

home study shows that the applicant remains suitable as the adoptive parent(s) of a Convention adoptee, USCIS will issue a new approval notice that will expire on the same date as the original approval. If the applicant also wants to have USCIS extend the approval period for the Form I-800A, the applicant must submit the updated or amended home study with an extension request under 8 CFR 204.312(e)(3), rather than under this paragraph (u) of this section.

(5) Each update must indicate that the home study preparer has updated the screening of the applicant and any additional adult member of the household under paragraphs (i) through (l) of this section, and must indicate the results of this updated screening.

[72 FR 56854, Oct. 4, 2007, as amended at 85 FR 46922, Aug. 3, 2020]

§ 204.312 Adjudication of the Form I-800A.

(a) *USCIS action.* The USCIS officer must approve a Form I-800A if the officer finds, based on the evidence of record, that the applicant is eligible under 8 CFR 204.307(a) to file a Form I-800A and the USCIS officer is satisfied that the applicant is suitable as the adoptive parent of a child from the specified Convention country. If the applicant sought approval for more than one Convention country, the decision will specify each country for which the Form I-800A is approved, and will also specify whether the Form I-800A is denied with respect to any particular Convention country.

(b) *Evaluation of the home study.* In determining suitability to adopt, the USCIS officer will give considerable weight to the home study, but is not bound by it. Even if the home study is favorable, the USCIS officer must deny the Form I-800A if, on the basis of the evidence of record, the officer finds, for a specific and articulable reason, that the applicant has failed to establish that he or she is suitable as the adoptive parent of a child from the Convention country. The USCIS officer may consult the accredited agency or temporarily accredited agency that approved the home study, the home study preparer, the applicant, the relevant State or local child welfare agency, or

any appropriate licensed professional, as needed to clarify issues concerning whether the applicant is suitable as the adoptive parent of a Convention adoptee. If this consultation yields evidence that is adverse to the applicant, the USCIS officer may rely on the evidence only after complying with the provisions of 8 CFR 103.2(b)(16) relating to the applicant's right to review and rebut adverse information.

(c) *Denial of application.* (1) The USCIS officer will deny the Form I-800A if the officer finds that the applicant has failed to establish that the applicant is:

(i) Eligible under 8 CFR 204.307(a) to file Form I-800A; or

(ii) Suitable as the adoptive parent of a child from the Convention country.

(2) Before denying a Form I-800A, the USCIS officer will comply with 8 CFR 103.2(b)(16), if required to do so under that provision, and may issue a request for evidence or a notice of intent to deny under 8 CFR 103.2(b)(8).

(3) A denial will be in writing, giving the reason for the denial and notifying the applicant of the right to appeal, if any, as provided in 8 CFR 204.314.

(4) It is for the Central Authority of the other Convention country to determine how its own adoption requirements, as disclosed in the home study under 8 CFR 204.311(q), should be applied in a given case. For this reason, the fact that the applicant may be ineligible to adopt in the other Convention country under those requirements, will not warrant the denial of a Form I-800A, if USCIS finds that the applicant has otherwise established eligibility and suitability as the adoptive parent of a Convention adoptee.

(d) *Approval notice.* (1) If USCIS approves the Form I-800A, USCIS will notify the applicant in writing as well as the Department of State. The notice of approval will specify:

(i) The expiration date for the notice of approval, as determined under paragraph (e) of this section, and

(ii) The name(s) and marital status of the applicant; and

(iii) If the applicant is not married and not yet 25 years old, the applicant's date of birth.

(2) Once USCIS approves the Form I-800A, or extends the validity period for

a prior approval under paragraph (e) of this section, any submission of the home study to the Central Authority of the country of the child's habitual residence must consist of the entire and complete text of the same home study and of any updates or amendments submitted to USCIS.

(e) *Duration or revocation of approval.*

(1) A notice of approval expires 15 months after the date on which USCIS received the FBI response on the applicant's, and any additional adult member of the household's, biometrics, unless approval is revoked. If USCIS received the responses on different days, the 15-month period begins on the earliest response date. The notice of approval will specify the expiration date. USCIS may extend the validity period for the approval of a Form I-800A only as provided in paragraph (e)(3) of this section.

(2) (i) The approval of a Form I-800A is automatically revoked if before the final decision on a Convention adoptee's application for admission with an immigrant visa or for adjustment of status:

(A) The marriage of the applicant terminates; or

(B) An unmarried applicant marries; or

(C) In the case of a married applicant, either spouse files with a USCIS or Department of State officer a written document withdrawing his or her signature on the Form I-800A.

(ii) This revocation is without prejudice to the filing of a new Form I-800A, with fee, accompanied by a new or amended home study, reflecting the change in marital status. If a Form I-800 had already been filed based on the approval of the prior Form I-800A, a new Form I-800 must also be filed with the new Form I-800A under this paragraph. The new Form I-800 will be adjudicated only if the new Form I-800A is approved. The new Form I-800 will not be subject to denial under 8 CFR 204.309(b)(1) or (2), unless the original Form I-800 would have been subject to denial under either of those provisions.

