EXAMPLE:** Applicant was approved to adopt three children on a grandfathered I-600A. Applicant has filed Forms I-600 for two children, Anna and Ben, and they have immigrated. Applicant then files a new Form I-600A to “grandfather” the one remaining child covered by the earlier Form I-600A. Applicant goes abroad to adopt Chris, whose case is grandfathered. While abroad, David is located. David is not related to Chris, but is Anna’s birth sibling, and Applicant wants to adopt David and Chris on the same trip. Because David is Anna’s birth sibling, and will be adopted on the same trip, Applicant may have the Form I-600A approval amended to allow one additional child.

**EXAMPLE:** Applicant was approved to adopt three children on a grandfathered I-600A. Applicant has filed Forms I-600 for two children, Anna and Ben, and they have immigrated.

Applicant then files a new Form I-600A to “grandfather” the one remaining child covered by the earlier Form I-600A. Applicant goes abroad to adopt Chris, whose case is grandfathered. Chris immigrates. After all three children have immigrated, David is located. David is a birth sibling of one of the children already adopted. Applicant has already filed the total number of Forms I-600 permitted, and all of those cases are completed. For this reason, David’s adoption and immigration are governed by the Hague Adoption Convention and the Hague Adoption Convention procedures must be followed in David’s case.

USCIS is aware that the June 20, 2008, policy memo on post-approval changes to a Form I-600A permits an applicant to increase the number of children to be adopted. This policy memo dealt with Forms I-600A in general and not in relation to the transition to the Hague Adoption Convention process. As a general principle, the number of children included in a Form I-600A approval may be increased, but the number of children whose cases will be *grandfathered* cannot be increased.

#### *Received in the Field Office or by Mail*

Field offices should continue to accept Form I-600A applications filed for adoptions in countries not participating in the Hague Adoption Convention in accordance with the existing SOP, policy memoranda and local policy. This also applies to applications that do not indicate a country for adoption. For applications that indicate an adoption in a Hague Convention country, the Immigration Services Officer should consult an orphan adjudications officer for a determination on acceptance of the application.

#### *Processing Once Accepted*

Once it has been confirmed that the case is eligible to be “grandfathered,” the fee receipt should be issued with a clear notation that the fee was taken on a “grandfathered” Form I-600A. Place the coversheet showing the case’s designation as “grandfathered” on top of the application packet (Attachment A). Forward all cases of this type to the Orphan Unit for clerical processing separate from other Non-Hague Form I-600A applications. The “grandfathered” applications must be filed at the field office having jurisdiction over the applicant’s current place of residence.

#### *Fingerprint Fees and Scheduling*

Current SOP, policy memoranda, and local policy should be followed when accepting fingerprint fees and scheduling fingerprint appointments for applicants and adult household members.

#### *Receiving the Application into the Orphan Unit and Creating a Work Folder*

Review the application and documentation to validate that evidence was submitted demonstrating the application is “grandfathered.” This review is to ensure the documentation is present, not for authentication. Such evidence includes but is not limited to a copy of the:

- Valid *Form I-600A Approval Notice* for a Form I-600A filed prior to April 1, 2008 (Form I-171H, or Form I-797c),
- Approval notice of extension of a Form I-600A filed prior to April 1, 2008,
- Acknowledgement Notice for a Form I-600A filed prior to April 1, 2008 and/or
- Fee receipt.

A written statement, signed under penalty of perjury, attesting to the fact that a Form I-600 has not yet been filed *must* be included in the Form I-600A package. If evidence of a previously approved (pre-April 1, 2008), valid Form I-600A or the statement concerning the Form I-600 filing is not present, a Request for Evidence (RFE) should be issued granting 30 days for response. Follow current policies regarding RFE issuance.

If the PAP has moved to a new jurisdiction, coordinate with the previous field office having jurisdiction to forward the corresponding work folder or A-File, when necessary. Once it has been established that the application meets the requirements for grandfathering, write the word "grandfathered" in large print across the top of the front page of the Form I-600A. Create a work folder following SOP guidelines, securing the grandfathered coversheet to the front, outside cover of the work folder. Create and send to the PAP an Acknowledgement Notice (Attachment B) clearly identifying the application as "grandfathered." Transfer files to the supervisor of the Orphan Unit or an orphan adjudication officer under separate cover from Non-Hague country I-600As for assignment and adjudication.

#### *Adjudicating Grandfathered Form I-600A cases*

Although the essential purpose of this filing is to maintain the current approval of the pre-April 1, 2008 Form I-600A, it is important to remember that this is a "new" application. The "grandfathered" Form I-600As are essentially "regular" Form I-600A applications, and should be adjudicated accordingly. This includes adjudication based on the home study. The home study must comply with the regulations set forth in the Orphan Process. In accordance with 8 CFR 204.3, the home study may be submitted up to one year after the date of filing the Form I-600A. No action can be taken on the application until the home study is received in the field office. However, certain additional elements must be present for approval:

1. The adjudicator must ensure that the PAP has a valid approval for a Form I-600A filed *before* April 1, 2008 *and*
2. A written statement, signed under penalty of perjury, stating that the applicant has not filed the number of Forms I-600 that correspond to the number of children for which the original Form I-600A was approved must be present.

#### *Approval*

Once eligibility has been established, create a Form I-171H (or Form I-797c) for Form I-600A Approval Notice, clearly identifying that the approval is for a "grandfathered" case. In addition, create a Visa 37 that clearly identifies the case as "grandfathered." **The validity period is *not* subject to the date of approval of the newly filed I-600A. The 18-month validity period will begin on the date of expiration of the approval of the original Form I-600A "extension."** For example, if the validity of approval of the original application expired on May 15, 2008, the "extension" validity of the application began on May 16, 2008 with an expiration date of November 15, 2009. The validity of the "grandfathered" Form I-600A would, therefore, begin on November 16, 2009 (upon expiration of the "extension"). Please see examples of each document in the attachments section of this memorandum (Attachments C and D). In addition to a copy of the Form I-171H (or Form I-797c) and the evidence of notification, field offices are directed to retain a copy of the "grandfathered" Form I-600A. The SOPs have been

updated to reflect the revised guidelines concerning copy retention and should be inserted in all printed versions of SOPs (Attachment E).

#### *Requesting Evidence*

As stated above, if it is found that evidence establishing "grandfather" eligibility is not present, a RFE should be issued allowing a 30 day response time. RFEs for all other evidence should be issued according to the SOP, current memoranda and local policy. This includes response time granted.

#### *Denial*

If a response to a RFE requesting evidence to establish that the case is "grandfathered" has not been received within the time allotted, the application should be denied in accordance with 8 CFR 103.2(b)(13). According to existing procedures, however, if the application is not eligible for "grandfathering," it should be denied according to 8 CFR 204.300(b). Reasons for denial may be:

- Original Form I-600A was filed *after* April 1, 2008,
- Request for Extension of the Original Form I-600A was not timely filed,
- New "Grandfathered" Form I-600A was not timely filed, and/or
- The total number of Forms I-600 permitted under the original Form I-600A have already been filed.

Applications that are otherwise ineligible should be denied according to the SOP, current memoranda and local policy.

#### *NVC Notification*

Prepare the approved application and all supporting documents including the home study for forwarding to the NVC as directed in the SOP, policy memoranda and local policy. Update the NVC notification cover sheet to indicate the case is a "grandfathered" case (Attachment F). This is to be placed on top of each individual case being transferred to the NVC. Transfer the case to the NVC in accordance with the October 23, 2008 memorandum titled *Notification to the Department of State of Intercountry Adoption Approvals*.

#### *Statistical Reporting and Tracking*

All "grandfathered" Forms I-600A will be reported on line 134C – I-600 Relative Petition for Orphan – which reports immigrant classification petitions for orphans and I-600A petitions for advance processing of orphans – of the PAS report. Field offices are directed to track the "grandfathered" cases, along with all changes to the approvals, in an electronic spreadsheet.

#### *Case Management for SIMS Pilot Offices*

"Grandfathered" cases will be managed in SIMS in the same manner as "regular" Form I-600A cases with the following changes:

- ✓ During case intake, the Priority designation at the application level must be set to "Grandfathered" on the Application Tab.

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- ✓ It is necessary to manually choose the “grandfathered” checklist in the Check List sub-tab for the application.
- ✓ Although SIMS automatically generates the Form I-600A checklist for SIMS users, that list should not be used for this application. It should remain blank, and all updates should be made to the manually generated checklist.

### **Helpful Links:**

*SIMS User Job Aid:*

<https://dhsonline.dhs.gov/portal/jhtml/dc/sf.jhtml?doid=115717>

*Current FAQ Regarding the Policy:*

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=b1131c48aabfc110VgnVCM1000004718190aRCRD&vgnnextchannel=68439c7755cb9010VgnVCM10000045f3d6a1RCRD>

*Hague Convention Countries: (This list is subject to change as new countries join the Hague Adoption Convention.)*

[http://www.travel.state.gov/family/adoption/convention/convention\\_4197.html](http://www.travel.state.gov/family/adoption/convention/convention_4197.html)

### **Contact Information:**

Any questions regarding the information contained in this memorandum should be directed through appropriate channels to USCIS Headquarters Office of Field Operations.

Attachments (6)

Distribution:

Regional Office Directors  
District Office Directors (Including International)  
Field Office Directors  
National Benefits Center Director

# Attachments

# Attachment A



U.S. Citizenship  
and Immigration  
Services

## Grandfathered Form I-600A

Name of Applicant: \_\_\_\_\_

Date of Filing of Original I-600A: \_\_\_\_\_

Date of Approval of Original I-600A: \_\_\_\_\_

Date of Request for Extension of Original I-600A: \_\_\_\_\_

Date of Expiration of Extension of Original I-600A: \_\_\_\_\_

Has an I-600 been filed? YES NO

# Attachment B

U.S. Department of Homeland Security  
842 Virginia Run Cove  
Memphis, TN 38122



U.S. Citizenship  
and Immigration  
Services

# International Adoption

Name of Petitioner: John Quincy Smith Date of Receipt: 11/10/2009

## **\*\* Grandfathered Form I-600A \*\***

The Memphis USCIS Office Adoptions Unit has received your *Application for Advance Processing of Orphan Petition, Form I-600A*. Please read the following for direction and processing times. This letter will serve as **proof of receipt** and should be retained as it is intended to be a reference tool.

