



May 31, 2013

PM-602-0084

## Policy Memorandum

SUBJECT: Ethiopia Pre-Adoption Immigration Review – Filing Form I-600, *Petition to Classify Orphan as an Immediate Relative*, on Behalf of a Child Being Adopted in Ethiopia

### Purpose

This policy memorandum (PM) implements the Pre-Adoption Immigration Review (PAIR) of Forms I-600, *Petition to Classify Orphan as an Immediate Relative* (“Form I-600”), filed on behalf of children from, and physically located in Ethiopia. Effective September 1, 2013, the Government of Ethiopia will require that the prospective adoptive parents include evidence that the U.S. government completed a PAIR review of the prospective adoptive child’s immigration eligibility. Any dossier filed with the Federal First Instance Court (FFIC) for consideration by the Ministry of Women Children and Youth Affairs (MOWCYA) must include evidence of PAIR. MOWCYA will review the dossier, including evidence of the U.S. government’s PAIR, prior to issuing its recommendation to the FFIC in each individual adoption case. The PAIR program allows prospective adoptive parents to file a Form I-600 petition before they complete the adoption or obtain legal custody of a child for purposes of emigration and adoption. U.S. Citizenship and Immigration Services (USCIS) will review the child’s immigration eligibility and issue a preliminary determination of immigration eligibility before prospective adoptive parents complete the adoption or obtain legal custody of a child in Ethiopia. After the adoption has been completed, the U.S. Department of State (State) or USCIS will issue a final decision on the Form I-600 petition.

This PM does not supersede any regulation or law and does not, nor is it intended to, change any state- or country-specific adoption laws or requirements. This PM revises Chapter 21.5(d) of the Adjudicator’s Field Manual (AFM), AFM Update AD13-03.

### Scope

Unless specifically exempted herein, this PM applies to and binds all USCIS employees adjudicating Form I-600 petitions filed on behalf of a child residing in Ethiopia.

### **Authorities**

- Immigration and Nationality Act (INA) section 201(b)
- 8 CFR 103.2
- 8 CFR 204.3

### **Background**

MOWCYA has announced that it will amend its dossier criteria for intercountry adoption cases to the United States to include evidence of PAIR, effective September 1, 2013. On and after the effective date, U.S. citizen prospective adoptive parents should include evidence that USCIS has conducted PAIR when filing an adoption case with the FFIC. To enable prospective adoptive parents to comply with Ethiopia's new procedure, USCIS will now accept Form I-600 filings before a final adoption decree or legal custody order in Ethiopia transfers rights to the prospective adoptive parents. Once the prospective adoptive parents have filed the Form I-600 petition with all available supporting documentation minus the adoption decree, USCIS officers will be able to complete a preliminary determination of the child's immigration eligibility. Neither USCIS nor State will be able to issue a final approval of the Form I-600 until the adoption or custody proceeding in Ethiopia is completed.

Currently, adoptive parents generally file a Form I-600 after traveling to and completing the adoption of a child (beneficiary) in Ethiopia. As a result, any serious problems with a case may only become apparent after the adoptive parents have a permanent legal relationship with the child. Irregularities uncovered after the adoption or grant of legal custody is finalized can delay or prevent the immigration of a child to the United States, which can leave adoptive parents and children in untenable situations. Implementation of the PAIR process to meet the new requirements of the Ethiopian government will significantly reduce or eliminate such problems since a preliminary determination on U.S. immigration eligibility will precede the issuance of adoption decrees or legal custody orders.

### **Policy**

Effective immediately, USCIS will accept Form I-600 petitions on behalf of children from, and physically located in, Ethiopia. Petitioners intending to adopt children from, and physically located in, Ethiopia should file the Form I-600 petition and supporting documents with USCIS before traveling to Ethiopia to adopt or obtain legal custody of a child for purposes of emigration and adoption in the United States. This new process will allow prospective adoptive parents to make an informed decision regarding the eligibility of a child to immigrate before an adoption takes place or a legal custody order is issued.

