

INTERIM MEMO FOR COMMENT

Posted: 07-02-2014
Comment period ends: 08-13-2014 This
memo is in effect until further notice.

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director (MS 2000)
Washington, DC 20529-2000



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

June 30, 2014

PM-602-0103

Policy Memorandum

SUBJECT: Guidance on the Implementation of the Intercountry Adoption Universal Accreditation Act of 2012 and the Consolidated Appropriations Act, 2014 in Intercountry Adoption Adjudications

Purpose

This policy memorandum (PM) provides guidance on the implementation of the Intercountry Adoption Universal Accreditation Act of 2012 and the statutory change to section 101(b)(1)(F) of the Immigration and Nationality Act in the Consolidated Appropriations Act, 2014. This PM revises Chapter 21.5(b)(4), Chapter 21.5(d), and Chapter 21.5(e) of the Adjudicator's Field Manual (AFM); AFM Update AD14-06.

Scope

Unless specifically exempted herein, this PM applies to and is binding on all U.S. Citizenship and Immigration Services (USCIS) employees.

Authorities

- Intercountry Adoption Universal Accreditation Act of 2012 (UAA), Pub. L. 112-276
- Intercountry Adoption Act of 2000, Pub. L. 106-279
- Immigration and Nationality Act (INA) sections 101(b)(1)(F) and 101(b)(1)(G)
- 8 CFR 204.3, 8 CFR 204.301, 8 CFR 204.311, and 8 CFR 204.309
- 22 CFR Part 96
- Consolidated Appropriations Act, 2014 (CAA), Pub. L. 113-76, section 7083

Background

Since January 2013, there have been two statutory changes that impact the adjudication of intercountry adoption applications and petitions.

1) Universal Accreditation Act

On January 14, 2013, the President signed the UAA, which will become effective on July 14, 2014. As of that date, all agencies or persons providing adoption services on behalf of prospective adoptive parents, in support of Form I-600A, *Application for Advance Processing of an Orphan Petition*, or Form I-600, *Petition to Classify Orphan as an Immediate Relative*, must be accredited or approved, or be a supervised or exempted provider, in accordance with the Intercountry Adoption Act of 2000 and the Department of State accreditation regulations at 22 CFR Part 96 for Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Hague Adoption Convention) cases.

The UAA requires that adoption service providers (ASPs) providing adoption services on behalf of prospective adoptive parents in non-Hague Adoption Convention (“orphan”) cases under INA section 101(b)(1)(F) follow the same accreditation or approval process required of ASPs providing adoption services on behalf of prospective adoptive parents in Hague Adoption Convention cases under INA section 101(b)(1)(G). The UAA assures families pursuing an intercountry adoption that, regardless of the country from which they intend to adopt, the ASP they choose will need to comply with the same standards of practice and ethical conduct.

The UAA does not apply to cases that meet certain criteria (i.e., grandfathered cases). **A case is grandfathered and the UAA does not apply if:**

1. The prospective/adoptive parents filed Form I-600A *or* Form I-600, before July 13, 2013;
OR
2. The prospective adoptive parents submitted an application to the relevant competent authority (the application need not designate a specific child) *or* the prospective adoptive parents accepted a match proposed by a competent authority or appropriate entity, before July 13, 2013.

Unless an exception applies, beginning July 14, 2014, the UAA will impact adjudications of Form I-600A applications and Form I-600 petitions in a variety of ways, including:

- **Home study preparation.** All home studies submitted to support a Form I-600A or Form I-600 must be conducted by an individual or agency authorized under 22 CFR Part 96 to conduct home studies for Hague Adoption Convention cases (see definition of home study preparer in 8 CFR 204.301). An accredited agency must review and approve any home study that was not performed by an accredited agency before it is submitted to USCIS. This requirement does not apply to a home study that was prepared by a public domestic authority (see 22 CFR 96.47(c)). Under 22 CFR 96.47(d), the adoption service provider is also responsible for ensuring the timely transmission of the same home study that he or she provides to prospective/adoptive parents or USCIS to the child’s country of origin.
- **Home study elements.** All home studies, including home study updates and amendments, must comply with the Hague Adoption Convention home study requirements at 8 CFR 204.311, which differ from the home study requirements in effect for orphan cases prior to July 14, 2014 at 8 CFR 204.3(e).