- If all required documents (birth certificates, marriage certificate, proof of termination of prior marriages) have not been submitted with your application, we will notify you by mail to submit these documents.
- If we have not received a home study from your agency, or your home study provider, your case is considered pending. We **must** receive a home study within **one year** of filing (date of receipt by this office is listed above) or your application will be terminated. **Your home study must be completed before you can appear for fingerprinting. Your original home study should be sent by your agency or preparer directly to the USCIS Office in Memphis, TN. You will need a copy of the home study when you appear for fingerprinting.**
- The regulations at 8 CFR 204.3(c)(3) require the fingerprinting of the prospective adoptive parent(s) and any adult members of the household. FBI fingerprint responses are valid for a period of 15 months. A Form I-600A or I-600 can not be approved unless the 15-month validity period of the FBI fingerprint responses has not expired. In order to best utilize the 15-month FBI fingerprint check period of validity, the prospective adoptive parent(s) and adult members of the household **may not be fingerprinted until the home study is completed.**
- The enclosed "Orphan Petition Fingerprint Referral Notice" may be presented at the nearest Application Support Center (ASC) **ONLY AFTER YOUR HOME STUDY HAS BEEN COMPLETED.** As soon as you receive a copy of the completed home study, you and the adult members of the household may appear at the appropriate ASC in accordance with the instructions on the notice. Generally, fingerprint clearance is received from the FBI within 10 days from the date fingerprinted. The original home study should be sent by your agency or preparer directly to the USCIS office in Memphis, TN.
- **Important NOTE:** If you have **ever** had an arrest for any reason, at any time, anywhere, *even if you were told it was removed from your record*, the arrest must be addressed in the home study and you must provide the original court certified copy of the disposition of the arrest. Also provide a certified copy of the arrest record from the arresting agency.
- **Once ALL requested documentation is submitted, the average processing time for completion of your application is approximately 45 to 60 days.** Upon completion of processing, if your case has been approved, you will receive Form I-171H (Notice of Favorable Determination). If you are travelling to a foreign country to file your Form I-600, we will notify the overseas Embassy or USCIS office to inform them of your approval. If you are not travelling or if you will be filing your Form I-600 at the Memphis USCIS office, your application will remain in our office awaiting receipt of the Form I-600.

We look forward to assisting you in the future.  
<http://www.memadoption@dhs.gov>  
<http://uscis.gov>

Memphis CIS Office  
Adoptions Unit

# Attachment C



**U.S. Citizenship  
and Immigration  
Services**

**U.S. DEPARTMENT OF HOMELAND SECURITY**

**Name and Address of Prospective Petitioner**

John Smith  
111 Smith Way  
Smith, Smithville 11111

Name of Prospective Petitioner John Quincy Smith	
Name of Spouse, if married Jane Samantha Smith	
Date application filed 11/10/2009	Date of completion of advance processing 11/15/2009 (validity start)

**NOTICE OF FAVORABLE DETERMINATION CONCERNING APPLICATION  
FOR ADVANCE PROCESSING OF ORPHAN PETITION**

**\*\*Grandfathered Application\*\***

It has been determined that you are able to furnish proper care to an orphan or orphans as defined in Section 101 (B)(1)(F) of the Immigration and Nationality Act. A separate Orphan Petition, Form I-600, must be filed in behalf of each child with documentary evidence as described in instructions 2c, 2d, 2e, 2f, 2g, and 2h of that form. No fee will be required with Form I-600 if filed within **18 months** from the date of completion of all advance processing. If you do not file Form I-600 within **18 months** from the date of completion of your Advance Processing Application, your application will be considered abandoned. Any further proceedings will require the filing of a new Advance Processing Application or Orphan Petition.

Form I-600 should be filed at the Service office or American consulate or embassy where your advance processing application is being retained or has been forwarded as indicated by an "X" mark below:

1.  Your Advance Processing Application is being retained at this office.
2.  Your Advance Processing Application has been forwarded to our Service Office at \_\_\_\_\_.
3.  Your Advance Processing application has been forwarded to the American Consulate or Embassy, Guangzhou, China, via the National Visa Center, 32 Rochester Avenue, Portsmouth, NH. 03801-2909. A Visas 37 "Cable of Approval" has also been sent directly to the Consulate/Embassy.
4.  Your application has been approved for ONE child(ren).
5.  Your approval is for a special needs child (children).

In addition, please note the following:

- Any original documents submitted in support of your application are returned to you.
- Your home study is returned to you.

**THIS DETERMINATION DOES NOT GUARANTEE THAT THE ORPHAN PETITION(S) WHICH YOU FILE WILL BE APPROVED. AN ORPHAN PETITION MAY BE DENIED BECAUSE THE CHILD DOES NOT QUALIFY FOR CLASSIFICATION AS AN ORPHAN OR FOR OTHER PROPER CAUSE. DENIAL OF AN ORPHAN PETITION, HOWEVER, MAY BE APPEALED.**

**\*APPROVALS ARE VALID FOR 18 MONTHS FROM THE DATE OF COMPLETION OF PROCESSING.**

**NOTE: Fingerprints of Petitioner and Spouse will expire on: Petitioner**  
12/10/2010, Spouse 12/10/2010 and Adult Household Member  
N/A.

# Attachment D



**11. ARE PRE-ADOPTION REQUIREMENTS MET? Yes**

# Attachment E

Error! Style not defined., Continued

Steps for I-600A Approve, continued

Step	Action	References/Citations
4c	Send the approved <b>APPLICATION</b> with all supporting documents, including the Home Study, and the F 258 screen printout to the NVC.	
4d	<p>Keep a copy of the Approved I-600A, Notice of Approval and a copy of the Cable, Fax, or E-mail for a minimum of 18 months.</p> <p>Note: A copy of the Form I-171H will be retained in the office adjudicating the approval of the Form I-600A. Additionally, if the PAP or qualifying household member is an IDENT, a copy of the rap sheet shall be retained together with the Form I-171H.</p>	HQ Memo 07 April 2003
5	<p>If you will retain the <b>APPLICATION</b> in your office, set a call-up date for 18 months from the date of approval.</p> <p>After 18 months, if no I-600 is filed, prepare and send a Notice of Abandonment.</p> <p>If no A-file has been created, do the following:</p> <ul style="list-style-type: none"> <li>• Any documentation originally submitted by the applicant may be returned to the applicant.</li> <li>• You may wish to maintain a record of the Notice of Abandonment for an additional 18 months.</li> <li>• After the time periods have passed, you should destroy the I-600A and any documents not returned to the applicant.</li> </ul>	8 CFR 204.3 (h)(7)
6	Update Orphan-tracking systems if appropriate.	
7	Capture G-22 statistics as they relate to approvals.	AM 3.1.101
8	If an I-600 has already been filed, go to Stage 11: Adjudication of I-600, step 5.	

# Attachment F



U.S. Citizenship  
and Immigration  
Services

## Memorandum

TO: National Visa Center- CP

FROM:

DATE:

SUBJECT: Grandfathered I-600A

Applicant/Petitioner's Last Name	
Applicant/Petitioner's First Name	
Original I-600A Approval Date	

Included please find the grandfathered case from the \_\_\_\_\_.  
(Location)

Questions may be directed to \_\_\_\_\_ at \_\_\_\_\_ or \_\_\_\_\_.  
(Name) (Telephone Number) (Email address)

# Frequently Asked Questions

## How to file a Grandfathered Form I-600A Application

**Q: Why is USCIS issuing this announcement now?**

**A:** USCIS is issuing this announcement to clarify the filing process for grandfathered Forms I-600A filed for adoptions from Hague Countries where the Form I-600 has not been filed.

**Q: What is a “grandfathered” Form I-600A?**

**A:** DHS regulations allow only one “extension” of the approval of a Form I-600A. If that extension is also scheduled to expire, the only alternative is to file a new Form I-600A, with a new filing fee. Generally, a Form I-600A may not be filed after April 1, 2008, for the adoption of a child from a Hague Convention country. Under 8 CFR 204.300(b), however, a case may continue as an orphan case if a Form I-600A was filed before April 1, 2008. USCIS interprets this provision as permitting prospective adoptive parents whose Form I-600A approval is still in effect, but is about to expire, to file a new Form I-600A, as long as they file the new Form I-600A *before* the current approval expires. A new Form I-600A that is filed after April 1, 2008, will be considered “grandfathered” only if the following criteria applies:

- (a) the new Form I-600A is filed before expiration of a previous period of approval of the extension of Form I-600A **AND**
- (b) the previous extension of approval of Form I-600A, that is about to expire was for a Form I-600A which itself filed before April 1, 2008; **AND**
- (c) no Form I-600 has been filed on the basis of the previous Form I-600A.

**Q: When can I file my “grandfathered” Form I-600A?**

**A:** USCIS must receive the properly filed application no more than 90 days before the expiration date of the approval of the one-time, no fee “extension” of the original, approved Form I-600A, but before the approval expires. For example, if the “extension” approval is valid until December 31, a “grandfathered” application may be filed from October 2 until December 31. If the application is filed after December 31, the Form I-800A must be filed and the case must be processed through the Hague Adoption Convention procedures.

**Note:** The approval expiration date of a Form I-600A or its “extension” is calculated by adding 18 months to the date found in the “date of completion of advance processing” located in the upper right corner of the Form I-171H or Form I-797c

**Q: What does “properly filed” mean?**

**A:** The term “properly filed” means that, in addition to, the documentation, signature(s) and fee(s) as required by the instructions of the Form I-600A, the applicant must also submit evidence that his/her application meets the requirements for grandfathering an

application as outlined in the second question of this document. Evidence that can be submitted to demonstrate eligibility includes, but is not limited to, a copy of the

- Form I-600A Extension Approval Notice for I-600A filed prior to April 1, 2008 Form I-171H, or Form I-797c
- the Acknowledgement Notice for Form I-600A filed prior to April 1, 2008 and/or
- the fee receipt that was received from USCIS for a Form I-600A filed prior to April 1, 2008

It is also necessary for the applicant to submit a written statement, signed under penalty of perjury, attesting that a Form I-600 has not been filed on the application. Where original approval of Form I-600A (filed prior to April 1, 2008) has been issued for more than one child, the PAP would attest that the corresponding number of Forms I-600 had not yet been filed.

