

accredited, temporarily 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 a Convention adoption. If the agency or person provides both a child welfare service and any one of the six "adoption services" defined in § 96.2 in a Convention adoption case (including a home study or child background study), it must be accredited, temporarily accredited, or approved or operate as a supervised provider.

(c) *Legal services.* An agency or person does not need to be accredited, temporarily accredited, approved, or operate as a supervised provider if it is providing only legal services, and not providing any adoption services, in connection with a Convention adoption. If the agency or person provides both legal services and any one of the six "adoption services" defined in § 96.2 in a Convention adoption case (including a home study or child background study), it must be accredited, temporarily accredited, approved, or operate as a supervised provider. 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 body 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 unless acting on their own behalf is prohibited by State law or the law of the Convention 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 Convention 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 permissible under the laws of the State where the child resides and the laws of the Convention country in which the parent(s) reside.

§ 96.14 Providing adoption services using supervised providers, exempted providers, public bodies, or public authorities.

(a) Accreditation, temporary accreditation, and approval under this part requires that, in each Convention adoption case, an accredited agency, a temporarily accredited agency, or an

approved person will be identified and act as the primary provider. If one accredited agency, temporarily accredited agency, or approved person is providing all six "adoption services" listed in § 96.2 by itself, it must act as the primary provider. If just one accredited agency, temporarily accredited agency, or approved person is involved in providing some of the six "adoption services" listed in § 96.2, and the other providers are supervised providers, public bodies, public authorities, or exempted providers, the sole accredited agency, temporarily accredited agency, or approved person must act as the primary provider. If adoption services in the Convention case are being provided by more than one accredited agency, temporarily 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 another Convention country for the purpose of placement for adoption;

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

(4) Receiving from or sending to another Convention 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, and § 96.104(g), in the case of temporarily accredited agencies, the primary provider may only use the following to provide adoption services in the United States:

(1) An accredited agency, temporarily accredited agency, or approved person;

(2) An exempted provider if the exempted provider's home study or child background study will be reviewed and approved by an accredited agency or temporarily accredited agency;

(3) A supervised provider; or

(4) A public body.

(c) Pursuant to § 96.44, in the case of accredited agencies or approved persons, and § 96.104(g), in the case of temporarily accredited agencies, the primary provider may only use the following to provide adoption services in another Convention country:

(1) A competent authority, a public authority, or an entity accredited by that

Convention country to provide services under the Convention; or

(2) An agency, person, or other entity that will act under the primary provider's supervision and responsibility (a foreign supervised provider).

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

(1) Public bodies and agencies and persons accredited or approved in the United States pursuant to subpart F of this part; and

(2) Competent authorities and public authorities of other Convention countries, and entities accredited by other Convention countries.

(e) Public bodies, competent authorities, public authorities, and accredited agencies and approved persons are not required to operate under the supervision and responsibility of the primary provider.

(f) The primary provider must adhere to the standards contained in § 96.45 (U.S. supervised providers) when using supervised providers in the United States and the standards contained in § 96.46 (foreign supervised providers) when using supervised providers in other Convention countries.

§ 96.15 Public bodies.

Public bodies are not required to become accredited to be able to provide adoption services in Convention adoption cases, but must comply with the Convention, the IAA, and other applicable law when providing services in a Convention adoption case.

§ 96.16 Effective date of accreditation and approval requirements.

The Secretary will publish a document in the **Federal Register** announcing the date on which the Convention will enter into force for the United States. As of that date, the regulations in subpart C of this part will govern Convention adoptions between the United States and other Convention countries, and agencies or persons providing adoption services must comply with § 96.12 and applicable Federal regulations. The Secretary will maintain for the public a current listing of Convention countries.

§ 96.17 [Reserved]

Subpart D—Application Procedures for Accreditation and Approval

§ 96.18 Scope.

(a) Agencies are eligible to apply for "accreditation" or "temporary accreditation." Persons are eligible to apply for "approval." Temporary accreditation is governed by the