- **Definitions.** 8 CFR 204.3(e) and certain definitions in 8 CFR 204.3(b) no longer apply in orphan cases (see 8 CFR 204.301 for the new definitions of “adult member of the household,” “home study preparer,” “suitability as adoptive parent(s),” “officer,” “adoption,” and “applicant,” which includes both a married U.S. citizen and his or her spouse).
- **Duty of Disclosure.** Under 8 CFR 204.311(d) and 8 CFR 204.309(a), a Form I-600A applicant/Form I-600 petitioner, his or her spouse (if married), and any adult member of the household have a duty of candor in completing Form I-600A (if filed) and Form I-600, during the home study process, and an ongoing duty of disclosure throughout the adoption process. This ongoing duty continues while Form I-600A is pending, after Form I-600A is approved, while any Form I-600 is pending, and until there is a final decision admitting a child, on whose behalf the Form I-600 petitioner filed Form I-600, to the United States with a visa.
- **Identifying a Primary Provider.** A Form I-600 petitioner must identify a primary adoption service provider if any adoption services are provided on or after July 14, 2014. Under 22 CFR Part 96, a primary provider is responsible for:
 1. Ensuring that all six adoption services defined at 22 CFR 96.2 are provided consistent with applicable laws and regulations;
 2. Supervising and being responsible for supervised providers where used (see 22 CFR 96.14); and
 3. Developing and implementing a service plan in accordance with 22 CFR 96.44.

Only accredited agencies or approved persons can act as primary providers. Form I-600A applicants/Form I-600 petitioners may still act on their own behalf in adoption cases if permitted under the laws of the state in which they reside and the laws of the country from which they seek to adopt. Although Form I-600A applicants/Form I-600 petitioners do not need accreditation or approval to act on their own behalf, their actions need to comply with applicable law, and they will still need to engage an accredited agency or approved person to act as the primary provider in each case. A primary provider helps to ensure that orphan adoption services are provided with the same standards of practice and ethical conduct as Hague Adoption Convention cases.

2) *Consolidated Appropriations Act, 2014*

On January 17, 2014, the President signed the CAA into law. The CAA changed the INA definition of an orphan found at section 101(b)(1)(F). Previously, the INA provision required that both adoptive parents in a married couple personally see and observe the beneficiary orphan prior to or during the adoption proceedings in order for the adoption to be considered “full and final.” The CAA changed the orphan definition to require that “at least one” adoptive parent in a married couple must personally see and observe the orphan before or during the adoption proceedings in order for the adoption to be considered “full and final” for immigration purposes. This change became effective on January 17, 2014.

Implementation

Effective immediately, officers will apply the new orphan definition at INA section 101(b)(1)(F) and effective July 14, 2014, officers adjudicating Form I-600A and/or Form I-600 should follow this guidance to determine whether the UAA applies to a particular case, and if the UAA applies, follow the adjudicative steps outlined in this PM and AFM update AD14-06.

Accordingly, the AFM is revised as follows:

- ☞ 1. Chapter 21.5(b)(4) of the AFM is revised by adding a new paragraph before (A).

21.5 Petition for an Orphan.

(b) Adjudication of Form I-600A.

(4) Home Study Requirements. ***

The Intercountry Adoption Universal Accreditation Act of 2012 (UAA), effective July 14, 2014, imposes certain requirements on any case that does not meet the transition criteria outlined in UAA Section 2(c). The UAA has significant implications for Form I-600A and Form I-600 adjudications, including home study preparation and required home study elements, among others. See Chapter 21.5(e) to determine whether the UAA applies to a particular case and what to do if it does.

(A) A valid, original home study...

