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AUTHORITY: The Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (done at the Hague, May 29, 1993), S. Treaty Doc. 105–51 (1998), 1870 U.N.T.S. 167 (Reg. No. 31922 (1993)); The Intercountry Adoption Act of 2000, 42 U.S.C. 14901–14954; The Intercountry Adoption Universal Accreditation Act of 2012, Pub. L. 112–276, 42 U.S.C. 14925.

SOURCE: 71 FR 8131, Feb. 15, 2006, unless otherwise noted.

Subpart A—General Provisions

§ 96.1 Purpose.

This part provides for the accreditation and approval of agencies and persons pursuant to the Intercountry Adoption Act of 2000 (42 U.S.C. 14901–14954, Pub. L. 106–279,) and the Intercountry Adoption Universal Accreditation Act of 2012 (42 U.S.C. 14925, Pub. L. 112–276). Subpart B of this part establishes the procedures for the selection and designation of accrediting entities to perform the accreditation and approval functions. Subparts C through H establish the general procedures and standards for accreditation and approval of agencies and persons (including renewal of accreditation or approval). Subparts I through M address the oversight of accredited or approved agencies and persons.

[79 FR 40632, July 14, 2014]

§ 96.2 Definitions.

As used in this part, the term:
Accredited agency means an agency that has been accredited by an accrediting entity, in accordance with the standards in subpart F of this part, to provide adoption services in the United States in intercountry adoption cases.

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Accrediting entity means an entity that has been designated by the Secretary to accredit agencies and/or to approve persons for purposes of providing adoption services in the United States in intercountry adoption cases.

Adoption means the judicial or administrative act that establishes a permanent legal parent-child relationship between a minor and an adult who is not already the minor's legal parent and terminates the legal parent-child relationship between the adoptive child and any former parent(s).

Adoption record means any record, information, or item related to a specific intercountry adoption of a child received or maintained by an agency, person, or public domestic authority, including, but not limited to, photographs, videos, correspondence, personal effects, medical and social information, and any other information about the child.

Adoption service means any one of the following six services:

- (1) Identifying a child for adoption and arranging an adoption;
- (2) Securing the necessary consent to termination of parental rights and to adoption;
- (3) Performing a background study on a child or a home study on a prospective adoptive parent(s), and reporting on such a study;
- (4) Making non-judicial determinations of the best interests of a child and the appropriateness of an adoptive placement for the child;
- (5) Monitoring a case after a child has been placed with prospective adoptive parent(s) until final adoption; or
- (6) When necessary because of a disruption before final adoption, assuming custody and providing (including facilitating the provision of) child care or any other social service pending an alternative placement.

Agency means a private, nonprofit organization licensed to provide adoption services in at least one State. (For-profit entities and individuals that provide adoption services are considered "persons" as defined in this section.)

Approved home study means a review of the home environment of the child's prospective adoptive parent(s) that has been:

(1) Completed by an accredited agency; or

(2) Approved by an accredited agency.

Approved person means a person that has been approved, in accordance with the standards in subpart F of this part, by an accrediting entity to provide adoption services in the United States in intercountry adoption cases.

Best interests of the child shall have the meaning given to it by the law of the State with jurisdiction to decide whether a particular adoption or adoption-related action is in a child's best interests.

Case Registry means the tracking system jointly established by the Secretary and DHS to comply with section 102(e) of the IAA (42 U.S.C. 14912).

Central Authority means the entity designated as such under Article 6(1) of the Convention by any Convention country, or, in the case of the United States, the United States Department of State. In countries that are not Convention countries, *Central Authority* means the relevant "competent authority" as defined in this section.

Child welfare services means services, other than those defined as "adoption services" in this section, that are designed to promote and protect the well-being of a family or child. Such services include, but are not limited to, recruiting and identifying adoptive parent(s) in cases of disruption (but not assuming custody of the child), arranging or providing temporary foster care for a child in connection with an intercountry adoption or providing educational, social, cultural, medical, psychological assessment, mental health, or other health-related services for a child or family in an intercountry adoption case.

Competent authority means a court or governmental authority of a foreign country that has jurisdiction and authority to make decisions in matters of child welfare, including adoption.

Complaint Registry means the system created by the Secretary pursuant to § 96.70 to receive, distribute, and monitor complaints relevant to the accreditation or approval status of agencies and persons.

Convention means the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption done at The Hague on May 29, 1993.

Convention adoption means the adoption of a child resident in a Convention country by a United States citizen, or an adoption of a child resident in the United States by an individual or individuals residing in a Convention country, when, in connection with the adoption, the child has moved or will move between the United States and the Convention country.

Convention country means a country that is a party to the Convention and with which the Convention is in force for the United States.

Country of origin means the country in which a child is a resident and from which a child is emigrating in connection with his or her adoption.

Debarment means the loss of accreditation or approval by an agency or person as a result of an order of the Secretary under which the agency or person is temporarily or permanently barred from accreditation or approval.

