

## **INTER-COUNTRY ADOPTION**

### **Step I) Enlisted Foreign Adoption Agency (EFAA)**

- The applicants will have to contact or register with an Enlisted Foreign Adoption Agency (EFAA)/Central Authority/Govt. Deptt. in their country, in which they are resident, which will prepare the Home Study Report (HSR) etc. The validity of "Home Study Report" will be for a period of two years. HSR report prepared before two years will be updated at referral.
- The applicants should obtain the permission of the competent authority for adopting a child from India. Where such Central Authorities or Government departments are not available, then the applications may be sent by the enlisted agency with requisite documents including documentary proof that the applicant is permitted to adopt from India
- The adoption application dossier should contain all documents prescribed in Annexure-2. All documents are to be notarized. The signature of the notary is either to be attested by the Indian Embassy/High Commission or the appropriate Govt. Department of the receiving country. If the documents are in any language other than English, then the originals must be accompanied by attested translations  
A copy of the application of the prospective adoptive parents along with the copies of the HSR and other documents will have to be forwarded to RIPA by the Enlisted Foreign Adoption Agency (EFAA) or Central Authority of that country.

### **Step II) Role of Recognised Indian Placement Agency (RIPA)**

- On receipt of the documents, the Indian Agency will make efforts to match a child who is legally free for inter-country adoption with the applicant.
- In case no suitable match is possible within 3 months, the RIPA will inform the EFAA and CARA with the reasons therefore.

### **Step III) Child being declared free for inter-country adoption - Clearance by ACA**

- Before a RIPA proposes to place a child in the Inter country adoption, it must apply to the ACA for assistance for Indian placement.
- The child should be legally free for adoption. ACA will find a suitable Indian prospective adoptive parent within 30 days, failing which it will issue clearance certificate for inter-country adoption.
- ACA will issue clearance for inter-country adoption within 10 days in case of older children above 6 years, siblings or twins and Special Needs Children as per the additional guidelines issued in this regard.
- In case the ACA cannot find suitable Indian parent/parents within 30 days, it will be incumbent upon the ACA to issue a Clearance Certificate on the 31st day.
- If ACA Clearance is not given on 31st day, the clearance of ACA will be assumed unless ACA has sought clarification within the stipulation period of 30 days.
- NRI parent(s) (at least one parent) HOLDING Indian Passport will be exempted from ACA Clearance, but they have to follow all other procedures as per the Guidelines.

### **Step IV) Matching of the Child Study Report with Home Study Report of FPAP by RIPA**

- After a successful matching, the RIPA will forward the complete dossier as per Annexure 3 to CARA for issuance of "No Objection Certificate".

### **Step V) Issue of No Objection Certificate (NOC) by CARA**

- RIPA shall make application for CARA NOC in case of foreign/PIO parents only after ACA Clearance Certificate is obtained.
- CARA will issue the 'NOC' within 15 days from the date of receipt of the adoption dossier if complete in all respect.
- If any query or clarification is sought by CARA, it will be replied to by the RIPA within 10 days.

- No Indian Placement Agency can file an application in the competent court for inter-country adoption without a "No Objection Certificate" from CARA.

#### **Step VI) Filing of Petition in the Court**

- On receipt of the NOC from CARA, the RIPA shall file a petition for adoption/guardianship in the competent court within 15 days.
- The competent court may issue an appropriate order for the placement of the child with FPAP.
- As per the Hon'ble Supreme Court directions, the concerned Court may dispose the case within 2 months.

#### **Step VII) Passport and Visa**

- RIPA has to apply in the Regional Passport Office for obtaining an Indian Passport in favour of the child.
- The concerned Regional Passport Officer may issue the Passport within 10 days.
- Thereafter the VISA entry permit may be issued by the Consulate/Embassy/High Commission of the concerned country for the child.

#### **Step VIII) Child travels to adoptive country**

- The adoptive parent/parents will have to come to India and accompany the child back to their country.