- ☞ 2. Chapter 21.5(d) of the AFM is revised by deleting the first paragraph in full and replacing it with the text below.

(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 Standard Operating Procedures (SOP) must be followed. As a result of the UAA, effective July 14, 2014, any case that does not meet certain criteria must also comply with the UAA, which has significant implications for Form I-600A and Form I-600 adjudications, including: home study preparation and required home study elements; the definitions of home study preparer, applicant, and adult member of the household; duty of disclosure obligations; and identifying a primary provider. See

Chapter 21.5(e) to determine whether the UAA applies to a particular case and what adjudicative steps are necessary if the UAA applies.

- ☞ 3. Chapter 21.5(d)(5)(A) is revised by deleting the first, second and third paragraphs under (A) and replacing it with the text below.

(5) Evidence That the Child Has Been Adopted Abroad or Is Coming to the United States to Be Adopted.

(A) If the child was adopted abroad.

If the petitioner adopted the child abroad, the petitioner must submit a legible, certified copy of the final adoption decree showing that the child has been adopted by the unmarried petitioner or by the married petitioner and spouse jointly, and evidence that the petitioner (or spouse, if married) personally saw and observed the child before or during the adoption proceedings. If this is the case, the child may qualify for an IR-3 Visa.

A foreign adoption may be recognized as valid in the state of the child's intended residence, but will not make a child eligible to immigrate under INA section 101(b)(1)(F) unless it is established that the petitioner, or spouse if married, personally saw and observed the child at some point before or during the foreign adoption proceedings, or that the petitioner (and spouse, if married) will be able to adopt the child (or validate the foreign adoption) in the United States.

If the petitioner is married, the spouse must also have been a party to the adoption and at least one of them (petitioner or spouse) must also have personally seen and observed the child before or during the adoption proceedings. If neither of two married adoptive parents actually saw and observed the child, or only one parent adopted the child, the foreign adoption will not make the child eligible to immigrate under INA section 101(b)(1)(F) unless the parents will be able to adopt the child (or validate the foreign adoption) in the United States (although the "adoption" may be considered to have established legal custody for bringing the child to the United States to be adopted) and have met the pre-adoption requirements of the state of the child's intended residence...

- ☞ 4. Chapter 21.5(d)(5)(B) is revised by deleting (B) in full and replacing it with the text below.

(5) Evidence That the Child Has Been Adopted Abroad or Is Coming to the United States to Be Adopted.

(B) If the child is to be adopted in the United States.

If neither the petitioner, nor his or her spouse (if married), personally saw and observed the child before or during the adoption proceedings abroad and the petitioner or spouse (if married) is bringing the child to the United States to be adopted, OR if the child is not adopted abroad but is released to the prospective adoptive parents to come to the United States for adoption, an IR-4 Visa may be issued to the child. The following must be submitted in support of such a case:

- Evidence (such as a copy of the custody decree) that the petitioner (and his or her spouse, if married) has, 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; and
- An irrevocable release of the orphan for emigration and adoption from the person, organization, or competent authority that had the immediately previous legal custody or control over the orphan (this may be evidenced by a court order or release by the previous legal custodian of the child giving the child for adoption to the named prospective adoptive parent(s) with their United States residence clearly incorporated into the order). It must be clear that the person or entity has the legal authority to release the child for emigration and adoption. Some types of custody are restricted to simply caring for the child, while another entity retains the control over the child's destiny.

Also, if the petitioner and his or her spouse (if married) intends, and is legally able, to adopt the child in the United States, the officer should ensure that the petitioner and his or her spouse (if married) have complied with pre-adoption requirements, if any, of their State of residence. Any additional requirements that cannot be complied with prior to the child's arrival in the United States because of State law must be noted and explained. If neither the petitioner, nor his or her spouse (if married), personally saw the child before or during the adoption proceeding abroad, the officer should ensure that the State of the orphan's proposed residence allows re-adoption or provides for judicial recognition of the adoption abroad.