**Q: What about filing the home study? (The Form I-600A instructions say I can submit it within a year after filing the application.)**

**A:** Under 8 CFR 204.3, a home study may be submitted up to one year after the date of the filing of a Form I-600A. No action can be taken on a Form I-600A, however, until the home study is filed. If the applicant does not file a home study with the new Form I-600A, the new Form I-600A will still be “grandfathered,” if the applicant files it before the approval of the prior Form I-600A expires. The new Form I-600A will not be approved, however, until after USCIS has received and reviewed the home study. To avoid delays, the applicant should always submit the new home study with the new Form I-600A. The applicant may, of course, submit a copy of the original home study, so long as it has been updated or amended so that it is current (not more than 6 months old) when it is submitted.

**Q: When does the approval validity date start?**

**A:** Because the intent of “grandfathering” the Form I-600A is to maintain validity of an approval in order to continue a transitional case that is already in progress for an adoption, the validity period is *not* subject to when the home study is submitted to USCIS. The 18 month validity period will begin on the date of expiration of the approval of the original Form I-600A “extension.” For example, if the validity of approval of the original application expired on May 15, 2008. The “extension” validity of the application began on May 16, 2008. The validity of the “grandfathered” Form I-600A would, therefore, begin on November 15, 2009 (upon expiration of the “extension”) and expire 18 months later.

Since the new 18-month approval period will extend from the date the earlier approval expired, and not from the date of the decision approving the new Form I-600A, applicants are encouraged to submit all the necessary evidence, including the home study, with the new Form I-600A. Even if the decision is delayed because the home study or other evidence has not yet been submitted, the approval period will still expire 18 months after the earlier approval period. For example, if a Form I-600A approval will expire on November 30, 2008, and an applicant files a new Form I-600A on September 30, 2008, but does not submit the home study under September 30, 2009, the new approval will still expire May 30, 2010.

**Q: Where can I file a “grandfathered” Form I-600A?**

**A:** “Grandfathered” Forms I-600A are filed at the field office having jurisdiction over the applicant’s current residence. If the applicant has moved to the jurisdiction of a new USCIS office since the approval of the extension of the original application, it is helpful if he/she notifies the previous office of the move. The two offices may then coordinate the transfer of any necessary information concerning the case.

**Q: If I moved after approval of the Form I-600A and extension is about to expire, where should I file the Grandfathered I-600A?**

**A:** As stated above, “grandfathered” Forms I-600A are filed at the field office having jurisdiction over the applicant’s current residence. If the field office jurisdiction has changed, it is best to let the previous office know that there has been a change of address because this will save time consolidating the information from both offices.

**Q. Can I use a Form I-600A approved for one child to apply for the adoption of a second child or third child?**

**A:** If the approval of the original I-600A was for more than one child, then a new Form I-600A will be “grandfathered” only for the total number of children for which the original Form I-600A was approved, minus the number of children for whom a Form I-600 has already been filed. For example, if the original Form I-600A was approved for three children, and 2 Forms I-600 have been filed, the new Form I-600A will be grandfathered only for one additional child.

The only exception to this limit is if the applicant seeks to adopt a birth sibling of a child who the applicant has already adopted, and seeks to adopt the birth sibling at the same time as the adoption of a child whose Form I-600A is grandfathered. If a birth sibling is located after the total number children on the grandfathered Forms I-600A have actually immigrated, the birth sibling’s immigration would be governed by the Hague Adoption Convention and 8 CFR 204 subpart C.

**EXAMPLE:** Applicant was approved to adopt three children on a grandfathered I-600A. Applicant has filed Forms I-600 for two children, Anna and Ben, and they have immigrated. Applicant then files a new Form I-600A to “grandfather” the one remaining child covered by the earlier Form I-600A. Applicant goes abroad to adopt Chris, whose case is grandfathered. While abroad, David is located. David is Chris’s birth sibling, and Applicant wants to adopt David and Chris on the same trip. Because David is Chris’s birth sibling, and will be adopted on the same trip, Applicant may have the Form I-600A approval amended to allow one additional child.

**EXAMPLE:** Applicant was approved to adopt three children on a grandfathered I-600A. Applicant has filed Forms I-600 for two children, Anna and Ben, and they have immigrated. Applicant then files a new Form I-600A to “grandfather” the one remaining child covered by the earlier Form I-600A. Applicant goes abroad to adopt Chris, whose case is grandfathered. While abroad, David is located. David is not related to Chris, but is Anna’s birth sibling, and Applicant wants to adopt David and Chris on the same trip.

Because David is Anna's birth sibling, and will be adopted on the same trip, Applicant may have the Form I-600A approval amended to allow one additional child.

**EXAMPLE:** Applicant was approved to adopt three children on a grandfathered I-600A. Applicant has filed Forms I-600 for two children, Anna and Ben, and they have immigrated. Applicant then files a new Form I-600A to "grandfather" the one remaining child covered by the earlier Form I-600A. Applicant goes abroad to adopt Chris, whose case is grandfathered. Chris immigrates. After all three children have immigrated, David is located. David is a birth sibling of one of the children already adopted. Applicant has already filed the total number of Forms I-600 permitted, and all of those cases are completed. For this reason, David's adoption and immigration are governed by the Hague Adoption Convention and the Hague Adoption Convention procedures must be followed in David's case.

**Q: Does the new home study need to be compliant with the Hague Adoption Convention?**

**A:** No. Because the application is "grandfathered" into the Orphan Process, it is also "grandfathered" into all regulations relating to that process. This includes all parts of the Orphan Process. In other words, the home study should comply with the Orphan regulations which can be found in 8 CFR 204.3.

**Q: Will I be able to use a one-time, no fee extension on this "grandfathered" Form I-600A?**

**A:** Yes. To request an extension, prospective adoptive parent(s) must submit a written request to USCIS. The written request must explicitly request a one-time, no fee extension to the current approved Form I-600A. Applicants must also submit an amended/updated home study and any other supporting documentation of any changes in the household. The home study amendment/update must address each issue under 8 CFR §204.3(e) and indicate any changes. The home study must also address any changes to answers submitted with the initial Form I-600A and must say whether approval is still recommended.

**Q: Can the number of children authorized increase when the Grandfathered I-600A is filed?**

**A:** No. A new Form I-600A will be grandfathered only for the number of children specified in the original Form I-600A, minus the number of children for which a Form I-600 has already been filed. The only exception, as noted earlier, is for birth siblings who are adopted at the same time as a child whose case is grandfathered.

**Q: Does this policy affect the rules of other countries?**

**A:** No. This guidance pertains only to the U.S. transition case rules. It does not address what the country of the prospective adoptive child's origin may consider to be an appropriate application for its own intercountry adoption processes. Prospective adoptive parents remain subject to the requirements of the child's country of origin, should that

country require that the intercountry adoption be completed under the Hague Adoption Convention.



U.S. Citizenship  
and Immigration  
Services

OCT 23 2008

## Interoffice Memorandum

To: Field Leadership

From: Donald Neufeld   
Acting Associate Director  
Domestic Operations Directorate

Lori Scialabba   
Associate Director  
Refugee, Asylum and International Operations Directorate

RE: Notification to the Department of State of Intercountry Adoption Approvals

### Purpose

This memorandum provides *revised* guidance on the appropriate method to notify the Department of State National Visa Center (NVC) of the provisional approval or final approval of intercountry adoption Forms I-800, *Petition to Classify Convention Adoptee as an Immediate Relative*, Forms I-600A, *Application for Advance Processing of Orphan Petition*, and Forms I-600, *Petition to Classify Orphan as an Immediate Relative*. This memorandum supersedes the notification guidance set forth in the memorandum entitled, *Notification to Department of State of Immigrant Petition Approval*, issued on July 3, 2007.

### Field Guidance

*Effective immediately*, USCIS domestic and international field offices and the National Benefits Center are directed to follow the instructions provided in the Attachment to this memorandum to determine the proper method of communication with the NVC regarding approvals or notifications of intercountry adoption Forms I-800, I-600A, or I-600.

The USCIS Privacy Office has reviewed and confirmed that the methods of communication with the NVC are in compliance with U.S. privacy laws.

### Contact Information

Questions regarding the guidance contained in this memorandum should be directed to USCIS HQ Office of Field Operations, through appropriate supervisory channels.

# Attachment

## Forwarding adoption information from USCIS to NVC

### *What to do*

The table below depicts what USCIS should do when sending adoption application/petition information to the National Visa Center (NVC), including cases destined for China. USCIS is not to send any adoption information to overseas posts directly.

