



National Council for Adoption Annual Conference/USCIS Panel June 26, 2019

On June 26, USCIS participated in a panel at the National Council for Adoption (NCFA) annual conference. USCIS representatives reviewed USCIS adoption-related resources available to the public and answered many questions submitted in advance. The questions fit into four main topics: Intercountry Adoption Roles, Statistics and Forms, USCIS Adoption Processing, and Miscellaneous.

The following is a summary of the questions and answers addressed during the panel, the questions and answers we were unable to address during the panel, and answers to the follow-up questions we received after the panel.

Note: This document primarily discusses the [orphan](#) and [Hague](#) intercountry adoption processes, except for where the [adoption-based Form I-130 process](#) is specifically referenced.

Questions¹

Intercountry Adoption Roles

1. How are USCIS and Department of State (DOS) roles in the adoption process different, where do they overlap, and which legislation and regulations govern which entity?
 - USCIS Roles
 - Sole authority to determine prospective adoptive parents' (PAPs') suitability and eligibility to adopt.
 - Authority to determine if the adoptive child meets the legal definition of an orphan or Convention adoptee under U.S. immigration law. We share this role in part with DOS.
 - Maintain/revise the corresponding DHS orphan and Hague regulations – 8 CFR 204.3 and 8 CFR 204.300-204.314. These provisions:

¹ These questions and answers (Q&A) are intended to provide generalized information. This Q&A should not be considered legal advice and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person. Likewise, no limitations are placed by this guidance on the otherwise lawful enforcement or litigation prerogatives of DHS.



- Govern the orphan and Hague adoption processes, set out home study and filing requirements, define critical terms in INA 101(b)(1)(F) and (G), and delegate certain roles to DOS.
- Maintain the USCIS Adjudicator's Field Manual and various related policy memorandums, which provide adjudication guidance for processing intercountry adoption cases.

Note: The [USCIS Policy Manual](#) is our centralized online repository for immigration policies. We are working to update and move intercountry adoption-related material from the Adjudicator's Field Manual to the Policy Manual, but do not yet have an estimated completion date.

- DOS Roles
 - Please see the "[About Us](#)" section of the DOS intercountry adoption website for a description of DOS roles as the U.S. Central Authority for the Hague Adoption Convention. The website also includes information on DOS [Oversight of Accrediting Entities](#).
 - USCIS has also delegated certain processing roles to DOS. DOS adjudicates Form I-600 petitions filed outside the United States and does the final adjudication of Form I-800 petitions at consular posts.
 - For orphan cases, DOS can receive and approve Form I-600 petitions for clearly approvable cases and conducts the required Form I-604 determinations where USCIS is not present.
 - For Hague cases, DOS can issue final Form I-800 approval for clearly approvable cases.

2. What role does USCIS have in assessing fraud in a given country?

- USCIS determines if the adoption or grant of legal custody took place according to the laws of the foreign-sending country for non-Hague cases and ensures the child meets the legal definition of an orphan or Convention adoptee under U.S. immigration law.
- In adjudicating any adoption-related application or petition, USCIS considers the relevance and weighs the credibility and probative value of all evidence in the record and any publically available resources. USCIS considers any fraud concerns, and reaches a decision in each case consistent with applicable legal standards for assessing weight of evidence.

What do you perceive as the adoption service providers' (ASPs') role and responsibility?



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- ASPs should ensure that a child's origins are properly documented in accordance with the laws of the foreign country. It is critical that the supporting evidence provided to USCIS is authentic, properly obtained, and accurately documents the child's origins and history through the adoption process.

Are you aware of any tools that ASPs can utilize to help us better screen cases?

- The Department of State website provides country-specific information with respect to the availability and reliability of certain civil documents. In addition, the country flyers provide helpful information about the in country adoption process and the relevant authorities.

Statistics and Forms

3. Where can we find the data for how many Form I-600 and Form I-800 petitions are received annually and how many are denied/revoked, during that same time frame?
 - USCIS publishes FY statistics for "[All USCIS Application and Petition Form Types.](#)"
4. USCIS does not provide processing time frames for Form I-800A/I-600A applications or Form I-800/I-600 petitions. Is it possible to tell us what day/week USCIS is processing? For example, today we are processing documents received on April 1, etc.
 - National Benefits Center (NBC) Form I-600A and I-600 processing times can be found on the USCIS.gov website under the "[Check Processing Times](#)" link. The NBC is working to get the Form I-800A and I-800 processing times added to this website.
 - The target processing time for Form I-800A is approximately 75 days from lockbox receipt date. The target processing time for Form I-800 is approximately 30 days from lockbox receipt date.
 - Because cases are reviewed and processed on a case-by-case basis, disclosing exact processing dates would not provide an accurate representation as to when all other cases will be reviewed. The average processing times provided are intended as a range within which most cases will be processed.