- ☞ 5. Chapter 21.5(e) of the AFM is revised by relabeling existing part (e) “Post-adjudication Actions” to part (f) and inserting the text below as part (e).

(e) Requirements under the Intercountry Adoption Universal Accreditation Act (UAA). Effective July 14, 2014, officers will determine whether the UAA applies to a particular Form I-600A or Form I-600 adjudication, and if it does, follow the adjudicative steps in this section. If the UAA does not apply, instead follow the adjudicative steps listed in Chapter 21.5(b)-(d) and (f).

The UAA requires that all agencies or persons providing adoption services on behalf of prospective adoptive parents in support of Form I-600A, or Form I-600, must be accredited or approved, or be a supervised or exempted provider, in accordance with the Intercountry Adoption Act of 2000 and the Department of State accreditation regulations at 22 CFR Part 96 for Hague Adoption Convention cases.

Under 22 CFR 96.2, **adoption service** means any one of the following six services:

1. Identifying a child for adoption and arranging an adoption;
2. Securing the necessary consent to termination of parental rights and to adoption;
3. Performing a background study on a child or a home study on a prospective adoptive parent(s), and reporting on such a study;
4. Making non-judicial determinations of the best interests of a child and the appropriateness of an adoptive placement for the child;
5. Monitoring a case after a child has been placed with prospective adoptive parent(s) until final adoption; or
6. When necessary because of a disruption before final adoption, assuming custody and providing (including facilitating the provision of) child care or any other social service pending an alternative placement.

The UAA has significant implications for orphan adjudications, including: home study preparation and required home study elements; the definitions of adult member of the household, home study preparer, suitability as adoptive parent(s), officer, adoption, and applicant; duty of disclosure obligations; and identifying a primary provider. Each of these issues is addressed in the below guidance. Please direct questions to the Refugee, Asylum and International Operations Directorate (International Operations Division Headquarters) and Field Operations Directorate (USCIS National Benefits Center) through proper channels.

(1) How to Determine Whether the UAA Applies.

The UAA does not apply to cases that meet certain criteria (i.e. grandfathered cases). **A case is grandfathered and the UAA does not apply if:**

1. The prospective/adoptive parents filed Form I-600A or Form I-600, before July 13, 2013; **OR**
2. The prospective adoptive parents submitted an application to the relevant competent authority (the application need not designate a specific child) or the prospective adoptive parents accepted a match proposed by a competent authority or appropriate entity, before July 13, 2013 (see the Department of State [website](#) and when available supplementary country-specific materials for interpretative guidance on this provision).

Officers should first determine if a case is grandfathered under option 1 above and only look to option 2 if the case cannot satisfy option 1. If it is not clear that option 2 is satisfied, officers may issue a Request for Evidence (RFE) requesting evidence that would establish that the case is grandfathered under option 2. In cases where an officer cannot determine if a case meets option 2, the officer should consult the appropriate Adoption Division country officer using AdoptionUSCA@state.gov to determine whether option 2 is satisfied. When adjudicating Form I-600A or Form I-600, if officers cannot determine whether a case is grandfathered based on the evidence in the record, officers should issue an RFE.

(2) Adjudication of Form I-600A When the UAA Applies.

(A) See and follow the guidance at Chapter 21.5(b)(1)-(3) for “Jurisdiction and Proper Filing,” “Evidence that the PAP (and Spouse, if Married) is Prima Facie Eligible,” and “Fingerprinting Requirements,” respectively.

(B) Ensuring Proper Home Study Preparation and/or Approval.

All home studies must be conducted by an individual or agency authorized under 22 CFR Part 96 to conduct home studies for Hague Adoption Convention cases (see definition of **home study preparer** in 8 CFR 204.301), which includes:

- Public domestic authorities;
- Accredited agencies;
- Approved persons;
- Supervised providers; and
- Exempted providers.