(3)(i) If the 15-month validity period for a Form I-800A approval is about to expire, the applicant:

(A) May file Form I-800A Supplement 3, with the filing fee under 8 CFR 106.2, if required.

(B) May not file a Form I-800A Supplement 3 seeking extension of an approval notice more than 90 days before the expiration of the validity period for the Form I-800A approval, but must do so on or before the date on which the validity period expires.

(C) Is not required to pay the Form I-800A Supplement 3 filing fee for the first request to extend the approval of a Form I-800A, or to obtain a first time change of Hague Convention country during the Form I-800A approval period.

(D) Must pay the Form I-800A Supplement 3 filing fee, as specified in 8 CFR 106.2, for the second, or any subsequent, Form I-800A Supplement 3 that is filed, if the applicant files a second or subsequent Form I-800A Supplement 3 to obtain a second or subsequent extension or a second or subsequent change of Hague Convention country.

(ii) Any Form I-800A Supplement 3 that is filed to obtain an extension of the approval of a Form I-800A or a change of Hague Convention country must be accompanied by:

(A) A statement, signed by the applicant under penalty of perjury, detailing any changes to the answers given to the questions on the original Form I-800A;

(B) An updated or amended home study as required under 8 CFR 204.311(u); and

(C) A photocopy of the Form I-800A approval notice.

(iii) If USCIS continues to be satisfied that the applicant remains suitable as the adoptive parent of a Convention adoptee, USCIS will extend the approval of the Form I-800A to a date not more than 15 months after the date on which USCIS received the new biometric responses. If new responses are received on different dates, the new 15-month period begins on the earliest response date. The new notice of approval will specify the new expiration date.

(iv) There is no limit to the number of extensions that may be requested and granted under this section, so long

as each request is supported by an updated or amended home study that continues to recommend approval of the applicant for intercountry adoption and USCIS continues to find that the applicant remain suitable as the adoptive parent(s) of a Convention adoptee.

(4) In addition to the automatic revocation provided for in paragraph (e)(2) of this section, the approval of a Form I-800A may be revoked pursuant to 8 CFR 205.1 or 205.2.

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§ 204.313 Filing and adjudication of a Form I-800.

(a) *When to file.* Once a Form I-800A has been approved and the Central Authority has proposed placing a child for adoption by the petitioner, the petitioner may file the Form I-800. The petitioner must complete the Form I-800 in accordance with the instructions that accompany the Form I-800, and must sign the Form I-800 personally. In the case of a married petitioner, one spouse cannot sign for the other, even under a power of attorney or similar agency arrangement. The petitioner may then file the Form I-800 with the stateside or overseas USCIS office or the visa issuing post that has jurisdiction under 8 CFR 204.308(b) to adjudicate the Form I-800, together with the evidence specified in this section and the filing fee specified in 8 CFR 106.2, if more than one Form I-800 is filed for children who are not birth siblings.

(b) *What to include on the Form.* (1) The petitioner must specify on the Form I-800 either that:

(i) The child will seek an immigrant visa, if the Form I-800 is approved, because the child will reside in the United States with the petitioner (in the case of a married petitioner, if only one spouse is a United States citizen, with that spouse) after the child's admission to the United States on the basis of the proposed adoption; or

(ii) The child will seek a non-immigrant visa, in order to travel to the United States to obtain naturalization under section 322 of the Act, because the petitioner intends to complete the adoption abroad and the petitioner and the child will continue to

reside abroad immediately following the adoption, rather than residing in the United States with the petitioner. This option is not available if the child will be adopted in the United States.

(2) In applying this paragraph (b), if a petitioner is a United States citizen who is domiciled in the United States, but who is posted abroad temporarily under official orders as a member of the Uniformed Services as defined in 5 U.S.C. 2101, or as a civilian officer or employee of the United States Government, the child will be deemed to be coming to the United States to reside in the United States with that petitioner.

(c) *Filing deadline.* (1) The petitioner must file the Form I-800 before the expiration of the notice of the approval of the Form I-800A and before the child's 16th birthday. Paragraphs (c)(2) and (3) of this section provide special rules for determining that this requirement has been met.

(2) If the appropriate Central Authority places the child with the petitioner for intercountry adoption more than 6 months after the child's 15th birthday but before the child's 16th birthday, the petitioner must still file the Form I-800 before the child's 16th birthday. If the evidence required by paragraph (d)(3) or (4) of this section is not yet available, instead of that evidence, the petitioner may submit a statement from the primary provider, signed under penalty of perjury under United States law, confirming that the Central Authority has, in fact, made the adoption placement on the date specified in the statement. Submission of a Form I-800 with this statement will satisfy the statutory requirement that the petition must be submitted before the child's 16th birthday, but no provisional or final approval of the Form I-800 will be granted until the evidence required by paragraph (d)(3) or (4) of this section has been submitted. When submitted, the evidence required by paragraph (d)(3) and (4) must affirmatively show that the Central Authority did, in fact, make the adoption placement decision before the child's 16th birthday.

(3) If the Form I-800A was filed after the child's 15th birthday but before the child's 16th birthday, the filing date of