

INTERIM MEMO FOR COMMENT

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This memo is interim agency policy

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director (MS 2000)
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U.S. Citizenship
and Immigration
Services

August 27, 2010

PM-602-0008

Policy Memorandum

SUBJECT: Nepal Initiative – Filing Form I-600, *Petition to Classify Orphan as an Immediate Relative*, to adopt a child in Nepal (AFM Update AD10-47)

Purpose

This Policy Memorandum (PM) implements the Nepal Initiative, which centralizes adjudication of clearly approvable Forms I-600, *Petition to Classify Orphan as an Immediate Relative* (Form I-600), filed on behalf of children residing in Nepal and provides petitioners the opportunity to make informed decisions before adopting a child in Nepal.

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 Nepal.

Authority

Section 201(b) of the Immigration and Nationality Act (INA); 8 CFR 103.2, 8 CFR 204.3.

Background

The Department of State (DOS) has encountered inconsistent and unreliable documentation regarding the reported abandonment of Nepali children for adoption. As a result, USCIS and DOS suspended the processing of new orphan cases involving Nepali children claimed to have been abandoned, effective August 6. However, a number of cases were already underway as of that date and are now being processed to conclusion.

By limiting the initial approval authority for cases not affected by the suspension to the consular section at the U.S. Embassy, Kathmandu, and by encouraging petitioners to file Form I-600 petitions before adopting a child in Nepal, DOS and USCIS officers will be able to complete the required investigation to determine that the child meets the definition of orphan under U.S. law (the Form I-604 Determination on Child for Adoption) before prospective adoptive parents travel to, or adopt a child in, Nepal. Currently, most prospective adoptive parents file the Form I-600 in Nepal after traveling to, and after completing the adoption of the child (beneficiary) in, Nepal. As a result, irregularities may become apparent to U.S. adjudicators only after the prospective adoptive parents have completed the Nepali adoption of the child and therefore become the child's legal custodians. Irregularities uncovered at this point can prevent the immigration of the child to the U.S., leaving the adoptive parents and the child in an untenable situation.

Policy

Effective August 27, 2010, the U.S. Embassy in Kathmandu, Nepal, will adjudicate any clearly approvable Form I-600 petition that is filed on behalf of a Nepali child residing in Nepal who is claimed to be abandoned and whose case is exempt from the suspension of processing of new Form I-600 Petitions for Nepali children, as announced August 6, 2010.

The exemption applies to cases in which the prospective adoptive parents: 1) received a referral letter from the Government of Nepal's Ministry of Women, Children and Social Welfare before August 6, 2010, informing the prospective adoptive parents of a proposed match, or 2) are seeking to adopt a Nepali child who has been relinquished by known parent(s) and whose identity and relationship can be confirmed. Petitioners adopting children whose cases are exempt from the suspension will be encouraged to file the Form I-600 with U.S. Embassy, Kathmandu before traveling to, and adopting a child in, Nepal. The petitioners will be advised to send their Form I-600 and supporting documents to their local agency representatives in Nepal who will then deliver the documents to the Embassy. This new process will allow prospective adoptive parent(s) to make an informed decision regarding the eligibility of a child before an adoption takes place.

A public announcement regarding this initiative will be published soon after the release of this memorandum.

Implementation

The Adjudicator's Field Manual (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 section (d)(8), 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)(8) is added to read:

(8) Special Instructions for Forms I-600 Filed on Behalf of Beneficiaries in Nepal. If the USCIS National Benefits Center (NBC) receives a petition filed after August 27, 2010 on behalf of a beneficiary child residing in Nepal, it will suspend adjudication of the petition, and forward the entire record of proceedings to the National Visa Center (NVC), and notify the petitioner(s) of the transfer. The NBC will also forward any pending Form I-600 petitions filed on behalf of a child residing in Nepal to the NVC. (Note: These special instructions do not apply to a Nepalese beneficiary who is physically present outside Nepal.)

The NVC will then forward a scanned copy of the Form I-600 to the U.S. Embassy, Kathmandu for immediate processing and will mail the original to post. Concurrent

with this authority, petitioners adopting children exempt from the suspension will be encouraged to file the Form I-600 with U.S. Embassy, Kathmandu before traveling to, and adopting a child in, Nepal. The petitioners will be advised to send their Form I-600 and supporting documents to their local agency representatives in Nepal who will then deliver the documents to the Embassy.

The U.S. Embassy, Kathmandu will send the petitioner written confirmation when it receives the Form I-600 and supporting evidence. A consular officer will review the petition and supporting evidence and conduct necessary field inquiries to determine whether the child qualifies as an orphan. If the U.S. Embassy, Kathmandu determines that the Form I-600 petition is clearly approvable, it will approve the petition and proceed to issuance of the immigrant visa. If the U.S. Embassy, Kathmandu determines that the Form I-600 petition is not clearly approvable, it will forward the unadjudicated Form I-600 petition to USCIS, New Delhi office for further review and action.

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

AD 10-47 8/27/2010	Chapter 21.5(d)	Provides guidance on adjudication of Form I-600 petitions filed on behalf of beneficiaries physically present in Nepal.
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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 or suggestions regarding this PM should be addressed through appropriate channels to USCIS International Operations Division.