The above terms are defined at 22 CFR 96.2. Note that the Hague Adoption Convention, and thus, the Department of State Regulations at 22 CFR Part 96 distinguish between an “agency” (a private non-profit organization) and a

“person” (an individual or for-profit entity). (See 22 CFR 96.2 for these definitions and the Department of State [website](#) for more on this distinction).

While 22 CFR Part 96 allows approved persons to conduct home studies, it requires that an accredited agency review and approve such a home study. Thus, per 22 CFR 96.47(c), an accredited agency must review and approve any home study that was not performed by an accredited agency. This review and approval requirement, however, does not apply when the home study is prepared by a public domestic authority (see 8 CFR 204.311(t)(2)).

See the Department of State [website](#) for a list of accredited agencies and approved persons. If the home study preparer is not an accredited agency or public domestic authority, officers must ensure that the home study has been reviewed and approved by an accredited agency before its submission to USCIS. If officers do not see evidence of such review and approval, issue an RFE.

(C) Home Study Requirements.

A valid, original home study must be submitted within one year of the filing of a **Form I-600A**. If a home study is not submitted within one year of the filing of a Form I-600A, the Form I-600A must be denied pursuant to **8 CFR 204.3(h)(5)**. This home study, or the most recent update of the home study, must be no more than six (6) months old at the time of submission and must contain the original signature of the home study preparer.

8 CFR 204.3(e) and certain definitions in 8 CFR 204.3(b) no longer apply in orphan cases that are subject to the UAA (see 8 CFR 204.301 for the definitions of “adult member of the household,” “home study preparer,” “suitability as adoptive parent(s),” “officer,” “adoption,” and “applicant,” which includes both a married U.S. citizen and his or her spouse).

Under 8 CFR 204.311, the home study must now:

- Be tailored to the particular situation of the **applicant** (defined at 8 CFR 204.301 to mean the applicant and his or her spouse, if married). For example, an applicant who has previously adopted children will require different preparation than an applicant who has no adopted children.
- Be tailored to the specific country in which the applicant intends to seek a child for adoption. (The home study may address the applicant’s suitability to adopt in more than one country, but if the home study does so, the home study must separately assess the applicant’s suitability as to each specific country.)

- Identify any additional **adult members of the household** (defined at 8 CFR 204.301) by name, alien registration number (if the individual has one), and date of birth.
- State the number of interviews and visits, the participants, date and location of each interview and visit, and the date and location of any other contacts with the applicant and any additional adult member of the household. Under 8 CFR 204.311(g)(1), the home study preparer must conduct at least one interview in person, and at least one home visit with the applicant.
- Include at least one interview by the preparer of any additional adult member of the household and an assessment of him or her in light of the requirements of 8 CFR 204.311. According to 8 CFR 204.311(g)(2), the interview should be in person, unless the home study preparer determines that interviewing that individual in person is not reasonably feasible and explains the reason for this conclusion.
- Include the home study preparer's assessment of any 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. (8 CFR 204.309(a) requires denial as a consequence for a failure to disclose certain information or cooperate in completion of a home study.)
- Include the home study preparer's signature under penalty of perjury, in accordance with 8 CFR 204.311(f).
- Summarize the pre-placement preparation and training already provided to the applicant concerning the issues specified in 22 CFR 96.48(a) and (b), the plans for future preparation and training with respect to those issues, or with respect to a particular child, as specified in 22 CFR 96.48(c). (22 CFR 96.48(a) requires at least ten (10) hours of preparation and training designed to promote a successful intercountry adoption unless an exemption applies under 22 CFR 96.48(g).)
- Summarize the plans for post-placement monitoring specified in 22 CFR 96.50, in the event that the child will be adopted in the United States rather than abroad.
- Specify whether the home study preparer made any referrals as described in 8 CFR 204.311(g)(4) and include a copy of the report resulting from each referral, the home study preparer's assessment of the impact of the report on the suitability of the applicant to adopt, and the home study preparer's recommended restrictions, if any, on the characteristics of the child to be placed in the home.
- Include results of the child abuse registry checks conducted in accordance with 8 CFR 204.311(i) of every state or foreign country in which the applicant

or any adult member of the household has resided since his or her 18th birthday, including that 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.