If...	Then...
Routine adoption case	<p>Do <b>not</b> send an email message but rather send the application/petition to:</p> <p style="text-align: center;"><b>National Visa Center Attention: CP 32 Rochester Ave. Portsmouth, NH 03801</b></p> <p>The hardcopy application information sent to NVC <b>must</b> include the V37 or other information that identifies the validity of the fingerprint information.</p> <p><i>Routine adoption information received via e-mail will not be processed.</i></p>
Routine adoption notification and/or extension	<p>Do <b>not</b> send an email message but rather send the approved written request for extension or amended approval notice or supplement 3 of form I-800A to:</p> <p style="text-align: center;"><b>National Visa Center Attention: Adoptions 32 Rochester Ave. Portsmouth, NH 03801</b></p> <p>The hardcopy information sent to NVC <b>must</b> include the V37 or other information that identifies the validity of the fingerprint information.</p> <p><i>Routine adoption information received via e-mail will not be processed.</i></p>
Adoption case needs urgent/emergency processing	<p>Send an email to <a href="mailto:NVCadoptions@state.gov">NVCadoptions@state.gov</a> with the following information in the subject line:</p> <ul style="list-style-type: none"> <li>➤ Urgent/Emergency processing required</li> <li>➤ The name of overseas post, and</li> <li>➤ The last name of the PAP</li> </ul> <p><b>Reason for emergency processing should be explained in the body of the e-mail. If it is an amended notice of approval, the basis for the amendment must be included.</b></p> <p><b>Hard copy files will continue to be mailed to NVC. Please mail hard copy files to one of the addresses provided above based on whether it is a routine case or routine notification and/or extension.</b></p> <p><i>Note: NVC sends adoption applications/petitions overseas via DHL within 3-5 days of receipt from USCIS. Only applications/petitions that need to be acted on immediately require emergency processing.</i></p>

Revision 10-8-08



# USCIS Update

Oct. 14, 2008

## USCIS ANNOUNCES ADOPTION POLICY FOR HAGUE TRANSITION CASES *Grandfathered Form I-600A Affected*

**WASHINGTON** – U.S. Citizenship and Immigration Services (USCIS) announced today that prospective adoptive parents already in the process of adopting a child from a country that has implemented the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Hague Adoption Convention) who filed a Form I-600A, *Application for Advance Processing of Orphan Petition*, prior to April 1, 2008, and who have received the one time no-charge extension, may file one additional Form I-600A, and continue to proceed with their intercountry adoption through the “orphan” process. The new Form I-600A must be filed *before* the current approval expires, and only if the prospective adoptive parents have not yet filed the corresponding Form I-600, *Petition to Classify Orphan as an Immediate Relative*.

U.S. law and regulations allow individuals who began the intercountry adoption process by filing Form I-600A or Form I-600, before April 1, 2008, to continue using these pre-Hague Adoption Convention forms and procedures even if they are adopting a child from a Hague Adoption Convention country. However, depending on the time that it takes prospective adoptive parents to be matched with a child and file Form I-600, the approval of the I-600A might expire before the prospective adoptive parents are able to file Form I-600. By allowing the filing of one new Form I-600A prior to the expiration of the current approved Form I-600A, USCIS is allowing prospective adoptive parents who have been grandfathered into the pre-Hague Adoption Convention process to continue to proceed under this “orphan” process, provided the child’s home country agrees.

If the Form I-600A is no longer valid, prospective adoptive parents must file a Form I-800A, *Application for Determination of Suitability to Adopt a Child from a Convention Country*, with a home study which meets all of the requirements for a Hague Adoption Convention home study. Once a Form I-800A is approved, the Form I-800, *Petition to Classify Convention Adoptee as an Immediate Relative* may be filed on behalf of the prospective adoptive child.

For more information on intercountry adoption, please visit the USCIS website at [www.uscis.gov](http://www.uscis.gov).

– USCIS –



# Frequently Asked Questions Oct. 14, 2008

## Grandfathered Form I-600A Processing for Prospective Adoptive Parents

**Q: Why is USCIS issuing this announcement now?**

**A:** USCIS is issuing this announcement now as a precaution to prospective adoptive parents with approved Forms I-600A so they understand what options are available to them if their approvals are due to expire, and they have not yet filed a Form I-600. This guidance is important for prospective adoptive parents who are pursuing an adoption from another Hague Convention country.

**Q: My Form I-600A was filed before April 1, 2008 (Implementation of Hague Convention). Is it possible to extend the Form I-600A approval?**

**A:** Yes. An approved Form I-600A is valid for 18 months. If no Form I-600 has been filed, a prospective adoptive parent may request a one-time, no-charge extension of an approved Form I-600A. To request this extension, submit a written request for an extension of your approved I-600A to the USCIS office that approved your Form I-600A. There is no specific form to fill out. An updated home study needs to be submitted with the written request for a one-time, no-charge extension of your valid, approved Form I-600A. Submit the request no earlier than 90 days before the expiration of the I-600A, but before the approval expires. If your request for an extension is approved, the validity of the Form I-600A will be extended 18 months from the expiration date of the original approved Form I-600A.

**Q: I have already received a one-time, no-charge extension of my Form I-600A for an adoption from a Hague Convention country. My extension is due to expire and I have not filed a Form I-600 (because I'm waiting to be matched with a child). Is my Form I-600A considered "grandfathered" and can I re-file Form I-600A or am I now required to file Form I-800A?**

**A:** DHS regulations allow only one "extension" of the approval of a Form I-600A. If that extension is also scheduled to expire, the only alternative is to file a new Form I-600A, with a new filing fee. Generally, a Form I-600A may not be filed after April 1, 2008, for the adoption of a child from a Hague Convention country. Under 8 CFR 204.300(b), however, a case may continue as an orphan case if a Form I-600A was filed before April 1, 2008. USCIS interprets this provision as permitting prospective adoptive parents whose Form I-600A approval is still in effect, but is about to expire, to file a new Form I-600A, as long as they file the new Form I-600A *before* the current approval expires.

A new Form I-600A that is filed after April 1, 2008, will be considered "grandfathered" only if:

- (a) the new Form I-600A is filed before expiration of a previous Form I-600A AND
- (b) the previous Form I-600A that is about to expire was itself filed before April 1, 2008; AND
- (c) no Form I-600 has been filed on the basis of the previous Form I-600A.

**Q: I have an approved Form I-600A, filed prior to April 1, 2008, indicating that I intend to adopt from a Hague Convention country, but the approval has expired and I did not obtain an extension. May I file a new Form I-600A?**

**A:** No.

As previously stated, a new Form I-600A that is filed after April 1, 2008, will be considered “grandfathered” only if:

- (a) the new Form I-600A is filed before expiration of a previous Form I-600A **AND**
- (b) the previous Form I-600A that is about to expire was itself filed before April 1, 2008; **AND**
- (c) no Form I-600 has been filed on the basis of the previous Form I-600A.

For any Form I-600A approval that was due to expire after April 1, 2008, the prospective adoptive parents had the right under DHS regulations to obtain one extension of the approval. If they did not choose to do so, and the Form I-600A that was filed before April 1, 2008, has expired, there is no longer any valid Form I-600A that could form the basis of “grandfathering” a new Form I-600A.

If the Form I-600A approval is no longer valid, the prospective adoptive parents will have to file a Form I-800A with a home study which meets all of the requirements for a Hague Adoption Convention home study. Once a Form I-800A is approved, the Form I-800 may be filed on behalf of the prospective adoptive child.

**Q: Can I extend or “grandfather” my Form I-600A approval if I have already filed the corresponding Form I-600?**

**A:** No. The Form I-600A approval is valid only for the number of adoptions for which you were approved before April 1, 2008. If, before April 1, 2008, you were approved for two adoptions, then you can only file two Forms I-600 based on the extended or grandfathered Form I-600A. Once the total number of Forms I-600 have been filed, no further extensions or grandfathering of the Form I-600A are permitted.

**Q: Does “grandfathering” my Form I-600A mean that I will definitely be able to complete an adoption under the pre-Hague orphan process, rather than the Hague Adoption Convention process?**

**A:** Not necessarily. Grandfathering a Form I-600A means that you will be permitted to use the orphan process, provided the child’s home country agrees. However, the child’s home country may have its own rules for determining whether the Hague Adoption Convention process must be followed.

**Q: Does this policy affect the rules of other countries?**

**A:** No. This guidance pertains only to the U.S. transition case rules. It does not address what the country of the prospective adoptive child’s origin may consider to be an appropriate application for its own intercountry adoption processes. Prospective adoptive parents remain subject to the requirements of the child’s country of origin to successfully complete an intercountry adoption under the Hague Adoption Convention.

**Q: Can you give some examples of how the “grandfathering” interpretation works:**

**A:** Yes, please see below.

- **EXAMPLE:** Form I-600A was approved, with the approval expiring on August 1, 2008. The applicant requested and obtained a one-time extension, with the new approval period expiring February 1, 2010. In January 2010, they still have not filed a Form I-600. On February 1, 2010, they file a new Form I-600A. The “grandfathering” of the original Form I-600A will be extended

to the new Form I-600A, since it was filed before the approval of the original Form I-600A expired.

- **EXAMPLE:** Form I-600A was approved, with the approval expiring on August 1, 2008. The applicant requested and obtained a one-time extension, with the new approval period expiring February 1, 2010. In January 2010, they still have not filed a Form I-600. On February 1, 2010, they file a new Form I-600A. The “grandfathering” of the original Form I-600A will be extended to include the new Form I-600A, since it was filed before the approval of the original Form I-600A expired. The new Form I-600A is approved, with the approval (after one extension) expiring March 10, 2013. On March 10, 2013, the applicant files yet another Form I-600A. This third Form I-600A *is not* grandfathered, since, although the expiring Form I-600A was grandfathered because the first Form I-600A was grandfathered, the expiring Form I-600A was actually filed *after* April 1, 2008.
- **EXAMPLE:** Form I-600A was approved, with the approval expiring on August 1, 2008. The applicant requested and obtained a one-time extension, with the new approval period expiring February 1, 2010. In January 2010, they still have not filed a Form I-600. However, they do not file a new Form I-600A until February 2, 2010. The “grandfathering” of the original Form I-600A *does not* extend to the new Form I-600A, since it was filed *after* the approval of the original Form I-600A expired.
- **EXAMPLE:** Form I-600A was approved, with the approval expiring on August 1, 2008. The applicant did not seek an extension. On September 1, 2008, the applicant files a new Form I-600A. This new Form I-600A *is not* grandfathered, since it was filed *after* April 1, 2008, and *after* the approval of the original Form I-600A expired.
- **EXAMPLE:** Form I-600A was approved for one child, with the approval expiring on August 1, 2008. One Form I-600 was filed on July 31, 2008. Since the Form I-600 was filed, no further extension of the Form I-600A approval is permitted. Also, since the Form I-600 was filed, a new Form I-600A for an additional child, or a reopening and re-approval for more than one child, would not be “grandfathered.”
- **EXAMPLE:** Form I-600A was approved for two children, with the approval expiring on August 1, 2008. One Form I-600 was filed before August 1, 2008, and the applicant requested and obtained an extension of the approval. The extension expires February 1, 2010. The applicant then files a Form I-600 for an additional child. The Form I-600 is “grandfathered,” since it is based on a “grandfathered” Form I-600A for more than one child. No additional children may be adopted from a Hague Adoption Convention country based on the Form I-600A, however. To adopt a third or subsequent child, the Hague Adoption Convention process will apply.