DHS means the Department of Homeland Security and encompasses the former Immigration and Naturalization Service (INS) or any successor entity designated by the Secretary of Homeland Security to assume the functions vested in the Attorney General by the IAA relating to the INS's responsibilities.

Disruption means the interruption of a placement for adoption during the post-placement period.

Dissolution means the termination of the adoptive parent(s)' parental rights after an adoption.

Exempted provider means a social work professional or organization that performs a home study on prospective adoptive parent(s) or a child background study (or both) in the United States in connection with an intercountry adoption (including any reports or updates), but that is not currently providing and has not previously provided any other adoption service in the case.

IAA means the Intercountry Adoption Act of 2000, Public Law 106–279 (2000) (42 U.S.C. 14901–14954), as amended from time to time.

INA means the Immigration and Nationality Act (8 U.S.C. 1101 *et seq.*), as amended.

Intercountry adoption means a Convention adoption or the adoption of a child described in INA section 101(b)(1)(F).

Legal custody means having legal responsibility for a child under the order of a court of law, a public domestic authority, competent authority, public foreign authority, or by operation of law.

Legal services means services, other than those defined in this section as “adoption services,” that relate to the provision of legal advice and information and to the drafting of legal instruments. Such services include, but are not limited to, drawing up contracts, powers of attorney, and other legal instruments; providing advice and counsel to adoptive parent(s) on completing DHS or Central Authority forms; and providing advice and counsel to accredited agencies, approved persons, or prospective adoptive parent(s) on how to comply with the Convention, the IAA, the UAA, and the regulations implementing the IAA or UAA.

Person means an individual or a private, for-profit entity (including a corporation, company, association, firm, partnership, society, or joint stock company) providing adoption services. It does not include public domestic authorities or public foreign authorities.

Post-adoption means after an adoption; in cases in which an adoption occurs in a foreign country and is followed by a re-adoption in the United States, it means after the adoption in the foreign country.

Post-placement means after a grant of legal custody or guardianship of the child to the prospective adoptive parent(s), or to a custodian for the purpose of escorting the child to the identified prospective adoptive parent(s), and before an adoption.

Primary provider means the accredited agency or approved person that is identified pursuant to §96.14 as responsible for ensuring that all six adoption services are provided and for supervising and being responsible for supervised providers where used.

Public domestic authority means an authority operated by a State, local, or

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tribal government within the United States.

Public foreign authority means an authority operated by a national or sub-national government of a foreign country.

Secretary means the Secretary of State, the Assistant Secretary of State for Consular Affairs, or any other Department of State official exercising the Secretary of State's authority under the Convention, the IAA, the UAA, or any regulations implementing the IAA or UAA, pursuant to a delegation of authority.

State means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands.

Supervised provider means any agency, person, or other non-governmental entity, including any foreign entity, regardless of whether it is called a facilitator, agent, attorney, or by any other name, that is providing one or more adoption services in an inter-country adoption case under the supervision and responsibility of an accredited agency or approved person that is acting as the primary provider in the case.

UAA means the Intercountry Adoption Universal Accreditation Act of 2012, (42 U.S.C. 14925, Pub. L. 112-276 (2012)).

[71 FR 8131, Feb. 15, 2006, as amended at 79 FR 40632, July 14, 2014]

§ 96.3 [Reserved]

Subpart B—Selection, Designation, and Duties of Accrediting Entities

§ 96.4 Designation of accrediting entities by the Secretary.

(a) The Secretary, in the Secretary's discretion, will designate one or more entities that meet the criteria set forth in § 96.5 to perform the accreditation and/or approval functions. Each accrediting entity's designation will be set forth in an agreement between the Secretary and the accrediting entity. The agreement will govern the accrediting entity's operations. The agreements will be published in the FEDERAL REGISTER.

(b) The Secretary's designation may authorize an accrediting entity to accredit agencies, to approve persons, or to both accredit agencies and approve persons. The designation may also limit the accrediting entity's geographic jurisdiction or impose other limits on the entity's jurisdiction.

(c) A public entity may only be designated to accredit agencies and approve persons that are located in the public entity's State.

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

§ 96.5 Requirement that accrediting entity be a nonprofit or public entity.

An accrediting entity must qualify as either:

(a) An organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended, that has expertise in developing and administering standards for entities providing child welfare services; or

(b) A public entity (other than a Federal entity), including, but not limited to, any State or local government or governmental unit or any political subdivision, agency, or instrumentality thereof, that is responsible for licensing adoption agencies in a State and that has expertise in developing and administering standards for entities providing child welfare services.

§ 96.6 Performance criteria for designation as an accrediting entity.

An entity that seeks to be designated as an accrediting entity must demonstrate to the Secretary:

(a) That it has a governing structure, the human and financial resources, and systems of control adequate to ensure its reliability;

(b) That it is capable of performing the accreditation or approval functions or both on a timely basis and of administering any renewal cycle authorized under § 96.60;

(c) That it can monitor the performance of agencies it has accredited and persons it has approved (including their use of any supervised providers) to ensure their continued compliance with the Convention, the IAA, the UAA, and the regulations implementing the IAA or UAA;