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(2) Accrediting or approving significant numbers of agencies or persons whose performance results in intervention of the Secretary for the purpose of suspension, cancellation, or debarment;

(3) Failing to perform its responsibilities fairly and objectively;

(4) Violating prohibitions on conflicts of interest;

(5) Failing to meet its reporting requirements;

(6) Failing to protect information or documents that it receives in the course of performing its responsibilities; and

(7) Failing to monitor frequently and carefully the compliance of accredited agencies, and approved persons with the home study requirements of the Convention, section 203(b)(1)(A)(ii) of the IAA (42 U.S.C. 14923(b)(1)(A)(ii)), and §96.47.

(d) An accrediting entity that is subject to a final action of suspension or cancellation may petition the United States District Court for the District of Columbia or the United States district court in the judicial district in which the accrediting entity is located to set aside the action as provided in section 204(d) of the IAA (42 U.S.C. 14924(d)).

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

§96.11 [Reserved]

Subpart C—Accreditation and Approval Requirements for the Provision of Adoption Services

§96.12 Authorized adoption service providers.

(a) Except as provided in section 505(b) of the IAA (relating to transitional cases), and once the UAA becomes effective, except as provided in section 2(c) of the UAA (relating to transitional cases), an agency or person may not offer, provide, or facilitate the provision of any adoption service in the United States in connection with an intercountry adoption unless it is:

(1) An accredited agency or an approved person;

(2) A supervised provider; or

(3) An exempted provider, if the exempted provider's home study or child background study will be reviewed and approved by an accredited agency pursuant to §96.47(c) or §96.53(b).

(b) A public domestic authority may also offer, provide, or facilitate the provision of any such adoption service.

(c) Neither conferral nor maintenance of accreditation or approval, nor status as an exempted or supervised provider, nor status as a public domestic authority shall be construed to imply, warrant, or establish that, in any specific case, an adoption service has been provided consistently with the Convention, the IAA, the UAA, or the regulations implementing the IAA or UAA. Conferral and maintenance of accreditation or approval under this part establishes only that the accrediting entity has concluded, in accordance with the standards and procedures of this part, that the agency or person conducts adoption services in substantial compliance with the applicable standards set forth in this part; it is not a guarantee that in any specific case the accredited agency or approved person is providing adoption services consistently with the Convention, the IAA, the UAA, the regulations implementing the IAA or UAA, or any other applicable law, whether Federal, State, or foreign. Neither the Secretary nor any accrediting entity shall be responsible for any acts of an accredited agency, approved person, exempted provider, supervised provider, or other entity providing services in connection with an intercountry adoption.

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

§96.13 Circumstances in which accreditation, approval, or supervision is not required.

(a) *Home studies and child background studies.* Home studies and child background studies, when performed by exempted providers, may be performed without accreditation, approval, or supervision; provided, however, that an exempted provider's home study must be approved by an accredited agency in accordance with §96.47(c), and an exempted provider's child background study must be approved by an accredited agency in accordance with §96.53(b).

(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 permissible 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