- Include each person's response to the questions regarding abuse and violence in accordance with 8 CFR 204.311(j).
- Contain an evaluation of the suitability of the home for adoptive placement of a child in light of any applicant's or additional adult member of the household's history of abuse and/or violence as an offender, whether this history is disclosed by an applicant or any additional adult member of the household or is discovered by home study preparer, regardless of the source of the home study preparer's discovery. A single incident of sexual abuse, child abuse, or family violence is sufficient to constitute a "history" of abuse and/or violence.
- Include 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 for anyone subject to the home study and a written statement submitted with the home study giving details, including any mitigating circumstances about each arrest, signed, under penalty of perjury, by the person to whom the arrest relates.
- Contain an evaluation of the suitability of the home for adoptive placement of a child in light of disclosure by an applicant, or any additional adult member of the household, of a history of substance abuse. A person has a history of substance abuse if his or her current or past use of alcohol, controlled substances, or other substances impaired or impairs his or her ability to fulfill obligations at work, school, or home, or creates other social or interpersonal problems that may adversely affect the applicant's suitability as an adoptive parent.
- Include a general description of the information disclosed in accordance with 8 CFR 204.311(m) concerning the physical, mental, and emotional health, or behavioral issues of the applicant and of any additional adult member of the household.
- Identify the agency involved in each prior or terminated home study in accordance with 8 CFR 204.311(n), when the prior home study process began, the date the prior home study was completed, and 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 any of the above required home study elements are missing or deficient, issue an RFE, Notice of Intent to Deny (NOID), or denial as appropriate. See 8 CFR 204.309(a) for the home study and disclosure-related reasons necessitating a denial of Form I-600A.

The officer who is adjudicating the **Form I-600A** must be satisfied that proper care will be provided for the orphan. Pursuant to **8 CFR 204.3(h)(2)**, if there is reason to believe that a favorable home study was based on inadequate or erroneous evaluation of all of the facts, the officer must attempt to resolve these issues with the home study preparer, the applicant, and the state agency that reviewed the home study (if any). Issues that may need to be addressed include, but are not limited to: criminal history; one or more disabilities and/or impairments of the applicant; threatening/dangerous behavior when working with USCIS; and financial issues.

If the home study will be more than six (6) months old at the time of submission to USCIS, the applicant must ensure that it is updated by the home study preparer before it is submitted to USCIS. Also, if there have been any significant changes in the applicant's circumstances (such as a change of residence, marital status, criminal history, financial resources, and/or the addition of one or more children or other dependents to the family) or changes in the characteristics of the child the applicant intends to adopt, the applicant must ensure that an amended home study addressing the changed circumstances is submitted to USCIS.

(D) Pre-adoption Requirements.

If the **Form I-600A** indicates that the child is to be adopted or re-adopted in the United States, the applicant must establish that the pre-adoption requirements of the state of the child's intended residence, if any, have been met. If the applicant is unmarried and intends to adopt or re-adopt the child in the United States, it must be established that adoption by an unmarried person is legal in the state of the child's intended residence.

(E) Form I-600A/I-600, Supplement 1, Listing of Adult Member of the Household.

Applicants are required to submit a Supplement 1 for each adult member of their household, as defined at 8 CFR 204.301. (Note: under 8 CFR 204.301, the term applicant includes the applicant, and his/her spouse, if married). If in the adjudication of Form I-600A, the officer learns about an adult member of the household for whom there is no signed Supplement 1, the officer should issue an RFE for the Supplement 1 signed by the adult member of the household. Officers should update CAMINO/ACMS, as appropriate, to indicate that USCIS has received a Supplement 1 for each adult member of the household.

(F) See and follow the guidance at Chapter 21.5(b)(6) and (7) for a “Child from a Hague Convention Country” and “Adjudicative Issues,” respectively.