### **INTER-COUNTRY ADOPTION**

#### **GLOSSARY OF TERMS**

##### **Adoption Coordinating Agency (ACA):**

ACA is an agency in a state/region set up for the promotion of In-country Adoption through co-ordination of its member agencies, and recognized by CARA and to issue clearance certificate for a child to be placed in inter-country adoption.

##### **Adoption Scrutinising Agency (ASA):**

An independent Social/Child Welfare Agency appointed by the Court for scrutinizing adoption applications for In-country and Inter-country Adoptions.

##### **Central Adoption Resource Authority (CARA):**

An autonomous body functioning under Ministry of Social Justice & Empowerment to act as a Central Authority in the matter of adoptions.

##### **Central Authority (CA):**

As defined under Hague Convention on Inter-country Adoption-1993.

##### **Child Study Report (CSR):**

It will contain details about the child, its date of birth, social background etc.

##### **Child Welfare Committee (CWC):**

A Committee as defined in JJ Act-2000 to deal with children in need of care & protection.

**Clearance Certificate (CC):**

A certificate issued by ACA permitting the RIPA to place a child in Inter-country Adoption. Clearance Certificate is required in case of all adoptions placed with foreigners and PIO.

**Enlisted Foreign Adoption Agency (EFAA):**

A Foreign Social/Child Welfare Agency that is enlisted by CARA for sponsoring the application of Prospective Foreign Adoptive Parents/NRI for Inter-Country Adoption of an Indian child.

**FPAP:**

Foreign Prospective Adoptive Parents.

**G.A.W.A.:**

Guardian and Wards Act, 1890

**H.A.M.A:**

Hindu Adoption and Maintenance Act, 1956

**Home Study Report (HSR):**

It contains details of the adoptive family/Couple's Social Status & family background; Description of Home; Standard of Living; Relationship; Health details; Economic Status etc.

**In-Country Adoption (IA):**

Adoption of an Indian child by Indian parents residing in India.

**Inter-country Adoption (ICA):**

Legal placement of an Indian child with a prospective NRI, PIO parents and foreign nationals.

**JJ Act-2000:**

Juvenile Justice (Care & Protection of Children) Act-2000

**Licensed Adoption Placement Agency for In-Country Adoption (LAPA):**

An Indian Social/Child Welfare Agency licensed/recognized by the State Government for In-country Adoption.

**No Objection Certificate (NOC):**

A Certificate issued by CARA permitting the child to be placed with a prospective adoptive parents for Inter-country adoption.

**NRI:**

Non-Resident Indian/Indians (holding Indian Passport).

**Physical Examination Report (PER):**

It will contain medical report of the child, report of hospitalization if any etc.

**PIO:**

Persons of Indian Origin.

**Recognized Indian Placement Agency for Inter-country Adoption (RIPA):**

An Indian Social/ Child Welfare Agency recognized by CARA for placement of Indian Children in Inter Country Adoption.

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## INTRODUCTION

### 1.1 Aims and Objects

The objective of the Guidelines is to provide a sound basis for inter-country adoption within the framework of the norms and principles laid down by the Honourable Supreme Court of India in the series of Judgments delivered in L.K. Pandey vs. Union of India and Others between 1984 and 1991 and various other court orders from time to time and to take all other measures necessary for the promotion of in-country adoption of children as well as welfare of children in general.

1.2 The goal is to find a family for as many orphan children as possible and to safeguard their interests as visualized in the UN Convention on Child Rights and Hague Convention on Inter-country Adoption (both ratified by India).

1.3 The Government of India, in pursuance of its constitutional mandate, has evolved a National Policy for the welfare of children. The thrust of this policy is summed up in the following words:

“The Nation’s children are a supremely important asset. Their nurture and solicitude are our responsibility. Children’s programmes should find a prominent part in our national plans for the development of human resources, so that our children grow up to become robust citizens, physically fit, mentally alert and morally healthy, endowed with the skills and motivation needed by society. Equal opportunities for development to all children during the period of growth should be our aim, for this would serve our larger purpose of reducing inequality and ensuring social justice.”

