



November 30, 2011

# Executive Summary

## Teleconference on Ethiopian Adoptions

### Background

On October 28, 2011, U.S. Citizenship and Immigration Services (USCIS) and the Department of State (DOS) hosted a stakeholder engagement to discuss the increased number of adoption petitions (Form I-600, *Petition to Classify Orphan as Immediate Relative*) that the U.S. Embassy in Addis Ababa, Ethiopia, has found to be “not clearly approvable.” After these petitions are found “not clearly approvable” they are referred to USCIS for adjudication. During the session, USCIS and DOS representatives explained why there is an increase in “not clearly approvable” cases, defined what “not clearly approvable” means, and provided an explanation of how the processing of these cases will unfold once they are referred to USCIS. In addition, USCIS and DOS answered questions from stakeholders, most of whom were prospective adoptive parents, concerning next steps for cases that were found to be “not clearly approvable”. The session was not intended to obtain group or consensus advice.

### Roles and Responsibilities

Under U.S. law, USCIS has responsibility for the adjudication of Form I-600, *Petition to Classify Orphan as an Immediate Relative*. A family files this petition with USCIS to seek a determination that the adoptive child has a qualifying relationship with the petitioning parent. After a Form I-600 petition is approved, then the U.S. citizen parent(s) may apply for an immigrant visa for their adopted child through the U.S. Department of State. USCIS has delegated authority to the Department of State to adjudicate Form I-600 petitions on its behalf where there is no USCIS presence at a U.S. Embassy or Consulate, such as the U.S. Embassy in Ethiopia. The Department of State, however, only has the authority to approve Form I-600 petitions that are “clearly approvable.” If a Form I-600 petition is “not clearly approvable,” then the Department of State must refer the case to USCIS. USCIS then decides if the case is approvable, if more evidence is needed before a decision can be made, or in rare circumstances, if the case should be denied.

Due to the increase in the number of cases identified as “not clearly approvable” by the U.S. Embassy in Ethiopia, stakeholders have questioned if there has been a policy change at the Department of State. Department of State officials reported that there has been no policy change regarding Form I-600s, rather there has been a practical change at the U.S. Embassy in Ethiopia

to ensure that its procedures are in compliance with Department of State procedures. Previously, the U.S. Embassy in Ethiopia sent multiple requests for additional information to the Adoption Service Providers (ASPs), giving them several chances to correct deficiencies in the file. The U.S. Embassy in Ethiopia is now in line with Department of State procedures worldwide so that if a case has material deficiencies it is being labeled as “not clearly approvable”, and is then transferred to USCIS. Once a case is transferred to USCIS as “not clearly approvable”, the Department of State no longer has the delegated authority over the case. Therefore, Department of State will not be able to accept further evidence or provide any further information on the status of the case. It is then USCIS’s responsibility to review the file and determine the appropriate next steps.

### **Clarifying the Meaning of “Not Clearly Approvable”**

After a case has been identified as “not clearly approvable,” DOS will refer it to a USCIS officer for review with three possible outcomes. In most cases, the USCIS officer decides either that the case is immediately approvable or that the petitioner has not provided enough information, resulting in the issuance of a Request for Evidence (RFE). An RFE means that further dialogue is needed between USCIS and the petitioner. In rare instances, there is evidence in the file that clearly indicates the case is not approvable. For those cases, USCIS will issue a Notice of Intent to Deny (NOID).

It is very common practice for USCIS to issue RFEs in adoption cases. An RFE can notify the petitioner of missing information, request clarification, and/or give examples of what evidence is needed. Once an RFE is issued, the petitioner generally has 87 days to produce the requested information. Please note that USCIS makes each decision on a case-by-case basis according to its own individual merits. Petitioners should feel free to submit as much documentation or evidence as they have and a decision will be made based on the totality of the evidence.