### **Process**

Petitioners adopting children from, and physically located in, Ethiopia are encouraged to file the Form I-600 petition and supporting documents with the USCIS National Benefits Center (NBC) in Lee's Summit, MO, through the appropriate USCIS lockbox, before traveling to Ethiopia to adopt a child. (See [www.USCIS.gov](http://www.USCIS.gov) for filing instructions.) The USCIS Overseas Field Offices

and U.S. Embassy in Addis Ababa will continue to accept Form I-600 petitions as appropriate, but such petitions will be forwarded to the NBC for PAIR processing. Concurrent filings of Form I-600 petitions at a USCIS office abroad will also be forwarded to the NBC under this policy.<sup>1</sup>

To initiate the PAIR process, prospective adoptive parents should submit a completed Form I-600 together with all available documentation currently required when filing a Form I-600 petition, minus an adoption decree or grant of legal custody. In addition, the following PAIR-specific documentation must be submitted when the child's country of origin is Ethiopia:

- 1) Evidence of the match between petitioner and child such as:
  - a) Adoption Contract between the Prospective Adoptive Parent (PAP) and the orphanage. A power of attorney appointing the Adoption Service Provider (ASP) to represent the PAP must be included in cases where the contract is signed by the ASP on behalf of the PAP; or
  - b) Adoption Contract between the PAP and relinquishing birth relative.
- 2) Evidence of child's availability for intercountry adoption, such as:
  - a) Court order from Regional, Zonal, or Woreda authorities;
  - b) Police report from local authorities, placing the child in the care of a licensed orphanage; or
  - c) Adoption Contract between PAP and relinquishing birth relative, in cases of intra-family adoption only.

Requirements governing the submission of documents remain the same (as found at [www.USCIS.gov](http://www.USCIS.gov)). All documents originally produced in a foreign language must be accompanied by a certified English translation.

USCIS will review all Form I-600 petitions for completeness and may issue a Request for Evidence (RFE) for additional documentation. USCIS will not request the adoption decree at this stage, understanding that it is not yet available. After a case is filed with USCIS, USCIS will provide Embassy Addis Ababa with the information necessary to complete the Form I-604, *Determination on Child for Adoption*. Once completed, and prior to the Ethiopian court's issuance of the adoption decree or legal custody order, Embassy Addis Ababa will submit the I-604 results to NBC for review. If the Form I-600 supporting documentation and the Form I-604 investigation support a determination that the child meets the orphan definition and otherwise appears eligible to immigrate to the United States, USCIS will provide the prospective

---

<sup>1</sup> In most cases petitioners will have a valid approval of a Form I-600A, *Application for Advance Processing of Orphan Petition*. Petitioners residing in the United States who do not have an approved Form I-600A application may file with the NBC concurrently using the Form I-600 petition and include all documentation required for a Form I-600A filing, although petitioners are only required to pay the I-600 filing fee when filing concurrently. Petitioners residing abroad may also file concurrently with the USCIS office abroad with jurisdiction over the petitioner's place of residence abroad.

adoptive parents with a letter regarding its preliminary eligibility determination (USCIS PAIR letter). USCIS will then forward the case file to the U.S. Embassy in Addis Ababa.

Once prospective adoptive parents have received the USCIS PAIR letter, they will forward it to their ASP for inclusion in their dossier submitted to FFIC. The FFIC and MOWCYA will make their own determinations as to the child's adoptability.

After the adoption or grant of legal custody has been finalized in Ethiopia, the adoptive parents will submit the adoption decree or legal custody order and other required documentation to Embassy Addis Ababa for final petition review and immigrant visa processing. If Embassy Addis Ababa finds that the case is not clearly approvable, it will return the case to USCIS for further action. If after submission of the final adoption decree or legal custody order USCIS needs additional information or determines that the petitioner has not established that the child meets the definition of an orphan under U.S. immigration law USCIS will notify the prospective adoptive parents and give them an opportunity to respond.

A public announcement regarding this initiative will be published on the USCIS website at [www.USCIS.gov](http://www.USCIS.gov) soon after the release of this PM.

### **Transition Plan**

In order to avoid a significant disruption in the processing of adoption cases in Ethiopia through both the U.S. and Ethiopian adoption processes, USCIS will begin accepting Form I-600 petitions under the PAIR process immediately so that on September 1, 2013, cases may be filed with FFIC without delay.