5. In what percentage of cases does USCIS issue a provisional Form I-800 approval and later receive a notice from DOS posts overseas that a request for evidence (RFE) or notice of intent to revoke (NOIR) should be issued? Has this percentage increased?
- The overall number of such cases is very low.
 - If a consular officer becomes aware of a significant change related to the prospective adoptive parent(s)' suitability in a Hague case after provisional approval but before visa issuance, they will notify the NBC and the family that a Form I-800A, Supplement 3, is needed prior to them proceeding with their case. Most often, the significant change deals with a change of address or a change in the characteristics of the child the prospective adoptive parent(s) were approved to adopt. Once NBC has been notified of the significant change by DOS, they will review the file and issue an RFE for a Supplement 3 and updated home study if it is needed.
 - A family may submit a Form I-800A, Supplement 3, for a variety of reasons and the NBC does not keep statistics on the specific reasons for such submissions. However, the overall number of cases where a family must file a Supplement 3 after receiving a Form I-800 provisional approval is very low.
 - Additionally, a consular officer may determine that a child does not appear eligible as a Convention adoptee. In such cases, the petition is returned to the NBC for review and further action if needed (for example, RFE or notice of intent to deny (NOID)). The overall number of such cases is also very low.
6. In what percentage of cases is an RFE issued? In what percentage of cases is a NOID issued?
- In FY18, NBC had an overall RFE rate of 27 percent and a NOID rate of 1 percent across Forms I-600A, I-600, I-800A, and I-800.
7. Regarding Form I-600A and Form I-600, the USCIS website says that new forms are coming soon. Are there new forms coming?

Edition Date

12/23/16. A new edition of this form is coming soon. In the meantime, you may file using the 12/23/16 edition. You can find the edition date at the bottom of the page on the form and instructions.



- In 2018, a revised Form I-600A and Form I-600 and supplements were published in the Federal Register with 60-day and 30-day periods for public comment.
- We reviewed all comments and made changes based on the feedback.
- The forms were then submitted to the Office of Management and Budget (OMB) at the end of January 2019.
- While pending approval with OMB, the status of the forms review is publically available via reginfo.gov.
- USCIS will publish these revised versions of the forms once OMB approves, and will provide updates to the public with more information once that happens. Until then, please continue to use the 12/23/16 versions.

USCIS Adoption Processing

8. The time between documents arriving at the USCIS Lockbox and the NBC continues to be lengthy. How much time does it typically take and what happens during this timeframe?
 - There are multiple steps that take place before the officer receives the case including:
 - The USCIS Lockbox must process the fee and physically transfer the case to the NBC; and
 - The NBC conducts pre-processing steps such as data entry, fingerprint appointment scheduling and security checks before the case is assigned to an officer.
 - It typically takes 7 to 10 business days for these forms to reach NBC officers.
9. We understand that the NBC office does not accept documents via email. What is the reason for this?
 - Current business protocols, privacy considerations, and resource constraints have limited the NBC's ability to accept evidence by email. In addition, certain documents, such as a home study, require an original signature.
10. Could we have the complete list of Duty of Disclosure questions that are REQUIRED?
 - 8 CFR 204.311(d) addresses the applicant's/petitioner's and adult member of the household's duty of disclosure. There is no set format as long as the information listed on the Form I-800A and Form I-600A form instructions is addressed in the home study.



Under 8 CFR 204.311(d), the applicant/petitioner, his/her spouse (if married), and any adult member of the applicant's/petitioner's household have an ongoing duty of disclosure throughout the intercountry adoption process. This duty requires these individuals to:

- Provide true and complete information to their home study preparer;
- Disclose other relevant information, such as physical, mental, or emotional health problems or behavioral issues;
- Disclose any arrest, conviction, or other criminal history, whether in the United States or abroad, even if the record of the arrest, conviction, or other criminal history was expunged, sealed, pardoned, or the subject of any other amelioration;
- Disclose any history of substance abuse, sexual abuse, child abuse or neglect, unregulated child custody transfer, and/or family violence as an offender under 8 CFR 204.309(a)(1), even if closed or unsubstantiated; and
- Notify their home study preparer and USCIS of any new event or information that might require an updated home study.