When the Department of State refers a case to USCIS as “not clearly approvable” they do so because they have done everything to adjudicate the case within the scope of authority that has been delegated to them by USCIS. The Department of State does not have the authority to issue RFEs. “Not clearly approvable” does not necessarily mean that the case will be denied. If USCIS does ultimately approve the case, it should not be seen as an indication that the Department of State was wrong to refer the case to USCIS. The Department of State simply adjudicated the case to the fullest extent possible given the evidence submitted at that time under the scope of their delegated authority.

### **Process after U.S. Embassy Addis Ababa Finds a Case Not Clearly Approvable**

Previously, the U.S. Embassy Addis Ababa had only identified a small number of cases as “not clearly approvable.” Typically, these cases have been sent to the USCIS Nairobi Field Office at the U.S. Embassy in Nairobi, Kenya by diplomatic pouch which often took four to six weeks. When USCIS became aware that the US Embassy in Addis Ababa had identified a large number of Form I-600 petitions as “not clearly approvable,” we immediately began planning with the

Department of State to send a team of USCIS officers to Addis Ababa, Ethiopia to adjudicate the growing caseload, as a more efficient and timely way to address the situation. In addition, USCIS and the Department of State coordinated to ensure that no additional cases were sent through the diplomatic pouch to USCIS Nairobi prior to the USCIS team's arrival in Ethiopia.

USCIS and DOS fully recognize that the transfer of these cases needs to happen quickly and smoothly to ensure timely processing of the cases. USCIS is considering a number of options in order to process the cases as quickly as possible, including electronic transmission and sending additional teams of USCIS officers to Ethiopia if necessary.

Form I-600 petitions that cannot be immediately approved by the USCIS team in Ethiopia will be completed by USCIS under normal procedures. If the case was not immediately approved, the petitioner will most likely receive a Request for Evidence (RFE) or in some circumstances a Notice of Intent to Deny (NOID). At this point, communication regarding the case should take place between USCIS and the petitioner.

Since the stakeholder call, USCIS has revised its communication approach, as follows:

For general questions about cases that have been approved or that have not yet received a decision from USCIS, please contact the USCIS office in Nairobi using the following address: [NBO.adoptions@dhs.gov](mailto:NBO.adoptions@dhs.gov).

For cases that have been issued an RFE or NOID, please be sure to carefully read your notice, and if you choose to respond, send your hard copy response according to the instructions on your notice to the USCIS Rome District Office. For inquiries about a case that has been issued a RFE or NOID, please contact the USCIS Rome District Office at [uscis.rome@dhs.gov](mailto:uscis.rome@dhs.gov). If, following the issuance of an RFE or NOID, the case is ultimately approved, USCIS will inform the U.S. Embassy in Ethiopia so that the Department of State's immigrant visa process can begin. The Department of State will then take the necessary steps on deciding whether an immigrant visa should be issued. Please keep in mind that just because the Form I-600 petition is approved, this does not guarantee that State Department will approve the immigrant visa.

## **Next Steps**

USCIS and the Department of State expect to hold a follow-up engagement around the beginning of December 2011. USCIS can then report on the patterns and trends in cases seen by our officers on their mission in Ethiopia. Hopefully, this will allow USCIS to give petitioners tips on how to make their case more robust and lessen the chance of future petitioners receiving a "Request for Evidence". The State Department has also begun additional training for Adoption Service Providers (ASPs) on how to avoid deficiencies in case files.

**Contact Information:**

- For questions regarding cases which after they have been defined as “not clearly approvable,” please contact NBO.adoptions@dhs.gov or [uscis.rome@dhs.gov](mailto:uscis.rome@dhs.gov) as appropriate as explained above
- For complaints about treatment by a Consular Officer at a U.S. Embassy please contact [usvisa@state.gov](mailto:usvisa@state.gov) or attorneys may use [legalnet@state.gov](mailto:legalnet@state.gov)
- For general questions on the adoption process please contact [askci@state.gov](mailto:askci@state.gov)