## Frequently Asked Questions: Intercountry Adoptions

USCIS has received many questions related to the new Hague intercountry adoption process and the orphan adoption process since the implementation of the Hague Adoption Convention on April 1, 2008.

### Hague and Orphan Adoptions

**Q: I obtained a full and final adoption of a child in a Hague Convention Country prior to April 1, 2008, but did not file a Form I-600A or Form I-600 prior to April 1, 2008. May I still file the Form I-600A or Form I-600?**

**A:** Yes, a Form I-600A, (Application for Advance Processing of Orphan Petition) or Form I-600, (Petition to Classify Orphan as an Immediate Relative) (see the related links section of this page) may be filed on or after April 1, 2008, in this situation. The definitions for "Convention adoptee" and "Convention adoption" in 8 CFR 204.301 state that an intercountry adoption is subject to the Hague Convention and the Hague Convention adoption rules *only if* the adoption occurs on or after April 1, 2008. The USCIS Hague interim rule, therefore, does not apply to a case in which the adoption was already completed before April 1, 2008. Therefore, a Form I-600A or I-600 may be filed after April 1, 2008, if the adoption was completed before April 1, 2008. If the prospective adoptive parents are suitable as adoptive parents and the child qualifies as an orphan, the Forms I-600A and I-600 may be approved and the child may immigrate under section 101(b)(1)(F) of the Immigration and Nationality Act (INA).

**Q: I obtained temporary or legal custody of a child in a Hague Convention country prior to April 1, 2008 and I plan to adopt the child on or after April 1, 2008. May I still seek a Hague Convention adoption? What forms do I file?**

**A:** The Hague Adoption Convention and the USCIS Hague interim Rule apply to any adoption, on or after April 1, 2008, of a child from a Hague Convention country *unless* a Form I-600A or Form I-600 was filed before April 1, 2008. However, the Hague interim rule requires denial of a Form I-800 (Petition to Classify Convention Adoptee as an Immediate Relative) (see the related links section of this page) if the prospective adoptive parents adopted the child, or acquired custody for purposes of adoption, before the provisional approval of the Form I-800. This provision, however, was not in force before April 1, 2008. Therefore, a prospective adoptive parent who obtained custody before this date would not have been under any obligation to defer the acquisition of custody. If it can be established that the prospective adoptive parents obtained custody for purposes of adoption *before* April 1, 2008, USCIS will not deny the Form I-800 based solely on the basis of legal custody which was obtained before a Form I-800 had been provisionally approved, since the Hague Convention was not in force at the time of the grant of custody.

**Q: I obtained legal custody of a child in a Hague Convention country for purposes of emigration and adoption after April 1, 2008, but before the provisional approval of Form I-800. May I still seek a Hague Convention adoption?**

**A:** The Hague Adoption Convention and USCIS Hague interim rule provides that a Form I-800 cannot generally be provisionally approved if the prospective adoptive parents adopted a child or obtained

custody for purposes of emigration and adoption before the provisional approval of a Form I-800. In these circumstances, for prospective adoptive parents to file Form I-800 and be eligible for a provisional approval, they will typically need to show that a legal custody order was voided, vacated, annulled, or otherwise terminated. The Form I-800 may generally be approved only if a new adoption or custody order is granted *after* the first custody order was voided, annulled, or otherwise terminated, *and* after USCIS has provisionally approved Form I-800.

**Q: I adopted or obtained custody of a child for emigration and adoption after April 1, 2008, but before the provisional approval of Form I-800, and I cannot void or vacate the adoption or custody order. May I still seek a Hague Convention adoption?**

**A:** Adopting or obtaining custody of a child before provisional approval of a Form I-800 is not consistent with the principles of the Hague Adoption Convention, and may complicate the adjudication of the child's Form I-800. A cardinal principle of the Hague Adoption Convention is that a child's eligibility to immigrate to the prospective adoptive parent's country should be resolved before completion of the proposed adoption. The purpose of this principle is to minimize the risk that a child will not be able to join his or her prospective adoptive family in their home country. As clearly stated in the instructions to Forms I-800A and Form I-800, and in 8 CFR 204.309(b)(2), prospective adoptive parents are cautioned not to accept a proposed adoption placement, or complete an adoption that is subject to the Convention, until after USCIS has provisionally approved the Form I-800 and the Department of State has issued the article 5 notice under 22 CFR 42.24(i).

The prospective adoptive parent should make every effort, under the law of the sending country, to have the premature adoption or custody order voided, vacated, annulled, or otherwise terminated, before filing the Form I-800. If the prospective adoptive parent presents evidence from the Central Authority of the country of the child's habitual residence establishing that the law of that country does not permit the adoption to be voided, vacated, annulled, or otherwise terminated, USCIS will notify the prospective adoptive parent of any additional evidence that may need to be presented in order to support provisional approval of the Form I-800. Prospective adoptive parents should keep in mind that, in at least some cases, adopting the child before provisional approval of the Form I-800 may require USCIS to determine that the adoption does not comply with the Convention and, consequently, cannot be the basis for approval of a Form I-800.

**Q: May I foster a child from a Hague Convention country prior to the I-800A approval?**

**A:** Typically, accepting a foster care arrangement before completing the Hague Adoption Convention process would not be consistent with the general purpose of the Convention, which promotes placing the child in the care of prospective adoptive parents only if both the sending country and the receiving country have determined that an intercountry adoption is permitted. Whether a foster care arrangement would actually be contrary to the Hague Adoption Convention and regulations, however, will have to be reviewed on a case-by-case basis. Note that, even if a foster care arrangement is not "custody for purposes of emigration and adoption," as defined in 8 CFR 204.301, the steps taken to obtain a foster care arrangement may well involve "contact" with the child's birth parent(s) or other caregiver. Article 29 of the Convention and 8 CFR 204.309(b)(2) restricts the ability to have contact with the birth parent(s) or other caregivers.

USCIS strongly recommends that prospective adoptive parent(s) apply for intercountry adoption through the Hague Adoption Convention process by using Forms I-800A and I-800, and obtaining approval of their Form I-800A, *Application for Determination of Suitability to Adopt a Child from a Convention Country*, and a provisional approval of their Form I-800, before assuming responsibility for providing foster care for a child. Carefully following the Hague Adoption Convention process serves the child's best interest by ensuring that all of the steps designed for protection of the child are completed before placement.

If there is an emergency that appears to warrant taking responsibility for a child before the filing and approval of Forms I-800A and I-800, the prospective adoptive parent(s) should work through the Central Authority of the sending country to arrange foster care, to ensure that any contact with the child, the birth parent(s), or other caregivers that occurs in this process, is permissible under the Hague Adoption Convention and the USCIS Hague interim rule.

**Q: May a prospective adoptive parent with an approved, *grandfathered* I-600A indicating that they intend to adopt from a non-Hague country change to a Hague Convention Country and still continue an orphan adoption?**

**A:** Yes. The Hague interim rule allows prospective adoptive parent(s) who filed an I-600A or I-600 prior to April 1, 2008, to be grandfathered under U.S. law. Included in this grandfathering provision is the ability for a prospective adoptive parent to change his/her Form I-600A approval from a non-Hague Convention country to a Hague Convention country, as long as the Form I-600A was filed prior to April 1, 2008, and continues to be valid at the time the request for change of overseas site notification is submitted. For a prospective adoptive parent who filed Form I-600A before April 1, 2008, but did not designate a specific country at the time of filing Form I-600A, he/she may designate a Convention country at a later time.

**PLEASE NOTE:** It is important that families who filed an I-600A prior to April 1, 2008 and desire to change to a Hague Convention country understand that while their case is grandfathered under U.S. law, this does not mean that the other Hague Convention country must permit the adoption to take place under U.S. orphan regulations. The other country could require that the case proceed as a Hague adoption, which would require the filing of Forms I-800A and I-800.

**Q: May a prospective adoptive parent with an approved I-600A, who filed after April 1, 2008 indicating that they intend to adopt from a non-Hague Convention country, change to a Hague Convention country and still continue with an orphan adoption?**

**A:** No. A prospective adoptive parent with an approved I-600A, who filed after April 1, 2008 indicating that they intend to adopt from a non-Hague Convention country may not change to a Hague Convention country. If the prospective adoptive parent wants to adopt from a Hague Convention country, forms I-800A and I-800 must be filed.

**Q: My I-600A was filed before April 1, 2008 (implementation of Hague Convention). Is it possible to extend the I-600A approval?**

**A:** Yes. An approved I-600A is valid for 18 months. A prospective adoptive parent may request a one-time, no-charge extension of your I-600A. To request this extension, submit a request in writing for an extension of your approved I-600A to the USCIS office that approved your I-600A. There is no specific form to fill out – simply submit a written request for a one-time, no-charge extension of your valid, approved Form I-600A. An updated or amended home study must accompany this request. Apply prior to 90 days before the expiration of the I-600A. If your request for extension is approved, your I-600A approval will be extended 18 months from the expiration date of the original I-600A.

**Q: If my request for an extension of my I-600A approval is granted, when will the new extension expire – as of the expiration date of the original approval or the date of the decision to extend it?**

**A:** The new approval will be effective as of the expiration date of the original approval, rather than the date of the decision to extend the approval. For example, if the original approval expired January 1, 2008, the extension will expire July 1, 2009.

**Q: What will the immigrant visa classification be for Convention Adoptees?**

**A:** Upon final approval of the I-800 petition, a child may be issued an IH-3, IH-4, or B-2 visa. An IH-3 is a Hague Convention Child adopted abroad and who automatically acquires U.S. citizenship upon entry to the U.S. An IH-4 is a Hague Convention Child coming to be adopted in the U.S. IH-4 children do not automatically acquire U.S. citizenship, but are lawful permanent residents until the adoption is full and final. Children entering as a B-2 temporary visitor for pleasure are admitted under Section 322 interview, naturalization, and then depart the country.

