



USCIS Update

Oct. 14, 2008

USCIS ANNOUNCES ADOPTION POLICY FOR HAGUE TRANSITION CASES ***Grandfathered Form I-600A Affected***

WASHINGTON – U.S. Citizenship and Immigration Services (USCIS) announced today that prospective adoptive parents already in the process of adopting a child from a country that has implemented the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Hague Adoption Convention) who filed a Form I-600A, [*Application for Advance Processing of Orphan Petition*](#), prior to April 1, 2008, and who have received the one time no-charge extension, may file one additional Form I-600A, and continue to proceed with their intercountry adoption through the “orphan” process. The new Form I-600A must be filed *before* the current approval expires, and only if the prospective adoptive parents have not yet filed the corresponding Form I-600, [*Petition to Classify Orphan as an Immediate Relative*](#).

U.S. law and regulations allow individuals who began the intercountry adoption process by filing Form I-600A or Form I-600, before April 1, 2008, to continue using these pre-Hague Adoption Convention forms and procedures even if they are adopting a child from a Hague Adoption Convention country. However, depending on the time that it takes prospective adoptive parents to be matched with a child and file Form I-600, the approval of the I-600A might expire before the prospective adoptive parents are able to file Form I-600. By allowing the filing of one new Form I-600A prior to the expiration of the current approved Form I-600A, USCIS is allowing prospective adoptive parents who have been grandfathered into the pre-Hague Adoption Convention process to continue to proceed under this “orphan” process, provided the child’s home country agrees.

If the Form I-600A is no longer valid, prospective adoptive parents must file a Form I-800A, [*Application for Determination of Suitability to Adopt a Child from a Convention Country*](#), with a home study which meets all of the requirements for a Hague Adoption Convention home study. Once a Form I-800A is approved, the Form I-800, [*Petition to Classify Convention Adoptee as an Immediate Relative*](#) may be filed on behalf of the prospective adoptive child.

For more information on intercountry adoption, please visit the USCIS website at www.uscis.gov.

– USCIS –



Frequently Asked Questions

Oct. 14, 2008

Grandfathered Form I-600A Processing for Prospective Adoptive Parents

Questions & Answers

Q: Why is USCIS issuing this announcement now?

A: USCIS is issuing this announcement now as a precaution to prospective adoptive parents with approved Forms I-600A so they understand what options are available to them if their approvals are due to expire, and they have not yet filed a Form I-600. This guidance is important for prospective adoptive parents who are pursuing an adoption from another Hague Convention country.

Q: My Form I-600A was filed before April 1, 2008 (Implementation of Hague Convention). Is it possible to extend the Form I-600A approval?

A: Yes. An approved Form I-600A is valid for 18 months. If no Form I-600 has been filed, a prospective adoptive parent may request a one-time, no-charge extension of an approved Form I-600A. To request this extension, submit a written request for an extension of your approved I-600A to the USCIS office that approved your Form I-600A. There is no specific form to fill out. An updated home study needs to be submitted with the written request for a one-time, no-charge extension of your valid, approved Form I-600A. Submit the request no earlier than 90 days before the expiration of the I-600A, but before the approval expires. If your request for an extension is approved, the validity of the Form I-600A will be extended 18 months from the expiration date of the original approved Form I-600A.

Q: I have already received a one-time, no-charge extension of my Form I-600A for an adoption from a Hague Convention country. My extension is due to expire and I have not filed a Form I-600 (because I'm waiting to be matched with a child). Is my Form I-600A considered "grandfathered" and can I re-file Form I-600A or am I now required to file Form I-800A?

A: DHS regulations allow only one "extension" of the approval of a Form I-600A. If that extension is also scheduled to expire, the only alternative is to file a new Form I-600A, with a new filing fee. Generally, a Form I-600A may not be filed after April 1, 2008, for the adoption of a child from a Hague Convention country. Under 8 CFR 204.300(b), however, a case may continue as an orphan case if a Form I-600A was filed before April 1, 2008. USCIS interprets this provision as permitting prospective adoptive parents whose Form I-600A approval is still in effect, but is about to expire, to file a new Form I-600A, as long as they file the new Form I-600A *before* the current approval expires.

A new Form I-600A that is filed after April 1, 2008, will be considered "grandfathered" only if:

- (a) the new Form I-600A is filed before expiration of a previous Form I-600A **AND**
- (b) the previous Form I-600A that is about to expire was itself filed before April 1, 2008; **AND**
- (c) no Form I-600 has been filed on the basis of the previous Form I-600A.

Q: I have an approved Form I-600A, filed prior to April 1, 2008, indicating that I intend to adopt from a Hague Convention country, but the approval has expired and I did not obtain an extension. May I file a new Form I-600A?

A: No.