With respect to child abuse or neglect, this duty of disclosure requires these individuals to disclose any past or pending investigation by any child welfare agency, court, or other official authority in any state or foreign country concerning the abuse or neglect of any child, even if closed or unsubstantiated.

This duty of disclosure is an ongoing duty that continues throughout the intercountry adoption process. This timeframe includes periods while any Form I-800A/I-600A is pending, after any Form I-800A/I-600A is approved, while any Form I-800/I-600 is pending, and until there is a final decision to admit the child to the United States with a visa.

11. Have there been any trends in terms of reasons for issuing RFEs in adoption cases?

The following are reasons for RFEs for Orphan Petitions:

- Inconsistent documents material to the child's eligibility as an orphan such as documents with differing birth dates, different name variations, differing accounts of, for example, how the child came into the orphanage, etc.
- Incorrect or missing translations.



- Country-specific deficiencies.
 - Missing certain documents that are available in a particular country and needed to establish the child's orphan status by a preponderance of the evidence.
 - The steps in the adoption process occurring in a different order than what the law of the foreign-sending country requires.
- New evidence revealed during Form I-604 Determination.

The following are reasons for RFEs for Hague petitions:

- Similar trends as those listed for orphan petitions.
- Not following the steps in the Hague process in the right order.
- Filing the petition (Form I-800) without all necessary documents, or the foreign language translations.

The following are reasons for RFEs for Form I-600A and Form I-800A applications:

- Filing a Form I-800A without a home study.
- Home studies that have not been reviewed and approved by an accredited agency, specifically when filing Form I-800A, Supplement 3.
- Providing a home study that does not include the required information such as:
 - Lack of adequate assessment of children in the home (in other words, home study preparers must identify each child resident in the home by name, date of birth, country of birth, alien registration number (if any), and relationship to the PAPs).
 - Lack of question on Unregulated Custody Transfer (UCT) (home study preparers must ask PAPs/AMHs targeted/tailored questions about UCT).

12. Can USCIS give an estimate as to how many cases are under administrative review? Has this increased or decreased in recent years?

- We typically do not use the term "administrative review" unless a denied case has been appealed to the USCIS Administrative Appeals Office. In some instances, USCIS tells a family that their case is "under review."



- USCIS could be taking many different types of action when a case is under review – such as:
 - Initial review by an officer;
 - Supervisory review;
 - Consultation with the Office of the Chief Counsel or Headquarters; or
 - Consultation with DOS in DC or at post.
 - In most circumstances, a case does not require all these steps. However, USCIS generally informs families that a case is under review and that we will contact the family if additional information is needed. The length of time a case is under review largely depends on how many offices and individuals need to review, and it varies case-by-case.
13. When a case is found to be “not clearly approvable” (NCA) by a DOS consular officer at a U.S. Embassy in a non-Hague country, what is the process that USCIS goes through once you receive the case?

NCA Process

- Consular officers have limited, delegated authority from USCIS and may only approve Form I-600 petitions that are found to be clearly approvable.
- If DOS cannot clearly approve a Form I-600, then consular officers are required to send the case to USCIS for further action (such as an RFE, NOID, and ultimately approval or denial). We typically issue a RFE or NOID to allow the family a chance to resolve the identified inconsistencies or concerns.
- If USCIS approves a case, we notify the family and return the case to the Consular Section for visa screening.
- If USCIS denies a case, we notify the family and provide information about the appeal process.

This question also applies when a consular officer returns a previously approved Form I-600 petition to USCIS.

Consular Return (CR) Process

- In general, the NBC will approve a Form I-600 petition and then forward it to DOS to complete the Form I-604 Determination.



