§204.310  Filing requirements for Form I–800A.

(a) Completing and filing the Form. A United States citizen seeking to be determined eligible and suitable as the adoptive parent of a Convention adoptee must:

(1) Complete Form I–800A, including a Form I–800A Supplement 1 for each additional adult member of the household, in accordance with the instructions that accompany the Form I–800A.

(2) Sign the Form I–800A personally. One spouse cannot sign for the other, even under a power of attorney or similar agency arrangement.

(3) File the Form I–800A with the USCIS office that has jurisdiction under 8 CFR 204.308(a) to adjudicate the Form I–800A, together with:

(i) The fee specified in 8 CFR 103.7(b)(1) for the filing of Form I–800A;

(ii) The additional biometrics information collection fee required under 8 CFR 103.7(b)(1) for the applicant and each additional adult member of the household;

(iii) Evidence that the applicant is a United States citizen, as set forth in 8 CFR 204.1(g), or, in the case of a married applicant, evidence either that both spouses are citizens or, if only one spouse is a United States citizen, evidence that the other spouse, if he or she lives in the United States, is either

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the child’s adoption without the child’s return is a matter to be determined by the Central Authority of the country of the child’s habitual residence, but approval of a Form I–800 does not relieve an alien child of his or her ineligibility for adjustment of status under section 245 of the Act. If the child is present in the United States without inspection or is otherwise ineligible for adjustment of status. If the child is in the United States but is not eligible for adjustment of status, the Form I–800 may be provisionally approved only if the child will leave the United States after the provisional approval and apply for a visa abroad before the final approval of the Form I–800.

(5) Except as specified in 8 CFR 204.312(e)(2)(ii) with respect to a new Form I–800 filed with a new Form I–800A to reflect a change in marital status, the petitioner files the Form I–800:

(i) Before the approval of a Form I–800A, or

(ii) After the denial of a Form I–800A; or

(iii) After the expiration of the approval of a Form I–800A;

(6) The petitioner is barred by 8 CFR 204.307(c) from filing the Form I–800.

(c) Notice of intent to deny. Before denying a Form I–800A under paragraph (a) or a Form I–800 under paragraph (b) of this section, the USCIS officer will notify the applicant (for a Form I–800A case) or petitioner (for a Form I–800 case) in writing of the intent to deny the Form I–800A or Form I–800 and provide 30 days in which to submit evidence and argument to rebut the claim that this section requires denial of the Form I–800A or Form I–800.

(d) Rebuttal of intent to deny. If USCIS notifies the applicant that USCIS intends to deny a Form I–800A under paragraph (a) of this section, because the applicant or any additional adult member(s) of the household failed to disclose to the home study preparer or to USCIS, or concealed or misrepresented, any fact(s) concerning the arrest, conviction, or history of substance abuse, sexual abuse or child abuse, and/or family violence, or other criminal history, or failed to cooperate in search of child abuse registries, or failed to disclose a prior home study, the applicant may rebut the intent to deny only by establishing, by clear and convincing evidence that:

(1) The applicant or additional adult member of the household did, in fact, disclose the information; or

(2) If it was an additional adult member of the household who failed to cooperate in the search of child abuse registries, or who failed to disclose to the home study preparer or to USCIS, or concealed or misrepresented, any fact(s) concerning the arrest, conviction, or history of substance abuse, sexual abuse or child abuse, and/or family violence, or other criminal history, or failed to disclose a prior home study, that that person is no longer a member of the household and that that person’s conduct is no longer relevant to the suitability of the applicant as the adoptive parent of a Convention adoptee.
§ 204.311 Convention adoption home study requirements.

(a) Purpose. For immigration purposes, a home study is a process for screening and preparing an applicant who is interested in adopting a child from a Convention country.

(b) Preparer. Only an individual or entity defined under § 204.301 as a home study preparer for Convention cases may complete a home study for a Convention adoption. In addition, the individual or entity must be authorized to complete adoption home studies under the law of the jurisdiction in which the home study is conducted.

(c) Study requirements. The home study must:

(1) Be tailored to the particular situation of the applicant and to the specific Convention country in which the applicant intends to seek a child for adoption. For example, an applicant who has previously adopted children will require different preparation than an applicant who has no adopted children. A home study may address the applicant’s suitability to adopt in more