**Q: Will USCIS provide me with documentation of my child's citizenship (IH-3)?**

**A:** Yes. USCIS will issue a Certificate of Citizenship from our Buffalo District Office within 45 days of receipt of the visa packet.

**Q: Will USCIS provide me with proof of my child's lawful permanent resident status (IH-4)?**

**A:** Yes. USCIS will issue a lawful permanent resident card, Form I-551 within days of receipt of the visa packet.

#### **National Benefits Center (NBC) Processing of Hague Adoptions**

**Q: Which USCIS office adjudicates and approves Forms I-800A and I-800?**

**A:** The NBC is the only USCIS office that fully adjudicates forms I-800A and I-800 to completion.

**Q: How long does it take for a USCIS field office to send Forms I-800A, I-800, and other required documents to NBC?**

**A:** USCIS field offices generally mail forms I-800A, I-800, and other required documents within 24 hrs of receipt.

**Q: Are forms I-800A being forwarded from NBC to the National Visa Center (NVC), or are I-800As going directly from NBC to an overseas Embassy/Consulate?**

**A:** Approved I-800A applications are sent from the NBC to the NVC.

**Q: What is the NBC's timeframe for processing I-800A applications?**

**A:** Cases are targeted for completion within 90 days of receipt. Cases that are properly filed and submitted with complete home studies may be processed without delay.

**Q: What is the NBC's intended timeframe for processing I-800 petitions?**

**A:** All cases are targeted for completion within 90 days of receipt. Cases that are properly filed and submitted with a complete Hague Convention Article 16 report on the child, may be processed without delay.

**Q: How will adoption agencies and the general public be notified when the direct mail program is implemented for the receipt of forms I-800A and I-800? When do you anticipate it will be operational?**

**A:** On August 26, 2008 USCIS issued an update (see the related links section of this page) announcing the expansion of USCIS' Direct Mail program to include Forms I-800A and I-800. Beginning on September 25, 2008, applicants must submit Forms I-800, I-800A, and all related supplements and forms to the USCIS Chicago Lockbox facility for initial processing, using the following address:

U.S. Citizenship and Immigration Services

P.O. Box 805695

Chicago, IL 60680-4118

If you are filing Hague-related Forms I-601, Application for Waiver of Ground of Inadmissibility; I-864, Affidavit of Support Under Section 213A of the Act; I-864EZ, Affidavit of Support Under Section 213A of the Act; or I-864W, Intending Immigrant's Affidavit of Support Exemption; with Form I-800, you must also send these forms to the Lockbox address.

**Q: What is the procedure for expeditious processing of Special Needs children?**

**A:** At this time, a significant majority of all pending cases are for special needs children. While there is no procedure for expeditious processing, all cases are targeted for completion within 90 days of receipt. Cases that are properly filed and submitted with complete home studies may be processed without delay.

### **Hague Adoptions - Home Study**

**Q: If the home study agency/preparer is conducting two home studies at the same time (e.g., domestic and China), does this have to be stated in the home study?**

**A:** Yes. In this situation we may consider the additional home study as a prior home study. Consistent with regulatory requirements the home study preparer should:

- Identify the agency involved in each prior or terminated home study
- State when the prior home study process began
- Include the date the prior home study was completed
- Explain whether the prior home study recommended for or against finding the applicant or additional adult member of the household suitable for adoption, foster care, or other custodial care of a child. If a prior home study was terminated without completion, the current home study must indicate when the prior home study began, the date of termination, and the reason for the termination.

If the other home study has not yet been completed, please note that in the home study.

**Q: If I receive a raise at work, am I required to submit a home study amendment?**

**A:** No. However, if your income decreases a home study amendment is required.

**Q: How much time can lapse between the visit to the home and the completion of the home study? (Some home studies may take longer if there is difficulty in obtaining child abuse clearances from another country, especially for military cases.)**

**A:** At least one home visit must be completed during the course of the home study process. The home study must not be more than 6 months old at the time it is submitted to USCIS. There is no requirement regarding the timeliness of when, during the home study process, the home visit must occur.

**Q: What if the home study preparer is not able to determine whether a foreign country has a child abuse registry, in order to conduct the child abuse registry checks overseas?**

**A:** The purpose of 8 CFR 204.311(i) is to ensure that USCIS has access to any readily available evidence that may relate to the applicant's suitability as an adoptive parent. There is no obligation, of course, to provide information that simply is not available. If a country does not have a child abuse registry, it is enough for the home study preparer to make this fact clear in the home study.

USCIS has sought to determine which countries, other than the United States, maintain “child abuse registries” in the sense intended in the regulation. As this information becomes available with respect to a particular country, USCIS will make the information available. Until such time as USCIS is able to verify that a particular country does have such a child abuse registry, USCIS will find that a home study complies with this requirement in 8 CFR 204.311(i) if the home study preparer states in the home study that the home study preparer has consulted the Central Authority of the foreign country (if it is a Hague Adoption Convention country) or other competent authority (for a country that is not a Hague Adoption Convention country) and has determined, based on this consultation, that the foreign country does not have a child abuse registry.

**Q: Are home study preparers required to list each state in which a child abuse registry was checked, or should the documented checks be included in the home study?**

**A:** The home study preparer must ensure that a check of the applicant and of each additional adult household member has been made with available child abuse registries in any State or foreign country that the applicant, or any additional adult member of the household, has resided in since that person's 18th birthday. The home study must include results of the checks conducted, including when no record was found to exist, that the State or foreign country will not release information to the home study preparer or anyone in the household, or that the State or foreign country does not have a child abuse registry.

**Q: Two questions arise from paragraph (2) of the definition of “adult member of the household” in 8 CFR 204.301:**

- **When must a home study preparer include in the home study an assessment of a household member who “has not yet reached his or her 18<sup>th</sup> birthday?”**
- **When must a home study preparer include in the home study an assessment of someone “who does not actually live at the same residence but whose presence in the residence is relevant to the issue of suitability to adopt?”**

**A:** The home study preparer is never required, under the USCIS rule, to include an assessment of these persons as an adult member of the household, unless USCIS specifically asks the home study preparer to do so. As a matter of routine practice, the home study preparer needs only to assess the prospective adoptive parents and any other adult members of the household, as defined in paragraph (1) of the definition of “adult member of the household.”

In a given case, the home study preparer may be aware of facts about another person that, in the home study preparer's considered professional judgment, could be relevant to the issue of the applicant(s) suitability to adopt. For example, a child who is not yet 18 could have a criminal history, or a history of drug or alcohol abuse. In such cases, if it is apparent that this person's history could impact the applicant's suitability to adopt, it may be prudent for the home study preparer to include this information in the home study and provide an appropriate recommendation. Similarly, if the home study preparer's reasoned professional judgment is that there is some other person who does not live with the

applicant(s) "whose presence in the home is relevant to the issue of suitability to adopt," such as an extended family member who spends a lot of time at the applicant's residence, it would be prudent to include information about this person in the home study, so that USCIS can make an informed decision on the case. The USCIS adjudicator reviewing such a home study would then be able to determine whether to request an additional Form I-800A, Supplement 1, with the applicable biometrics fee. Once USCIS determines that an I-800A, Supplement 1 is necessary for another person, Supplement 1 will be sent to the prospective adoptive parent with instructions for that other person and the prospective adoptive parent to complete and submit Supplement 1 to USCIS. The person then must be evaluated by the home study preparer to ensure that the home study addresses the requirements of 8 CFR 204.311 for that person.

However, the home study preparer may limit his or her assessment to the prospective adoptive parents as defined in paragraph (1) of the definition, and need not include anyone else unless USCIS asks for this additional evaluation.

#### **Adoptions under section 101(b)(1)(E) - children from Hague countries**

**Q. If a child from a Hague Convention country is already in the United States, can the child be deemed to be "habitually resident" in the United States, so that the child can be adopted without complying with the Hague Adoption Convention and the USCIS Hague interim rule?**

**A:** Under 8 CFR 204.2(d)(2)(vii)(F), a child who is present in the United States, but whose habitual residence was in a Hague Convention country other than the United States immediately before the child came to the United States, is still deemed to be habitually resident in the other Hague Convention country for purposes of the filing and approval of a visa petition based on the child's adoption by a citizen who is habitually resident in the United States. Thus, USCIS will presume that the child's adoption and immigration are governed by the Hague Adoption Convention, the IAA, and 8 CFR 204 subpart C.

Since a child described in 8 CFR 204.2(d)(2)(vii)(F), is still deemed to be habitually resident in the other Hague Convention country, a U.S. citizen who is habitually resident in the United States and who wants to adopt a child from a Hague Convention country must, generally, follow the Hague Adoption Convention process, even if the child is already in the United States. 8 CFR 204.309(b)(4) specifically provides that a Form I-800A and Form I-800 can be filed, even if the child is in the United States, if the other Hague Convention country is willing to complete the Hague Adoption Convention process with respect to the child.

In most cases, adoption under the Hague Adoption Convention would be in the child's best interests, even if the child is present in the United States. The child may be able to immigrate and, under section 320(a), acquire citizenship by automatic naturalization, as a direct result of the adoption under the Hague Adoption Convention. If the child is adopted without compliance with the Hague Adoption Convention, the parent must have legal custody of the child and live with the child for 2 years before the child can acquire permanent residence as the child of the U.S. citizen adoptive parent, as defined under section 101(b)(1)(E) of the Act.

There may be situations, however, when the adopting parent is not able to complete a Hague Adoption Convention adoption, because the Central Authority of the child's country has determined that, from its perspective, the Hague Adoption Convention no longer applies to the child. The purpose of 8 CFR 204.2(d)(2)(vii)(F) is to prevent the circumvention of the Hague Adoption Convention process. Thus, USCIS has determined that 8 CFR 204.2(d)(2)(vii)(F) must be read in light of the Hague Adoption Convention regulations in subpart C of 8 CFR part 204. If, under subpart C, there is a sufficient basis for saying that the Hague Adoption Convention and the implementing regulations no longer apply to a child who came to the United States from another Hague Convention country, then USCIS can conclude that 8 CFR 204.2(d)(2)(vii)(F) no longer applies.

