

(b) *Child welfare services.* An agency or person does not need to be accredited, approved, or operate as a supervised provider if it is providing only child welfare services, and not providing any adoption services, in connection with an intercountry adoption. If the agency or person provides both a child welfare service and any adoption service in the United States in an intercountry adoption case, it must be accredited, approved or operate as a supervised provider unless the only adoption service provided is preparation of a home study and/or a child background study.

(c) *Legal services.* An agency or person does not need to be accredited, approved, or to operate as a supervised provider if it is providing only legal services, and not providing any adoption services, in connection with an intercountry adoption. If the agency or person provides both a legal service and any adoption service in the United States in an intercountry adoption case, it must be accredited, approved or operate as a supervised provider unless the only adoption service provided is preparation of a home study and/or a child background study. Nothing in this part shall be construed:

(1) To permit an attorney to provide both legal services and adoption services in an adoption case where doing so is prohibited by State law; or

(2) To require any attorney who is providing one or more adoption services as part of his or her employment by a public domestic authority to be accredited or approved or operate as a supervised provider.

(d) *Prospective adoptive parent(s) acting on own behalf.* Prospective adoptive parent(s) may act on their own behalf without being accredited, or approved unless so acting is prohibited by State law or the law of the foreign country. In the case of a child immigrating to the United States in connection with his or her adoption, such conduct must be permissible under the laws of the State in which the prospective adoptive parent(s) reside and the laws of the foreign country from which the parent(s) seek to adopt. In the case of a child emigrating from the United States in connection with his or her adoption, such conduct must be per-

missible under the laws of the State where the child resides and the laws of the Convention country in which the parent(s) reside.

[71 FR 8131, Feb. 15, 2006, as amended at 79 FR 40633, July 14, 2014]

§ 96.14 Providing adoption services using other providers.

(a) Accreditation and approval under this part require that, in each intercountry adoption case, an accredited agency or an approved person will be identified and act as the primary provider. If one accredited agency or approved person is providing all adoption services by itself, it must act as the primary provider. If just one accredited agency or approved person is involved in providing adoption services, the sole accredited agency or approved person must act as the primary provider. If adoption services in the intercountry adoption case are being provided by more than one accredited agency or approved person, the agency or person that has child placement responsibility, as evidenced by the following, must act as the primary provider throughout the case:

(1) Entering into placement contracts with prospective adoptive parent(s) to provide child referral and placement;

(2) Accepting custody from a birth parent or other legal custodian in a foreign country for the purpose of placement for adoption;

(3) Assuming responsibility for liaison with a foreign country's Central Authority or its designees with regard to arranging an adoption; or

(4) Receiving from or sending to a foreign country information about a child that is under consideration for adoption, unless acting as a local service provider that conveys such information to parent(s) on behalf of the primary provider.

(b) Pursuant to § 96.44, in the case of accredited agencies or approved persons, the primary provider may only use the following to provide adoption services in the United States:

(1) A supervised provider, including an accredited agency or approved person;

(2) An exempted provider, if the exempted provider's home study or child background study will be reviewed and

§ 96.15

22 CFR Ch. I (4–1–15 Edition)

approved by an accredited agency pursuant to § 96.47(c) or § 96.53(b); or

(3) A public domestic authority.

(c) Pursuant to § 96.44 of subpart F, in the case of accredited agencies or approved persons, the primary provider may only use the following to provide adoption services in a foreign country:

(1) A Central Authority, competent authority, or a public foreign authority;

(2) A foreign supervised provider, including a provider accredited by the foreign country; or

(3) A foreign provider (agency, person, or other non-governmental entity) who

(i) Has secured or is securing the necessary consent to termination of parental rights and to adoption, if the primary provider verifies consent pursuant to § 96.46(c); or

(ii) Has prepared or is preparing a background study on a child in a case involving immigration to the United States (incoming case) or a home study on prospective adoptive parent(s) in a case involving emigration from the United States (outgoing case), and a report on the results of such a study, if the primary provider verifies the study and report pursuant to § 96.46(c).

(d) The primary provider is not required to provide supervision or to assume responsibility for:

(1) Public domestic authorities; or

(2) Central Authorities, competent authorities, and public foreign authorities.

(e) The primary provider must adhere to the standards contained in § 96.45 (Using supervised providers in the United States) when using supervised providers in the United States and the applicable standards contained in § 96.46 (Using providers in foreign countries) when using providers outside the United States.

[71 FR 8131, Feb. 15, 2006, as amended at 79 FR 40633, July 14, 2014; 80 FR 7323, Feb. 10, 2015]

§ 96.15 Examples.

The following examples illustrate the rules of §§ 96.12 to 96.14:

Example 1. Identifying a child for adoption and arranging an adoption. Agency X identifies children eligible for adoption in the United States on a TV program in an effort

to recruit prospective adoptive parent(s). A couple in a foreign country calls Agency X about one of the children. Agency X refers them to an agency or person in the United States who arranges intercountry adoptions. Agency X does not require accreditation, temporarily accreditation, approval or supervision because it is not both identifying and arranging the adoption. In contrast, Agency Y, located in the United States, provides information about children eligible for adoption in a foreign country on a website and then arranges for interested U.S. parents to adopt those children. Agency Y must be accredited, approved, or supervised because, in addition to identifying children eligible for adoption, it is also helping to arrange the adoption.

Example 2. Child welfare services exemption. Doctor X evaluates the medical records and a video of Child Y. The evaluation will be used in an intercountry adoption as part of the placement of Child Y and is the only service that Doctor X provides in the United States with regard to Child Y's adoption. Doctor X (not employed with an accredited agency or approved person) does not need to be approved or supervised because she is not providing an adoption service as defined in § 96.2.

Example 3. Home study exemption. Social Worker X, in the United States, (not employed with an accredited agency or approved person) interviews Prospective Adoptive Parent Y, obtains a criminal background study, and checks the references of Prospective Adoptive Parent Y, then composes a report and submits the report to an accredited agency for use in an intercountry adoption. Social Worker X does not provide any other services to Prospective Adoptive Parent Y. Social Worker X qualifies as an exempted provider and therefore need not be approved or operate as supervised provider. In contrast, Social Worker Z, in the United States, (not employed with an accredited agency or approved person) prepares a home study report for Prospective Adoptive Parent(s) W, and in addition re-enters the house after Child V has been placed with Prospective Adoptive Parent(s) W to assess how V and W are adjusting to life as a family. This assessment is post-placement monitoring, which is an adoption service. Therefore, Social Worker Z would need to become approved before providing this assessment for this intercountry adoption or else operate as a supervised provider. If an agency or person provides an adoption service in addition to a home study or child background study, the agency or person needs to become accredited, approved, or supervised before providing that adoption service.

Example 4. Child background study exemption. An employee of Agency X interviews Child Y in the United States and compiles a