1.4 The National Policy for the Welfare of Children also stresses the vital role which the voluntary organisations have to play in the field of education, health, recreation and social welfare services for children and declares that it shall be the endeavor of the state to encourage and strengthen such voluntary organisations.

1.5 India has signed the Hague Convention on Inter-country Adoption-1993 on 9 January, 2003 and ratified the same on 6 June, 2003 with a view to strengthening International Cooperation and Protection of Indian Children placed in Inter-country adoption. For the purpose of implementation of the Convention in our country, Ministry of Social Justice & Empowerment is functioning as the Administrative Ministry and Central Adoption Resource Authority (CARA) as the Central Authority.

### 1.6 Need of Family Support for the Development of Children

It is the responsibility of the community and of the state to provide both institutional and non-institutional support to orphans and destitute children. The Government of India considers adoption as the best non-institutional support for rehabilitation of such children because only a family environment can provide them the best opportunity to fulfill their potential.

### 1.7 Review of Adoption Procedure

The “Revised Guidelines for the Adoption of Indian Children-1995” were issued by the Govt. of India on 21<sup>st</sup> May’1995 and it has now been decided to further revise this Guidelines keeping in view the developments such as the ratification of the Hague Convention on Inter-country Adoption-1993 by India on 06.06.2003 etc. since then.

Before finalization of the Guidelines, suggestions and opinions were sought from the State Governments/UTs., Recognised Indian Placement Agencies, Adoption Coordinating Agencies and Adoption Scrutinizing Agencies.

The “Guidelines for Adoption from India – 2006” will supersede all previous Guidelines issued in this regard by the Ministry of Social Justice & Empowerment, Govt. of India, New Delhi.

## **AUTHORITIES & AGENCIES**

### **2.1 Government of India**

In the Government of India all policy matters relating to adoption are dealt with by the Ministry of Social Justice & Empowerment. Under the aegis of the Ministry, the Central Adoption Resource Authority (hereinafter called CARA) functions as a nodal body and the Central Authority for adoption matters. It is a body registered under the Societies Registration Act, 1860 on 18<sup>th</sup> March, 1999 with its headquarter in New Delhi. The functions of CARA are listed at Annexure-1

### **2.2 Central Authorities**

Government departments or any other duly authorised body notified by their Govt. to function as Central Authorities of foreign countries under the Hague Convention on Inter-country Adoption-1993 will be treated as Central Authorities by CARA.

### **2.3 Foreign Adoption Agencies enlisted by CARA shall be called Enlisted Foreign Adoption Agencies (EFAAs)**

CARA will approve/authorize and maintain a list of all Enlisted Foreign Adoption Agencies (EFAAs) who can forward applications of foreign prospective adoptive parents including NRIs (Non Resident Indians) to it for approval.

### **2.4 Recognized Indian Agencies for Inter-country Adoption (RIPA)**

CARA will recognize/accredit Indian Placement Agencies for Inter-country Adoption (RIPA). It shall publish once a year a list of RIPAs in leading national and vernacular newspapers. CARA shall send this list once a year to the High Courts in the country for circulation to the District Courts. RIPAs shall function as accredited bodies as per the Hague Convention of 1993.

### **2.5 Adoption Coordinating Agencies (ACAs)**

There shall be a centralized agency namely Adoption Coordinating Agency (ACA) earlier known as Voluntary Coordinating Agency (VCA) in the state or even in a large city where there are several recognised placement and child welfare agencies to promote in-country adoption and issue clearance in case of all Inter-country adoptions.

### **2.6 Adoption Scrutiny Agencies (ASAs)**

It is open to the Court to seek assistance from the Indian Council for Child Welfare or the Indian Council for Social Welfare or any of its branches/any independent, reputed and officially recognized Child/Social Welfare Agency for scrutinizing the adoption applications with a view to ensure the welfare of the child.