The governing regulation, 8 CFR 204.303(b), provides the principles for determining whether the child is habitually resident in a country other than the country of citizenship. This regulation does not explicitly apply to children in the United States, but USCIS has determined that it can be interpreted to permit a finding that a child who, under 8 CFR 204.2(d)(2)(vii)(F), is presumed to be habitually resident in another Hague Convention country can be found to no longer be habitually resident in that country, but to be habitually resident, now, in the United States. USCIS will determine that 8 CFR 204.2(d)(2)(vii)(F) no longer precludes approval of a Form I-130 if the adoption order that is submitted with the Form I-130 expressly states that the Central Authority of the other Hague Convention country has filed with the court a written statement indicating that the Central Authority is aware of the child's presence in the United States, and of the proposed adoption, and that the Central Authority has determined that the child is not habitually resident in that country. A copy of the written statement from the Central Authority must also be submitted with the Form I-130 and the adoption order.

If the adoption order shows that the Central Authority of the other Hague Convention country had determined that the child was no longer habitually resident in that other Hague Convention country, USCIS will accept that determination and, if all the other requirements of section 101(b)(1)(E) of the Act are met, the Form I-130 may be approved.

\*For inquiries on adoptions from Hague Convention countries, please call 1-877-424-8374

Last updated: 09/29/2008



# USCIS Update

April 1, 2008

## USCIS ANNOUNCES CHANGES TO GUATEMALA ADOPTIONS *Intercountry Adoptions Under the Hague Adoption Convention*

WASHINGTON – U.S. Citizenship and Immigration Services (USCIS) today announced it is not able to approve any Form I-800, *Petition to Classify Convention Adoptee as an Immediate Relative*, filed on behalf of a child to be adopted from Guatemala. USCIS has been advised that Department of State consular officers cannot issue the required Hague Adoption Certificate or Hague Custody Declaration at this time due to the agency's determination that Guatemala is not currently meeting its obligations under the Hague Adoption Convention, which recently entered into force for the United States.

Certification of compliance with the Hague Adoption Convention and the Intercountry Adoption Act of 2000 (IAA) is required under the new procedures for Hague Convention adoptee cases. In light of the inability to complete the immigration process, prospective adoptive parents are strongly urged not to file Form I-800A, *Application for Determination of Suitability to Adopt a Child from a Convention Country*, identifying Guatemala as the country from which the adoption is intended.

The *Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption* (Hague Adoption Convention) entered into force with respect to the United States on April 1, 2008. The Hague Adoption Convention provides important new safeguards to protect the welfare of children, birth parent(s) and adoptive parent(s) engaged in intercountry adoptions. Effective April 1, 2008, intercountry adoptions between the United States and other Convention countries must comply with the Hague Adoption Convention standards. Guatemala is a party to the Hague Adoption Convention. Hague Convention adoptions are processed on USCIS Forms I-800A and I-800.

Non-Hague Convention (orphan) adoption cases are processed on USCIS Forms I-600A, *Application for Advance Processing of Orphan Petition*, and I-600, *Petition to Classify Orphan as an Immediate Relative*. If a Form I-600A or Form I-600 was filed prior to April 1, 2008, the case may continue to be processed under U.S. orphan regulations.

Some Convention countries may require that adoptions in progress on April 1, 2008 proceed under the rules of the Hague Adoption Convention, regardless of the United States grandfathering provision of orphan cases filed prior to April 1, 2008. In such cases, the adoption must be processed under the Hague procedures and a Form I-800A may be required. Prospective adoptive parents with cases in process in Guatemala should consult with their adoption service provider.

USCIS will promptly advise the public when it is able to commence processing of new Hague Convention adoptions in Guatemala.

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# Questions and Answers

April 1, 2008

## **INTERCOUNTRY ADOPTION INSTRUCTIONS** *Post-Hague Adoption Convention Implementation*

### **What is the New Hague Adoption Convention?**

The *Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption* (Hague Adoption Convention) is an international treaty that provides important new safeguards to protect the welfare of children, birth parent(s) and adoptive parent(s) engaged in intercountry adoptions.

### **When does the Hague Adoption Convention go into Effect?**

The Hague Adoption Convention enters into force with respect to the United States on April 1, 2008. Effective April 1, 2008, intercountry adoptions between the United States and other Convention countries must comply with the Hague Adoption Convention standards.

### **What is Changed under the Hague Adoption Convention Standards?**

The Hague Adoption Convention changes the immigration component of the intercountry adoption process. Previously, there was one procedure and one set of forms that governed the immigration component of the intercountry adoption process. One of the changes resulting from the implementation of the Hague Adoption Convention is that there are now two separate immigration processes for intercountry adoption, each with a distinct set of forms (Hague and non-Hague). The correct process to follow and the correct forms to use is determined by whether the country from which the child is to be adopted is a Convention country or a non-Convention country. Accordingly, prospective adoptive parent(s) must first determine the country from which they will adopt before they begin the immigration process.

### **What are the New Forms?**

Effective April 1, 2008, Hague Adoption Convention cases are processed on Form I-800A, *Application for Determination of Suitability to Adopt a Child from a Convention Country*, and Form I-800, *Petition to Classify Convention Adoptee as an Immediate Relative*. Non-Hague Convention (or Orphan) adoption cases are still processed on USCIS Forms I-600A, *Application for Advance Processing of Orphan Petition*, and I-600, *Petition to Classify Orphan as an Immediate Relative*. These forms are available on the USCIS website: [uscis.gov](http://uscis.gov).



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### **How do I Know Which Countries are Convention Countries?**

As of this date, there are 75 nations where the Hague Adoption Convention is in force. A Convention country is any country that is a party to the Hague Adoption Convention *and* the U.S. Department of State has determined that the Convention is in force between the United States and that other country. A list of these Convention countries may be found on the Department of State website: <http://travel.state.gov/>.

### **Where will Intercountry Adoptions Forms be Filed?**

The filing procedures remain the same for non-Convention countries - See instructions for Form I-600A and Form I-600. For a Convention adoption, U.S. citizen prospective adoptive parent(s) residing in the United States should file their forms with the domestic USCIS field office having jurisdiction over their place of residence. U.S. citizen prospective adoptive parent(s) residing abroad may also continue to file with an overseas USCIS field office having jurisdiction over their residence. In addition, a United States consular office may accept the initial filing where there is no USCIS presence in the country of residence. However, all I-800A and I-800 forms received in the field offices (including overseas consular or USCIS offices) will be forwarded to the National Benefits Center where centralized processing will be conducted. Please note these filing procedures are currently under revision and any updates to current filing procedures will be provided on the USCIS website.

### **What are the Filing Fees for the Forms?**

The filing fee for Form I-600A and Form I-600 (non-Hague Convention forms) has not changed. The filing fee for Form I-600A and Form I-600 remains \$670. However, no fee is required for the first Form I-600 filed for a child on the basis of an approved Form I-600A.

The application fee for Form I-800A (Hague Adoption Convention form) is \$670. The filing fee for Form I-800A, Supplement 3, *Request for Action on an Approved I-800A* is \$340, unless otherwise noted. No fee is required for the first Form I-800 filed for a child on the basis of an approved Form I-800A.

### **Is There a Fingerprinting Requirement and Fee?**

Each prospective adoptive parent, and any adult member of their household, must submit fingerprints for the required background check. The fee for fingerprinting is \$80.00 for each prospective adoptive parent and any adult members of the household. For prospective adoptive parent(s) residing overseas, there is no USCIS fee for fingerprinting. The U.S. Department of State consular office or military installation abroad may still charge a fingerprinting fee according to its own requirements.

### **What if My Case is in Process in a Convention Country before April 1, 2008?**

If Form I-600A or I-600 was filed prior to April 1, 2008, the case may continue to be processed according to current regulations for eligibility as an orphan. If the Form I-600A was filed prior to April 1, 2008, it may be extended once and a subsequent Form I-600 may be filed and processed under existing U.S. orphan regulations.



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It is important to note that the law in some Convention countries may require that any adoption in process on April 1, 2008, be started anew under the rules of the Hague Adoption Convention, regardless of the fact that the United States provides for the grandfathering of orphan cases filed prior to April 1, 2008. In such cases, the adoption must be processed under the Hague Adoption Convention procedures and a Form I-800A would be required. Prospective adoptive parents with cases in process should consult with their adoption service provider.



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# Fact Sheet

February 29, 2008

## **HAGUE ADOPTION CONVENTION**

### *New Forms and Centralized Review for Intercountry Adoptions*

#### **Background**

The Hague Adoption Convention is a treaty, which enters into force with respect to the United States on April 1, 2008. The Hague Adoption Convention strengthens protections for children, birthparents and prospective adoptive parent(s), and establishes internationally agreed upon rules and procedures for adoptions between countries that have a treaty relationship under the Hague Adoption Convention (Convention countries). It ultimately provides a framework for member countries to work together to ensure that children are provided with permanent, loving homes, that adoptions take place in the best interests of a child, and that the abduction, sale or traffic in children is prevented.

#### **Forms I-800A and I-800**

Two new USCIS forms are introduced for use in a Hague Adoption Convention adoption: Form I-800A, Application for Determination of Suitability to Adopt a Child from a Convention Country, and Form I-800, Petition to Classify Convention Adoptee as an Immediate Relative. These forms and the instructions to the forms are available on the Internet at [www.uscis.gov](http://www.uscis.gov).

A prospective adoptive parent files Form I-800A to initiate the immigration process when the prospective adoptive parent is a U.S. citizen and intends to adopt a child who habitually resides in a Hague Adoption Convention country. Form I-800A and supporting evidence are required for USCIS to determine the eligibility and suitability of the prospective adoptive parent(s) to adopt a Convention child.

