**U.S. Department of Homeland Security**
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529-2090

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

**PUBLIC COPY**

U.S. Citizenship and Immigration Services

Fi

[redacted]

FILE: [redacted] OFFICE: HO CHI MINH CITY Date: FEB 13 2009

IN RE: [redacted]

PETITION: Petition to Classify Orphan as an Immediate Relative Pursuant to Section 101(b)(1)(F) of the Immigration and Nationality Act, 8 U.S.C. § 1101(b)(1)(F)

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

John F. Grissom, Acting Chief
Administrative Appeals Office

**DISCUSSION**: The Director, Ho Chi Minh City, denied the petitioner's Form I-600, Petition to Classify Orphan as an Immediate Relative, and the petitioner subsequently appealed that decision to the Administrative Appeals Office (AAO). On December 30, 2008, the AAO sustained the appeal. The AAO now reopens its previous decision pursuant to 8 C.F.R. § 103.5(a)(5)(i) for a technical amendment. The appeal remains sustained; however, the AAO's order to approve the petition is withdrawn, as the I-600 petition must resume processing at the U.S. Citizenship and Immigration Services (USCIS) field office in Ho Chi Minh City.

As the facts and procedural history have been adequately documented in the previous decision of the AAO, we will only repeat certain facts as necessary here. In its December 30, 2008 decision, the AAO found that the petitioner had overcome the director's primary basis for denial and satisfied the standard of proof. Accordingly, the AAO found that the evidence established that the beneficiary met the definition of "orphan" as set forth in section 101(b)(1)(F) of the Immigration and Nationality Act (The Act). In the "Order" section of its decision, the AAO stated: "The appeal is sustained. The petition is approved."

Subsequent to the issuance of its decision, the AAO became aware that the instant I-600 petition was not approvable as of December 30, 2008 because the beneficiary was not the subject of an adoption abroad as required pursuant to 8 C.F.R. § 204.3(d)(1)(iv).[1] Accordingly, although the AAO's determination that the beneficiary meets the definition of an orphan still stands, its order to approve the petition must be withdrawn. The record of proceeding must be returned to the field office in Ho Chi Minh City to allow the director to reopen the I-600 petition that she denied on May 23, 2008 so that the I-600 petition may resume processing according to current standard operating procedures.

**ORDER:** The AAO's previous decision to sustain the appeal remains. The AAO's order approving the petition is withdrawn. The record of proceeding is returned to the Director, Ho Chi Minh City, who shall reopen the denied I-600 petition and resume its processing according to current standard procedures.

---

[1] An October 25, 2007 *USCIS Update* ("USCIS Announces Changes to Vietnam Adoptions") describes the procedures for processing I-600 petitions in Vietnam and indicates that, until a child is found to be an orphan pursuant to section 101(b)(1)(F) of the Act, a petitioner may not proceed with an adoption.