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- If DOS identifies evidence (usually through the Form I-604 Determination) that may have changed the outcome of the original USCIS approval, the consular officer is required to send the case back to USCIS for review.
 - Upon review of the new information, USCIS may reaffirm a case, issue a NOIR, or revoke as warranted.
 - USCIS will review the information received from any NOIR and make a final determination on the case (such as revocation or reaffirmation).
14. Can you give a timeline for the process when the case is transferred to a USCIS international field office v. the National Benefits Center?
- “Not Clearly Approvable” and “Consular Return” cases can take more time to adjudicate and may require additional levels of review.
 - There is no general timeline, as each case will vary.
15. In deciding whether children are orphans, does USCIS and/or the Embassy/Consulate take into account the laws of the particular country? (For example, in Malawi a birth mother cannot legally sign any type of consent for her children if she is deemed to be mentally unstable. The maternal grandmother is instead given that right to consent for an adoption of the children.)
- When adjudicating a Form I-600 or Form I-800, USCIS and/or the Embassy/Consulate consider the law of the child’s country of origin. Depending on the case, we often research the foreign legal process and foreign law to determine how a child becomes eligible for intercountry adoption.
 - A valid court decree for U.S. immigration purposes must comply with the laws of the foreign country where issued. However, such a court decree on its own may not be sufficient to establish all required elements of orphan eligibility. USCIS will review eligibility based on the totality of the record.
16. Is there a way for children in non-Hague countries to have the Form I-604 Determination completed before the family travels to the country to fully adopt the child? This would prevent parents from fully adopting a child to be denied visas and then the parents have to determine how to care for that child even though they cannot enter the U.S.



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- The orphan regulations allow the USCIS National Benefits Center to request a Form I-604 in advance only if there are articulable concerns that can only be resolved through the Form I-604 Determination.
- The U.S. Pre-Adoption Immigration Review (PAIR) process enables a non-Hague country to require that prospective adoptive parents receive a preliminary determination on the child's eligibility to immigrate to the United States (preliminary determination of Form I-600, Petition to Classify Orphan as an Immediate Relative) before seeking an adoption decree or grant of legal custody in the child's country of origin. Currently, we have PAIR programs in Ethiopia and Taiwan, both of which have been in place since 2013.

Miscellaneous

We also received a few questions that did not fall neatly into the previous categories.

17. Will adoptions be able to continue in Honduras after July 1? Does USCIS believe that Honduras will be able to meet Hague requirements?

- The Department of State recently [announced](#) that Hague adoptions in Honduras will be possible.

18. Can you explain USCIS's role in determining habitual residence and how this impacts the filing for immigration benefits?

- Under certain circumstances, U.S. citizens may file a Form I-130, Petition for Alien Relative, for a child from a Hague Adoption Convention (Hague) country if they can establish the Hague Adoption Convention does not apply to the adoption.
- Specifically, USCIS may approve the Form I-130 if a U.S. citizen adoptive parent can establish that:
 - The adoption occurred prior to the country becoming a Hague country;
 - S/he was not a U.S. citizen when the adoption from the Hague country was finalized (and therefore, could not use the Hague process);
 - S/he was not habitually resident in the United States at the time of the adoption; or
 - The child is/was not habitually resident in a Hague Adoption Convention country.
- We have issued two related policy memoranda on this issue— one in [2013](#) and one in [2017](#).



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19. What should PAPs do if they are U.S. citizens overseas, but cannot get their country of residence to issue a letter approving of their adoption process?

- Before beginning any adoption or guardianship, USCIS recommends that the family consult the immigration authorities in their country of residence to determine whether the adopted child will be recognized as their legal child and permitted to reside with them in that particular country.
- If the family intends to seek U.S. citizenship for the adopted child after he or she begins residing with the family, it is also advisable to determine whether the child will still be permitted to reside with them after the child becomes a U.S. citizen.

20. In recent months, a few families received an invoice from USCIS for \$220 after they returned to the United States with their adopted children. Is this an error?

Individuals immigrating to the United States as a lawful permanent resident (LPR) must pay the USCIS Immigrant Fee online unless an exemption applies. USCIS uses this fee to process the immigrant visa packet and produce the Permanent Resident Card (commonly known as a Green Card).

Children who enter the United States under the orphan or Hague adoption processes are exempt from the immigrant fee. We are aware, however, that several adoptive families recently received a Form I-797C, Notice of Action, requesting payment for the immigrant fee. We are taking steps to correct the issue. In the interim, if a family receives a Request for Payment, they should contact the [USCIS National Benefits Center](#).

21. Most ASPs have never been involved in Form I-130 cases. Now we are getting requests to do home study reports for Indian adoptive parents that have already finalized adoption in India and fulfilled the two-year legal custody and joint residence requirements for the Form I-130. It is our understanding that ASPs are not permitted to offer services to these families. Therefore, the families are not able to complete the Indian adoption requirements. Is there anything you can do?

- U.S. immigration law does not require submission of a home study with a Form I-130, Petition for Alien Relative. We encourage you to contact the Department of State or the Intercountry Adoption Accreditation and Maintenance Entity (IAAME) regarding an ASP's ability to conduct a home study in this situation. We will also raise the issue with our DOS counterparts.