### **2.7 Indian Diplomatic Missions**

Indian Diplomatic Missions abroad, will liaison with concerned Central/Public Authorities to ensure safeguards of children of Indian origin adopted by foreign parents against neglect, maltreatment, exploitation or abuse. They will receive a statement of all Indian children cleared for adoption by foreign nationals (including NRIs/PIOs) from CARA once a year. Indian Missions will be encouraged to interact with the Foreign Enlisted Agencies and Central Authorities in their area of jurisdiction and arrange get togethers of the adopted children and their parents.

**2.8 CARA** may levy any recognition/renewal processing fee or any other charges with the approval of the Ministry of Social Justice & Empowerment from time to time.

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## ROLE OF STATE GOVERNMENTS/UNION TERRITORIES

### 3.1 Licensing of Children's Homes

The State Governments (the term "State Government" to include Union Territory Administration wherever applicable) will license/recognise all such children's homes engaged in adoption programmes of destitute, abandoned or orphaned children under the relevant Act/statute/rules or order as operative in the state or UT.

3.2 The State Governments will licence/recognise Indian adoption agencies for in-country adoption as per the procedure laid down in Guidelines for Incountry Adoptions 2004 and shall forward applications of Indian agencies seeking recognition for inter-country adoption to the Central Adoption Resource Authority after proper verification. State Governments should not recommend either new recognition or renewals if they have not permitted the concerned agency to undertake in-country adoption. All agencies will also have to be licenced/registered under the relevant Act of the State to qualify for recognition.

### 3.3 List of Adoption Agencies

From among the above Homes, the State Government will separately maintain a list of all such Homes or Agencies handling in-country and inter-country adoptions and will maintain a list of all children who are declared legally free for adoption by the competent authorities in these institutions.

### 3.4 Role and Functions of State Governments:

- i. Monitor the adoption programme and the activities of all adoption agencies, RIPAs & ACAs within its jurisdiction.
- ii. Encourage and promote placement of such children in adoption or guardianship with families within the country.
- iii. If there is no ACA in particular state, until the ACA is set-up, the Department of the concerned State Govt. may function as ACA.
- iv. Enforce the Orphanages and Other Charitable Homes (Supervision and Control) Act, 1960 and/or Juvenile Justice (Care & Protection of Children) Act, 2000 and/or formulate suitable alternate rules in order to maintain certain minimum standards for child care in child welfare institutions. Homes not licensed/recognised by the State Governments will not be allowed to carry out the function of adoption.
- v. Receive all applications from adoption agencies for fresh recognition as well as renewal of recognition for inter-country adoption. After due verification it will give its clear recommendation alongwith Inspection Report or otherwise with supporting documents to CARA.
- vi. Form an Advisory Committee on adoption which shall have the following as members :

(a) Secretary, Women & Child Development Deptt. /Social Welfare/ Panchayat Raj	1	Chairman
(b) Director, Welfare/Social Welfare/ Women & Child Development	1	Member
(c) Two representatives of adoption placement agencies	2	Member
(d) One representative of ACA/s	1	Member
(e) One representative of Adoption Scrutinising Agencies.	1	Member
(f) Three experts in the field of Social and Child Welfare	3	Member

The committee will meet periodically to discuss child welfare measures, specifically ways and means to promote in-country adoption of children and take all such decisions pertaining to policy issues on adoption. The tenure of such a committee shall be three years.

- vii. The State Government should also set up an Adoption Cell in the Directorate of Social Welfare to co-ordinate, monitor and develop the work of adoption and render all assistance to the Advisory Committee on Adoption. The Adoption Cell should consist of at least one officer and assistant or more based on the number of agencies licensed and recognized in the State.

- viii. Ensure that the provisions of the Supreme Court judgement, the State JJ Rules based on JJ Act, 2000 and the Guidelines for Incountry Adoption-2004, are adhered to.
- ix. State Governments shall receive data on new arrivals and death of the children from the adoption agencies and shall furnish annual data on adoption to CARA.
- x. State Governments may direct all the CWCs/JJBs working in the States to submit periodical data to ACA and Adoption Cell relating to adoption matters.

