

If the I-600 is approved, the National Visa Center notifies petitioners when their case has been assigned to a U.S. Embassy or Consulate abroad. A USCIS or consular officer in the child's country of residence then completes Form I-604 ( Determination on Child for Adoption) to ensure the child has been properly classified as an orphan as defined by INA.<sup>43</sup> An I-604 investigation is completed following submission of the I-600 in every orphan case. Normally, this is only a routine paper check of the available documents to verify the child's orphan status, but where concerns surface, it could include telephonic inquiries, interviews with the birth parents, blood tests of a birth parent, and/or a full field investigation. 8 C.F.R. §204.3(k). When the investigation is lengthy, sometimes the prospective adopters return to the United States pending its completion. If the investigation reveals grounds for a revocation or denial of the petition, the adoptive parents are notified and the investigation report, supporting documents, and petition are forwarded to the appropriate USCIS office for decision. *Id.* Potential problems could include that the adoption is not valid under the law of the nation in which it occurred; evidence of material fraud or misrepresentation in the I-600 or I-600A; a material change in the petitioners' circumstances, or evidence of the payment of money or other consideration as inducement to release the child. 8 C.F.R. §204.3((k)(2)).<sup>44</sup>

Although 8 C.F.R. §204.3(k)(1) directs consular officers to conduct an I-604 investigation in “in every orphan case,” the Departments of State and Homeland Security have on occasion suspended the processing of I-600 applications from a particular nation when consular offices have continuous difficulty in verifying reports of abandonment. In *Skala v. Kelly*, 246 F. Supp. 3d 147 (D. D.C. 2017), a D.C. District Court upheld the suspension of processing of all I-600 applications based on “abandonment” from Nepal since 2010, noting that a U.S. delegation had revisited the policy in Nov. 2014 and decided that “systemic issues with false or unverifiable reports in Nepal warranted keeping the suspension in place.” The Court determined that the agencies’ suspension without performing individual I-604 investigations in each case was both lawful and reasonable until such time as information from the Nepalese government was sufficiently reliable to satisfy the agencies that the statutory requirements for an orphan visa were actually met, given that accurately adjudicating whether a child was truly abandoned was the highest priority. The Court further noted that every other country in the world at that time had suspended orphan adoptions from Nepal.

When the I-600 has been approved, the embassy or consulate will schedule a visa interview, where petitioners must submit their immigrant visa application, evidence of the adoption or custody decree, and the results of the child's medical exam by a physician authorized

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<sup>43</sup> USCIS, *Non-Hague Visa Process*, at <https://travel.state.gov/content/travel/en/Intercountry-Adoption/Adoption-Process/immigrant-visa-process/non-hague-visa-process.html>.

<sup>44</sup> See also USCIS, *Non-Convention Adoption Cases: Form I-604 Determination and Immigrant Visa Appointment Scheduling*, at <https://travel.state.gov/content/travel/en/Intercountry-Adoption/Adoption-Process/immigrant-visa-process/Non-Convention-Adoption-Cases-Form-I-604-Determination-and-Immigrant-Visa-Appointment-Scheduling.html>.