### **Implementation**

The AFM is revised as follows:

☞ 1. In Chapter 21.5, the introductory paragraph to section (d) is revised to read:

(d) Adjudication of Form I-600. Except as provided in sections (d)(8), (9) and (10), proper adjudication of the **Form I-600** will include a thorough review of each answer on the petition, inspection of all evidence submitted with the petition, and reference to the pertinent law, regulations, precedent decisions, and current policy. All processing steps in the Form I-600 SOP must be followed.

☞ 2. In Chapter 21.5, a new section (d)(10) is added to read:

(10) Special Instructions for Forms I-600 Filed on Behalf of Beneficiaries from, and physically located in, Ethiopia. USCIS will accept Form I-600 petitions filed on behalf of a beneficiary child from, and physically located in, Ethiopia who is not yet the subject of a final legal custody order or final adoption by U.S. citizen prospective adoptive parents residing in the United States, overseas, or who have traveled

overseas to complete an adoption. (Note: These special instructions do not apply to a beneficiary child from Ethiopia who is physically located outside of Ethiopia.) Petitioners adopting children from, and physically located in, Ethiopia are encouraged to file the Form I-600 petition and supporting documents with the USCIS National Benefits Center (NBC) in Lees Summit, MO, through the appropriate USCIS lockbox before traveling to, and adopting a child in, Ethiopia. (See [www.USCIS.gov](http://www.USCIS.gov) for filing instructions.) The USCIS Overseas Field Offices and U.S. Embassy in Addis Ababa, Ethiopia, as appropriate, will continue to accept Form I-600 petitions, but such petitions will be forwarded to the USCIS NBC for a preliminary determination of eligibility. Concurrent filings of Form I-600A documentation with Form I-600 petitions with a USCIS office abroad will also be forwarded to the NBC under this policy.

Petitioners should file with USCIS a completed Form I-600 together with all available documentation regarding the child's immigration eligibility that is currently required when filing a Form I-600 petition, minus the adoption decree or grant of legal custody. In addition, petitioners adopting from Ethiopia should submit:

- 1) Evidence of the match between petitioner and child such as:
  - a) Adoption Contract between the Prospective Adoptive Parent (PAP) and the orphanage. A power of attorney appointing the Adoption Service Provider (ASP) to represent the PAP must be included in cases where the contract is signed by the ASP on behalf of the PAP; or
  - b) Adoption Contract between the PAP and relinquishing birth relative,
- 2) Evidence of child's availability for intercountry adoption, such as:
  - a) Court order from Regional, Zonal, or Woreda authorities; or
  - b) Police report from local authorities, placing the child in the care of a licensed orphanage; or
  - c) Adoption Contract between PAP and relinquishing birth relative, in cases of intra-family adoption only.

A USCIS adjudications officer will review the petition and supporting evidence and request that Embassy Addis Ababa conduct the necessary Form I-604 investigation to determine whether the child appears to qualify as an orphan and is otherwise likely eligible to immigrate to the United States on the basis of the filed Form I-600 petition. If USCIS makes a favorable preliminary determination that the Form I-600 beneficiary appears to meet the definition of an orphan at INA section 101(b)(1)(F), and otherwise appears eligible to immigrate, it will issue a PAIR letter. This preliminary eligibility determination is not a final adjudication of the Form I-600 petition, and is not binding on USCIS. USCIS will then forward the file to Embassy Addis Ababa.

After the adoption or grant of legal custody is completed the adoptive parents will submit the adoption decree or legal custody order and required identity documents for the child to Embassy Addis Ababa, which will then issue the final approval of the Form I-600, if approvable. If Embassy Addis Ababa determines that the Form I-600 petition is not

clearly approvable at that time, it will return the unadjudicated Form I-600 petition to USCIS for further review and action. If USCIS needs additional information or determines that the child does not meet the definition of an orphan, USCIS will notify the prospective adoptive parents and give them an opportunity to respond.

- ☞ 3. The AFM **Transmittal Memorandum** button is revised by adding a new entry, in numerical order, to read:

AD13-03 5/31/2013	<b>Chapter 21.5(d)</b>	Provides guidance on adjudication of Form I-600 petitions filed on behalf of beneficiaries from, and physically located in, Ethiopia.
----------------------	------------------------	---

### Use

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

### Contact Information

Questions regarding this PM should be addressed through appropriate channels to the Refugee, Asylum, and International Operations Directorate or Field Operations Directorate.