### 3.5 Inspection of Adoption Agencies:

CARA/State Government will periodically and at least once a year, inspect all Licensed and Recognised Adoption Placement Agencies as also their papers, documents and activities connected with the service for children, in order to verify the following: -

- i. That adoption as an activity is being pursued by the organization as a welfare measure in the interest of children and not as a commercial activity.
- ii. That proper records are being maintained for children admitted to the homes.
- iii. That the children admitted are provided with quality child care and basic minimum facilities for their care, education and development in the institution or Foster Homes.
- iv. That lists of persons interested in adopting a child or taking a child under guardianship are being maintained by the organisation regularly.
- v. That the accounts of the organisation are being maintained and audited annually without delay and that the auditor's reports confirm that the accounts are fair and accurate; that any organisation which is in receipt of foreign funding is duly registered with the Ministry of Home Affairs and has otherwise complied with the provisions of the Foreign Contributions (Regulation) Act, 1976.
- vi. That the organisation is receiving regular progress reports about the well-being of children given in adoption.
- vii. That qualified staff having social work experience are employed by the agency/organisation to supervise the care of children or they have access to such staff.
- viii. That in the case of children placed in pre-Adoption care/foster care with prospective adoptive parents, the cases have been legalized.
- ix. A separate register is kept for children given in pre-adoption foster care in all cases.
- x. That a Central Register of prospective adoptive parents is maintained.

### 3.6 Monitoring of Performance

The State Government shall call for information and data every quarter from all RIPAs and Licensed Adoption Placement Agencies (LAPAs) engaged in adoption in order to monitor the functioning of these agencies. The data shall be called for in a proforma to be prescribed by the Central Adoption Resource Authority. An annual report and audited statement of accounts shall be received from all Adoption Agencies.

3.7 The State Government shall take all such measures as are deemed necessary to actively encourage in-country adoption of children in preference to inter-country adoption. Special care/efforts shall be made for rehabilitation of children in institutions through placement by adoption.

3.8 The State Government may take appropriate legal action against persons and institutions including Nursing Homes and Hospitals involved in illegal adoption work.

### 3.9 Suspension/termination of recognition of RIPA

In case of a report of violation of guidelines by a Recognised Indian Placement Agency, the State Government shall inform CARA for taking appropriate action. In case of suspension/withdrawal of recognition by CARA, suitable alternative rehabilitation plans have to be ensured by the State Government for children awaiting adoption through other Recognised Indian Placement Agencies.

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## **PROCEDURE FOR INTER-COUNTRY ADOPTION**

The Supreme Court of India has laid down that every application from a foreigner/NRI/PIO (as applicable) desiring to adopt a child must be sponsored by a social or child welfare agency recognised or licensed by the Government or a Department of the Foreign Govt. to sponsor such cases in the country in which the foreigner is resident. The foreign agency should also be an agency 'authorised' by CARA, Ministry of Social Justice & Empowerment, Govt. of India. No application by a foreigner/NRI/PIO for taking a child in adoption should be entertained directly by any social or child welfare agency in India.

### **4.1 Criteria for Foreign Prospective Adoptive Parent/s (FPAP):**

- Married couple with 5 years of a stable relationship, age, financial and health status with reasonable income to support the child should be evident in the Home Study Report.
- Prospective adoptive parents having composite age of 90 years or less can adopt infants and young children. These provisions may be suitably relaxed in exceptional cases, such as older children and children with special needs, for reasons clearly stated in the Home Study Report. However, in no case should the age of any one of the prospective adoptive parents exceed 55 years.
- Single persons (never married, widowed, divorced) up to 45 years can also adopt.
- Age difference of the single adoptive parent and child should be 21 years or more.
- A FPAP in no case should be less than 30 years and more than 55 years.
- A second adoption from India will be considered only when the legal adoption of the first child is completed.
- Same sex couples are not eligible to adopt.