As previously stated, a new Form I-600A that is filed after April 1, 2008, will be considered “grandfathered” only if:

- (a) the new Form I-600A is filed before expiration of a previous Form I-600A **AND**
- (b) the previous Form I-600A that is about to expire was itself filed before April 1, 2008; **AND**
- (c) no Form I-600 has been filed on the basis of the previous Form I-600A.

For any Form I-600A approval that was due to expire after April 1, 2008, the prospective adoptive parents had the right under DHS regulations to obtain one extension of the approval. If they did not choose to do so, and the Form I-600A that was filed before April 1, 2008, has expired, there is no longer any valid Form I-600A that could form the basis of “grandfathering” a new Form I-600A.

If the Form I-600A approval is no longer valid, the prospective adoptive parents will have to file a Form I-800A with a home study which meets all of the requirements for a Hague Adoption Convention home study. Once a Form I-800A is approved, the Form I-800 may be filed on behalf of the prospective adoptive child.

Q: Can I extend or “grandfather” my Form I-600A approval if I have already filed the corresponding Form I-600?

A: No. The Form I-600A approval is valid only for the number of adoptions for which you were approved before April 1, 2008. If, before April 1, 2008, you were approved for two adoptions, then you can only file two Forms I-600 based on the extended or grandfathered Form I-600A. Once the total number of Forms I-600 have been filed, no further extensions or grandfathering of the Form I-600A are permitted.

Q: Does “grandfathering” my Form I-600A mean that I will definitely be able to complete an adoption under the pre-Hague orphan process, rather than the Hague Adoption Convention process?

A: Not necessarily. Grandfathering a Form I-600A means that you will be permitted to use the orphan process, provided the child’s home country agrees. However, the child’s home country may have its own rules for determining whether the Hague Adoption Convention process must be followed.

Q: Does this policy affect the rules of other countries?

A: No. This guidance pertains only to the U.S. transition case rules. It does not address what the country of the prospective adoptive child’s origin may consider to be an appropriate application for its own intercountry adoption processes. Prospective adoptive parents remain subject to the requirements of the child’s country of origin to successfully complete an intercountry adoption under the Hague Adoption Convention.

Q: Can you give some examples of how the “grandfathering” interpretation works:

A: Yes, please see below.

- **EXAMPLE:** Form I-600A was approved, with the approval expiring on August 1, 2008. The applicant requested and obtained a one-time extension, with the new approval period expiring February 1, 2010. In January 2010, they still have not filed a Form I-600. On February 1, 2010, they file a new Form I-600A. The “grandfathering” of the original Form I-600A will be extended

to the new Form I-600A, since it was filed before the approval of the original Form I-600A expired.

- **EXAMPLE:** Form I-600A was approved, with the approval expiring on August 1, 2008. The applicant requested and obtained a one-time extension, with the new approval period expiring February 1, 2010. In January 2010, they still have not filed a Form I-600. On February 1, 2010, they file a new Form I-600A. The “grandfathering” of the original Form I-600A will be extended to include the new Form I-600A, since it was filed before the approval of the original Form I-600A expired. The new Form I-600A is approved, with the approval (after one extension) expiring March 10, 2013. On March 10, 2013, the applicant files yet another Form I-600A. This third Form I-600A *is not* grandfathered, since, although the expiring Form I-600A was grandfathered because the first Form I-600A was grandfathered, the expiring Form I-600A was actually filed *after* April 1, 2008.
- **EXAMPLE:** Form I-600A was approved, with the approval expiring on August 1, 2008. The applicant requested and obtained a one-time extension, with the new approval period expiring February 1, 2010. In January 2010, they still have not filed a Form I-600. However, they do not file a new Form I-600A until February 2, 2010. The “grandfathering” of the original Form I-600A *does not* extend to the new Form I-600A, since it was filed *after* the approval of the original Form I-600A expired.
- **EXAMPLE:** Form I-600A was approved, with the approval expiring on August 1, 2008. The applicant did not seek an extension. On September 1, 2008, the applicant files a new Form I-600A. This new Form I-600A *is not* grandfathered, since it was filed *after* April 1, 2008, and *after* the approval of the original Form I-600A expired.
- **EXAMPLE:** Form I-600A was approved for one child, with the approval expiring on August 1, 2008. One Form I-600 was filed on July 31, 2008. Since the Form I-600 was filed, no further extension of the Form I-600A approval is permitted. Also, since the Form I-600 was filed, a new Form I-600A for an additional child, or a reopening and re-approval for more than one child, would not be “grandfathered.”
- **EXAMPLE:** Form I-600A was approved for two children, with the approval expiring on August 1, 2008. One Form I-600 was filed before August 1, 2008, and the applicant requested and obtained an extension of the approval. The extension expires February 1, 2010. The applicant then files a Form I-600 for an additional child. The Form I-600 is “grandfathered,” since it is based on a “grandfathered” Form I-600A for more than one child. No additional children may be adopted from a Hague Adoption Convention country based on the Form I-600A, however. To adopt a third or subsequent child, the Hague Adoption Convention process will apply.