

study and the post-adoption evaluations, it must be accredited or supervised because the home study is one of the six listed adoption services.

For clarity, the definitions section provides a non-exhaustive list of the types of services that would be considered "child welfare services" or "legal services." This list is simply illustrative, and meant to highlight those common child welfare and typical legal services provided in an adoption case and to provide reassurance that such services do not trigger the requirement that the agency or person be accredited, temporarily accredited, approved, or supervised. Since only the six services listed in the definition of adoption services trigger the requirement to become accredited, temporarily accredited, or approved, or to operate under the supervision and responsibility of an accredited, temporarily accredited, or approved provider, it is not necessary to have an exhaustive list of child welfare or legal services. If the service being provided is not one of the six listed in the definition of adoption services, the requirement is not triggered.

Regarding the provision of legal services, some of the preliminary public input noted that some States do not permit an individual to provide both legal services and adoption services in a case. These regulations as proposed are not intended to supplant or alter existing State law in this respect; therefore, an individual can only provide both adoption services and legal services in a case where not prohibited from doing so by the relevant State law. Similarly, some State authorities asked whether attorneys for public bodies must be approved persons. Under the proposed regulations, attorneys who are providing adoption services as part of their employment with public bodies are not required to be approved or to operate under the supervision and responsibility of a primary provider.

Prospective Adoptive Parent(s) Acting on Their Own Behalf. Prospective adoptive parent(s) may act on their own behalf without becoming approved or operating under the supervision of an accredited agency, temporarily accredited agency, or approved person, as long as acting on their own behalf is not prohibited by State law or the law of the other Convention country involved. More specifically, in a case where the child is immigrating to the United States, the conduct must be permissible under the laws of the State in which the prospective adoptive parent(s) reside and the laws of the Convention country from which the parent(s) seek to adopt. Conversely, in a

case where a child is emigrating from the United States, the conduct must be permissible under the laws of the State where the child resides and the laws of the Convention country in which the prospective adoptive parent(s) reside. Please note that this provision only provides an exemption from requirements related to accreditation and approval. The requirements for intercountry adoption procedures will address how prospective adoptive parent(s) acting on their own behalf must comply with the Convention, the provisions of the IAA, and other applicable laws when completing a Convention adoption.

(f) Public Bodies. Public bodies are not subject to the accreditation and approval requirements at all, and no provision is made in this regulation for them to seek accreditation voluntarily. Therefore, they are not required to be accredited or temporarily accredited or to operate under the supervision or responsibility of an accredited agency, temporarily accredited agency, or approved person to provide adoption services in Convention cases. This exemption for public bodies reflects the special status accorded public bodies by the Convention. The abuses that partially motivated creation of the Convention were attributed in part to malfeasance by private, non-accredited agencies and persons. Therefore, the Convention did not contemplate requiring public bodies to undergo the same evaluation and accreditation process. Also, the Department reads sections 3(14) and 201(a) of the IAA, which provide that persons to be accredited/approved shall not include an agency of government, as excluding public bodies from the accreditation and approval requirement.

Public bodies must, however, otherwise comply with the Convention, the IAA and other applicable law when providing services in Convention cases. As a non-accredited entity, a public body cannot provide supervision and responsibility for other entities providing services in a Convention case. The IAA and the regulations require that the entity providing supervision and responsibility be an accredited agency, temporarily accredited agency, or an approved person. Therefore, a public body must either provide all adoption services in a Convention case itself, or must use only other public bodies or agencies, competent authorities, or accredited, temporarily accredited, or approved entities to provide adoption services in a Convention case.

4. Subpart D—Application Procedures for Accreditation and Approval

Subpart D governs applications for full accreditation or approval. Full accreditation or approval refers to accreditation or approval granted when an agency or person is in substantial compliance with the comprehensive and detailed standards in subpart F. The IAA also permits small agencies to apply for temporary, as opposed to full, accreditation that will be for a period of one or two years after the Convention enters into force for the United States. Except as otherwise provided, the procedures in subpart D do not apply to applications for temporary accreditation. The rules on applications and the standards for temporary accreditation are in subpart N.

Subpart D contains special provisions for agencies and persons that seek to be accredited or approved by the time the Convention first enters into force for the United States. Such an agency or person must apply by what is called the "transitional application deadline" (TAD). The TAD will be published in the **Federal Register**. Since the Department expects there to be a bottleneck as agencies and persons apply for initial accreditation and approval, it established the TAD to manage the initial accreditation/approval phase and to ensure that all interested agencies and persons are on notice that they must apply by the TAD if they are seeking to become accredited or approved by the time the Convention enters into force for the United States. After the Department learns the number of agencies and persons that applied by the TAD, and has an estimate of how long it will take the accrediting entities to evaluate each applicant (including conducting site visits), it will announce a "deadline for initial accreditation or approval" (DIA). The DIA will be the date by which an agency or person must complete the accreditation or approval process so as to be accredited or approved when the Convention enters into force for the United States.

The regulations provide that the accrediting entity must use its best efforts to provide a reasonable opportunity for an agency or person that applied by the TAD to complete the process by the DIA. Only those agencies and persons that are accredited or approved by the DIA will be included on the Department's initial list of accredited agencies and approved persons sent to The Hague Conference Permanent Bureau. If an agency or person is not on this list once the Convention enters into force for the United States, it cannot provide