(3) Post-Form I-600A Adjudication Actions. See and follow the guidance at Chapter 21.5(c). Indicate the home study preparer and the accredited adoption agency, or primary adoption service provider (if any) in the appropriate field on the Visas 37 cable.

(4) Adjudication of Form I-600 when the UAA Applies. Except as provided in Chapter 21.5(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.

(A) See and follow the guidance at Chapter 21.5(d)(1)-(10) regarding:

1. “Jurisdiction and Proper Filing”;
2. “Adjudicative Issues”;
3. “Documenting That the Child Is an Orphan under INA 101(b)(1)(F)”;
4. “Stepparents”;
5. “Evidence That the Child Has Been Adopted Abroad or Is coming to the United States to Be Adopted”;
6. “Evidentiary Requirements if No Form I-600A Was Filed Previously (Combination Filing)”;
7. “Form I-604 Determinations”;
8. “Special Instructions for Forms I-600 Filed on Behalf of Beneficiaries in Nepal”;
9. “Special Instructions for Forms I-600 Filed on Behalf of Beneficiaries from, and physically located in Taiwan”; and

10. “Special Instructions for Forms I-600 Filed on Behalf of Beneficiaries from, and physically located in Ethiopia”; respectively.

(B) Apply the same UAA Form I-600A and Supplement 1 guidance listed at Chapter 21.5(e)(2)(B)-(E) above when adjudicating Form I-600, as appropriate.

(C) Identifying a Primary Adoption Service Provider.

A petitioner must identify a primary adoption service provider. Under 22 CFR Part 96, a primary provider is responsible for:

1. Ensuring that all six adoption services defined at 22 CFR 96.2 are provided consistent with applicable laws and regulations;
2. Supervising and being responsible for supervised providers where used (see 22 CFR 96.14); and
3. Developing and implementing a service plan in accordance with 22 CFR 96.44.

Only accredited agencies or approved persons can act as primary providers. Petitioners may still act on their own behalf in their own adoption case if permitted under the laws of the state in which they reside and the laws of the country from which they seek to adopt. Although petitioners do not need accreditation or approval to act on their own behalf, their actions need to comply with applicable law, and petitioners will still need to engage an accredited agency or approved person to act as the primary provider in their case. A primary provider helps to ensure that orphan adoption services are provided with the same standards of practice and ethical conduct as Hague Adoption Convention cases. See the Department of State [website](#) for a list of accredited agencies and approved persons.

If in the adjudication of Form I-600, the officer determines that the petitioner has not sufficiently identified a primary adoption service provider, the officer may issue an RFE. (Note: Form I-600 petitions released after 03/05/13 include a field for the petitioner to list the primary adoption service provider.)

If an officer has received notice or has knowledge that the petitioner's primary adoption service provider has withdrawn from the petitioner's case, the officer should issue an RFE, requesting evidence that either: 1) the current primary adoption service provider remains so; or, 2) the petitioner has identified a new primary adoption service provider. (Note: Officers may only contact the primary provider if there is a valid Privacy Act waiver from the petitioner.)

Note: If an officer identifies a non-UAA grandfathered case with no evidence of a primary adoption service provider, but all the adoption services were provided before July 14, 2014, or the case was initiated between July 13, 2013 and July 14, 2014, please visit the USCIS adoption website to see if any supplementary information applies and if not, contact the Refugee, Asylum and International Operations Directorate (International Operations Division Headquarters) and Field Operations Directorate (USCIS National Benefits Center) through proper channels.

(D) Consular Officer Referrals of Form I-600 Petitions to USCIS as “Not Clearly Approvable” or Returns of Form I-600 Petitions to USCIS Recommending Revocation.

(i) Consular officer adjudicating Form I-600s

When adjudicating Form I-600 on USCIS’s behalf, if a Department of State consular officer cannot determine whether the UAA applies to a case based on the evidence in the record, he or she should first attempt to see if evidence of UAA-grandfathered status exists. If the case does not appear to be grandfathered, ask that the petitioner indicate the name, address, and contact information of his or her primary adoption service provider to prevent unnecessary adjudicative delays. If the petitioner does not have a primary adoption service provider or is unable to provide this information, refer the petition as “not clearly approvable” to the USCIS international office that has jurisdiction to act on the petition, along with the supporting documents, the completed Form I-604, and any other relevant documentation per 8 CFR 204.3(h)(11).