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22. We also received questions about the transfer of work from USCIS international field offices to field offices located in the United States, and how these changes will impact Form I-600 adoption cases and adoption-related Form I-130 processing abroad:
- Much of the intercountry adoption case processing and adjudication already occurs domestically in the United States. We expect the USCIS international field office adoption workload to shift to the USCIS National Benefits Center in the U.S. or the Department of State in the child's country of origin for processing. We will be working with the Department of State to provide any necessary in-person services related to the processing of intercountry adoption-related applications and petitions.
 - After October 14, 2019, all PAPs residing abroad must file Form I-600A with the NBC via the USCIS lockbox facility in Dallas.
 - For additional information regarding international field office closures, please visit [this page](#) and [subscribe to USCIS news alerts](#).

Live Q&A Session

23. Must a home study assess the characteristics of a child already matched/adopted, but not yet living in the home?

8 CFR 204.311 does not require that a home study include an assessment of a child already matched or adopted, but not yet living in the PAPs' home. However, the home study should fully address the characteristics of the child the home study preparer recommends the PAPs to adopt.

24. Is there a timeline for completion of a Form I-604 determination?

No, there is no regulatory requirement that the Form I-604 is completed within a specific period of time.

25. Why do RFEs still mention "amended" home studies?

The NBC is updating its RFE template language to remove references to "amended" home studies to align with the [2018 USCIS Suitability Memo](#).

26. Do we have to do a criminal background check on an infant?



USCIS does not require criminal history checks on a child in the household. Rather, the 2018 USCIS Suitability Memo requires that home study preparers ask the PAPs (and the child, if appropriate) if the child has any criminal history and conduct any background checks on the child that are appropriate in light of the information you receive, and to factor that information into the assessment of the suitability of the home.

27. What should we do if a birth parent dies after USCIS approval?

If an orphan or Convention adoptee's birth parent dies after USCIS Form I-600 approval or provisional Form I-800 approval, please notify USCIS and DOS in the child's country of origin.

28. Is there a processing checklist that you can share? Can USCIS provide a home study checklist and blank home study template?

USCIS has [public resources on preparing home studies](#) on our website. We have also published a [home study tip sheet](#) that we are in the process of updating and incorporating into our home study web materials that outlines what is required for each home study for USCIS purposes. We cannot endorse a home study template as each U.S. state has different home study requirements.

29. What does mild to moderate special needs mean?

There is no set definition, list, or degree of special needs. USCIS officers review the overall assessment of the adoptive child and determine if any of the home study preparer's recommended restrictions have been met. If not, we will request an updated home study.

30. What happens if a country requires a longer validity period for fingerprint validity than USCIS?

In general, USCIS does not accept requests to update fingerprint checks until 90 days before the expiration date. However, if a country requires a fingerprint validity longer than 90 days during the adoption process, please notify the USCIS office with jurisdiction over the case.



31. Where will families file Form I-130s for adopted children when international field offices close?

USCIS will publish information on the individual international office [webpages](#) with specific filing instructions as an office closure date approaches.

32. May a home study preparer recommend PAPs to adopt from two different countries in the same home study?

Yes. There is no limit to the number of countries a home study preparer can recommend the PAPs to adopt from.

33. What kind of documents can establish a child as an orphan? Are there country-specific lists or exemplars that we can refer to?

Our [Form I-604 Memo](#) explains what kind of documentation can constitute primary evidence of each aspect of the orphan definition. While we do not have country-specific exemplars for public use, the [Department of State country flyers](#) and [reciprocity tables](#) contain useful country-specific information.

34. Who does USCIS consider to be regularly residing in the home such that they would be considered an adult member of the household? What about a grandparent who visits 3-6 months each year?

USCIS regulations give our adjudicators discretion to consider anyone whose presence in the home is relevant to the home's overall suitability to be an adult member of the household. If someone is clearly a visitor, we typically would not consider them to be an adult member of the household; however, a regular visitor who plays an everyday role in the household might need to be considered as such. These are very fact-specific and case-by-case determinations. USCIS will issue an RFE if we believe that someone's presence in the household must be assessed in the home study as an adult member of the household.

35. If the law in the foreign country doesn't require something, for example a step-parent doesn't have to relinquish his step-child because he doesn't have legal rights as a parent, how do you prove this isn't a requirement?

This is a case-specific determination, but generally evidence of what the foreign law *does* require with appropriate citation may sufficiently establish, for example, who would be a legal parent in that particular country.