After approval of Form I-800A, and after an adoption placement has been proposed, the prospective adoptive parent files Form I-800. In adjudicating the I-800 form, USCIS assesses the eligibility of a child who habitually resides in a Hague Convention country as a Convention adoptee prior to adoption by a U.S. citizen prospective adoptive parent. Form I-800 and supporting evidence are required for USCIS to determine the child's eligibility for classification as a Convention adoptee.

#### **Centralization**

USCIS will launch a new business process to streamline the adjudication of Form I-800A and Form I-800 under the Hague Adoption Convention. Effective April 1, 2008, USCIS will establish a special unit that will process all Hague intercountry adoption applications and petitions at the USCIS National Benefits Center (NBC). This special unit will also provide customer service support to prospective adoptive parents who have filed Form I-800A or Form I-800. The new centralized business process does not apply to Form I-600A, Application for



Advance Processing of Orphan Petition, or Form I-600, Petition to Classify Orphan as an Immediate Relative.

**General Filing Instructions**

**Form I-800A:** On April 1, 2008, there will be an interim filing procedure in anticipation of a future direct mail program. In late 2008, USCIS will announce the effective date and mailing address for the future direct mail program. Until that time, the following filing instructions should be followed:

- Prospective adoptive parent(s) who reside in the United States should file Form I-800A with the USCIS office having jurisdiction over their place of residence.
- Prospective adoptive parent(s) who reside outside the United States should generally file Form I-800A with the USCIS office abroad having jurisdiction over their place of foreign residence. More detailed filing information is provided in the instructions to Form I-800A.
- Once properly filed and receipted at a USCIS office, all I-800A forms will be forwarded to the NBC for adjudication and decision.

**Form I-800:** Form I-800 may only be filed during the validity period of an already approved Form I-800A. Prospective adoptive parent(s) must always file Form I-800 with the NBC. The Notice of Approval for Form I-800A will provide a specific address and filing instructions for Form I-800.

Applicants should be aware that neither Form I-800A nor Form I-800 can be filed before April 1, 2008.

**Hague Adoption Convention: Use of Orphan Process for Transitional Cases**

Prospective adoptive parent(s) who file Form I-600A or Form I-600 prior to April 1, 2008, may continue to process their adoptions under the current orphan regulations, if the laws of the country of the child's origin allow for continuation under the orphan regulations. Note that some countries may require processing under Hague Adoption Convention rules regardless of when processing with USCIS was initiated. In such cases, the adoption needs to be processed under the Hague Adoption Convention procedures. Note that the new NBC process will apply only to Hague Adoption Convention cases, and *not* orphan cases. Prospective adoptive parents who seek to adopt a child under the orphan process will continue to follow the filing rules for Form I-600A or Form I-600. For more information about orphan transition cases, see USCIS Questions and Answers: USCIS Issues Interim Rule Establishing New Procedures for Adopted Children under the Hague Convention (Oct. 4, 2007), available on the USCIS website.

As of February 26, 2008, 75 countries have become parties to the Hague Adoption Convention. To obtain a current listing of Convention countries, visit the U.S. Department of State website at [www.travel.state.gov](http://www.travel.state.gov).



## Frequently Asked Questions

Oct. 16, 2008

### **ADOPTIONS FROM VIETNAM TO THE UNITED STATES WILL NOT RESUME WITHOUT A NEW BILATERAL AGREEMENT**

The bilateral adoption agreement between the United States and Vietnam expired on Sept. 1, 2008. Both nations have agreed to cease processing new adoption cases until the United States and Vietnam sign a new bilateral agreement.

**Question: Now that Sept. 1 has passed, what is the status of adoptions from Vietnam?**

According to the Vietnamese Ministry of Justice, prospective adoptive parents who received a formal referral (matched with a child) by Sept. 1 will be allowed to process their adoption to conclusion. Dossiers that were not referred by Sept. 1 will be closed and returned to the adoption service provider. The joint statement between the United States and Vietnam is available online at: [http://www.travel.state.gov/family/adoption/country/country\\_4373.html](http://www.travel.state.gov/family/adoption/country/country_4373.html)

**Question: Should adoption service providers stop working on new adoptions from Vietnam?**

The Department of State (DOS) and United States Citizenship and Immigration Services (USCIS) strongly urge adoption service providers to stop matching prospective adoptive parents with children from Vietnam, and we also strongly encourage prospective adoptive parents not to seek or accept post-Sept. 1 referrals from Vietnam at this time. By stopping such activities, families will not be put in the extraordinarily difficult situation of being matched and bonding with a child that cannot come to the U.S. based on an adoption.

**Question: Does this also apply to adoptions involving special medical needs, among others?**

Because there are exceptions in Vietnamese law that allow certain cases to be processed even without a bilateral agreement, including some cases for children with medical issues and certain relative adoptions, agencies and adoptive parents have asked about processing such cases. However, the definitions and procedures for such cases are not clearly defined. At this time, USCIS and the Department of State will not process these types of cases. The Vietnamese government is in agreement that such cases will not be processed without a new bilateral agreement in place.

With the de-licensing of adoption service providers and the strong possibility that a post-Sept. 1 special needs system would be decentralized, it is likely that a post-Sept. 1, 2008 adoption system would have even less safeguards and protections for children than the pre-Sept. 1 system with which we had significant concerns. Therefore, DOS and USCIS have determined that it would be difficult, if not impossible, to implement a transparent and reliable adoption program for the special needs and other excepted types of cases in Vietnam without new protections and safeguards. USCIS and DOS have thus concluded that it is in the best interest of children and families not to resume processing any post-Sept. 1 adoption cases until a new bilateral agreement is reached that resolves these concerns.

**Question: How do I know if my case is a pre-Sept. 1 case?**

On Sept. 23, 2008, the Vietnamese Department of International Adoptions (DIA) has provided a list of 534 United States dossiers that received referrals before Sept. 1. These cases will be processed to conclusion. Prospective adoptive parents unclear about the status of their case may wish to verify via e-mail with the United States Embassy in Hanoi ([hanoiadoptions@state.gov](mailto:hanoiadoptions@state.gov)) to confirm if their case is on the DIA list.

**Question: When will processing of adoption cases resume in Vietnam?**

The processing of adoption cases for children from Vietnam will resume when the United States and Vietnam enter into a new bilateral agreement on adoptions or the Government of Vietnam accedes to the Hague Convention on Intercountry Adoptions and the adoption system in Vietnam is recognized by the United States as Hague compliant.

Both governments acknowledge the complexity of these issues and the importance of developing a transparent adoption system that protects the fundamental rights of all parties prior to resuming adoptions. The United States continues to strongly support the Vietnamese government's efforts to establish a viable adoption system with sound safeguards and protections for children and families. Until then, USCIS and DOS have concluded it is in the best interest of children and families not to process any post-Sept. 1, 2008 adoption cases without the security of a new agreement. This action does not affect cases where the prospective adoptive parents were matched with a child before Sept. 1, 2008, the date the previous bilateral agreement expired.

**Question: May I still file a Form I-600A?**

Yes. Persons may continue to file a Form I-600A, *Application for Advance Processing of Orphan Petition*. However, if Vietnam is designated as the country from which the prospective adoptive parent intends to adopt, he or she should know that without a valid bilateral agreement in place, it will not be possible to finalize an adoption in Vietnam and immediately bring the child to the United States on the basis of that adoption.

**Question: May I still file a Form I-600 for a child in Vietnam?**

Yes. If you received a referral prior to Sept. 1, 2008 that meets the criteria set forth above, including being on the list of dossiers forwarded by the Government of Vietnam, you may file Form I-600, *Petition to Classify Orphan as an Immediate Relative*, for that child and the petition will be processed.

If you did not receive a referral before Sept. 1, 2008, USCIS and DOS will be unable to process your case or issue a visa for the child.

– USCIS –



# USCIS Update

Oct. 16, 2008

## **ADOPTIONS FROM VIETNAM TO THE UNITED STATES WILL NOT RESUME WITHOUT A NEW BILATERAL AGREEMENT**

### ***Action Taken to Establish Safeguards that Protect Children and Families***

WASHINGTON – United States Citizenship and Immigration Services (USCIS) and the Department of State (DOS) issued a joint statement with the government of Vietnam announcing that the processing of new adoption cases will not resume until both countries sign a new bilateral agreement.

The governments of the United States and Vietnam are taking this action jointly because both governments recognize the complexity of issues relating to intercountry adoptions and the importance of developing a transparent adoption system that protects all parties. The United States continues to strongly support the Vietnamese government's efforts to establish an appropriate child adoption system with sound safeguards and protections for children and families. Until a new bilateral agreement is reached, USCIS and DOS have concluded it is in the best interest of children and families to not process any post-Sept. 1, 2008 adoption cases. This action does not affect cases where the prospective adoptive parents were matched with a child before Sept. 1, 2008, the date the previous bilateral agreement expired.

USCIS and DOS will continue to process Vietnamese intercountry adoption cases where the child was matched with the prospective adoptive family before Sept. 1, 2008. Prospective adoptive parents, who may need clarification of the status of their case, may verify whether their adoption petition qualifies as a pre-Sept. 1 case by e-mailing the U.S. Embassy in Hanoi at: [hanoiadoptions@state.gov](mailto:hanoiadoptions@state.gov). The Embassy strongly advises prospective adoptive parents not to travel to Vietnam until they have received notification from the Embassy that their case is ready for final processing and travel is appropriate.

The United States government is committed to supporting Vietnam in its efforts to establish practices necessary to appropriately process intercountry adoptions. We have therefore expressed our willingness to begin negotiations on a new bilateral agreement with the government of Vietnam that addresses the deficiencies in their current system. We cannot predict when a new bilateral adoption agreement with adequate safeguards for all parties will be concluded.

The joint statement between the United States and Vietnam is available online at:  
[http://www.travel.state.gov/family/adoption/country/country\\_4373.html](http://www.travel.state.gov/family/adoption/country/country_4373.html)

Additional information on international adoptions is available online at [www.travel.state.gov](http://www.travel.state.gov), or [www.uscis.gov](http://www.uscis.gov).



# Adjudicating Adoption Cases with SIMS: A Training Job Aid for Using SIMS to Process Adoption Cases

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