If a petition does not appear to be UAA-grandfathered and the petitioner provides the name, address, and contact information of his or her primary adoption service provider, consular officers should not typically need to refer a petition to USCIS as “not clearly approvable.” However, if there is: 1) a significant change within the petitioner’s household or a change in the number of children or characteristics of the child the petitioner was approved to adopt that necessitates an RFE for an amended or updated home study or other adoption service; or, 2) the Form I-600 petition is “not clearly approvable” for another reason (UAA-related or otherwise), the officer should refer the petition as “not clearly approvable” to the USCIS international office that has jurisdiction to act on the petition, along with the supporting documents, the completed Form I-604 (with a detailed description of why the petition is “not clearly approvable”), and any other relevant documentation per 8 CFR 204.3(h)(11).

Note: Nothing prevents consular officers from contacting the USCIS office that approved a family's Form I-600A through proper channels to discuss the changes noted in (1) above before sending a case as "not clearly approvable".

(ii) Consular Officer conducting Form I-604 investigations for a previously approved Form I-600 petition

When conducting a Form I-604 investigation on USCIS's behalf for a previously- approved petition, if a Department of State consular officer cannot determine whether the UAA should apply to a case based on the evidence in the record, the officer should contact the USCIS office that approved the Form I-600 petition to discuss the case. If USCIS and the consular officer determine that the UAA applies (i.e., the case is not UAA-grandfathered), the consular officer should ask that the petitioner indicate the name, address, and contact information of his or her primary adoption service provider to prevent unnecessary delays. If the petitioner is unable to provide this information, return the petition to the USCIS office that approved the Form I-600 petition, along with a memo recommending revocation of the approval due to missing UAA requirements.

If a petition does not appear to be UAA-grandfathered and the petitioner provides the name, address, and contact information of his/her primary adoption service provider, consular officers should not typically need to return an approved petition to USCIS. However, if there is: 1) a significant change within the petitioner's household *or* a change in the number of children *or* characteristics of the child the petitioner was approved to adopt that necessitates an RFE for an amended or updated home study or other adoption service; or, if 2) the Form I-600 petition needs to be returned for another reason (UAA-related or otherwise), the officer should return the approved petition to the USCIS office that approved the Form I-600 petition, along with the supporting documents, the completed Form I-604, and a memo detailing why the petition is being returned and recommending revocation of the approval.

Note: Nothing prevents consular officers from contacting the USCIS office that approved a family's Form I-600A through proper channels to discuss the changes noted in (1) above before returning an approved petition to USCIS.

Should any situation arise that has not been addressed above *or* if an officer identifies a non-UAA grandfathered case where all the adoption services were provided before July 14, 2014, and there is no evidence of a primary adoption service provider, please contact the Refugee, Asylum and International Operations Directorate (International Operations Division

Headquarters) and Field Operations Directorate (USCIS National Benefits Center) through proper channels.

(5) Post-Form I-600 Adjudication Actions. See and follow the guidance at Chapter 21.5(f). Indicate the primary adoption service provider in the appropriate field on the Visas 38 or Visas 39 cable as appropriate.

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

AD14-06 6/30/2014	Chapter 21.5(b)(4) Chapter 21.5(d) Chapter 21.5(e)	To provide guidance on the implementation of the Intercountry Adoption Universal Accreditation Act of 2012 and the statutory change to section 101(b)(1)(F) of the Immigration and Nationality Act in the Consolidated Appropriations Act, 2014.
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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 the guidance contained in this PM should be forwarded through proper channels to the Refugee, Asylum and International Operations Directorate (International Operations Division Headquarters) and the Field Operations Directorate (USCIS National Benefits Center).