The following procedures will be followed in all cases of inter-country adoptions:

#### **Step I) Enlisted Foreign Adoption Agency (EFAA)**

- The applicants will have to contact or register with an Enlisted Foreign Adoption Agency (EFAA)/Central Authority/Govt. Deptt. in their country, in which they are resident, which will prepare the Home Study Report (HSR) etc. The validity of "Home Study Report" will be for a period of two years. HSR report prepared before two years will be updated at referral.
- The applicants should obtain the permission of the competent authority for adopting a child from India. Where such Central Authorities or Government departments are not available, then the applications may be sent by the enlisted agency with requisite documents including documentary proof that the applicant is permitted to adopt from India
- The adoption application dossier should contain all documents prescribed in **Annexure-2**. All documents are to be notarized. The signature of the notary is either to be attested by the Indian Embassy/High Commission or the appropriate Govt. Department of the receiving country. If the documents are in any language other than English, then the originals must be accompanied by attested translations
- A copy of the application of the prospective adoptive parents along with the copies of the HSR and other documents will have to be forwarded to RIPA by the Enlisted Foreign Adoption Agency (EFAA) or Central Authority of that country.

#### **Step II) Role of Recognised Indian Placement Agency (RIPA)**

- On receipt of the documents, the Indian Agency will make efforts to match a child who is legally free for inter-country adoption with the applicant.
- In case no suitable match is possible within 3 months, the RIPA will inform the EFAA and CARA with the reasons therefore.

#### **Step III) Child being declared free for inter-country adoption - Clearance by ACA**

- Before a RIPA proposes to place a child in the Inter country adoption, it must apply to the ACA for assistance for Indian placement.

- The child should be legally free for adoption. ACA will find a suitable Indian prospective adoptive parent within 30 days, failing which it will issue clearance certificate for inter-country adoption.
- ACA will issue clearance for inter-country adoption within 10 days in case of older children above 6 years, siblings or twins and Special Needs Children as per the additional guidelines issued in this regard.
- In case the ACA cannot find suitable Indian parent/parents within 30 days, it will be incumbent upon the ACA to issue a Clearance Certificate on the 31<sup>st</sup> day.
- If ACA Clearance is not given on 31<sup>st</sup> day, the clearance of ACA will be assumed unless ACA has sought clarification within the stipulation period of 30 days.
- NRI parent(s) (at least one parent) HOLDING Indian Passport will be exempted from ACA Clearance, but they have to follow all other procedures as per the Guidelines.

#### **Step IV) Matching of the Child Study Report with Home Study Report of FPAP by RIPA**

- After a successful matching, the RIPA will forward the complete dossier as per Annexure 3 to CARA for issuance of "No Objection Certificate".

#### **Step V) Issue of No Objection Certificate (NOC) by CARA**

- RIPA shall make application for CARA NOC in case of foreign/PIO parents only after ACA Clearance Certificate is obtained.
- CARA will issue the 'NOC' within 15 days from the date of receipt of the adoption dossier if complete in all respect.
- If any query or clarification is sought by CARA, it will be replied to by the RIPA within 10 days.
- No Indian Placement Agency can file an application in the competent court for inter-country adoption without a "No Objection Certificate" from CARA.

#### **Step VI) Filing of Petition in the Court**

- On receipt of the NOC from CARA, the RIPA shall file a petition for adoption/guardianship in the competent court within 15 days.
- The competent court may issue an appropriate order for the placement of the child with FPAP.
- As per the Hon'ble Supreme Court directions, the concerned Court may dispose the case within 2 months.

#### **Step VII) Passport and Visa**

- RIPA has to apply in the Regional Passport Office for obtaining an Indian Passport in favour of the child.
- The concerned Regional Passport Officer may issue the Passport within 10 days.
- Thereafter the VISA entry permit may be issued by the Consulate/Embassy/High Commission of the concerned country for the child.

#### **Step VIII) Child travels to adoptive country**

- The adoptive parent/parents will have to come to India and accompany the child back to their country.

#### **4.2 Criteria for eligible children:**

- The child must be legally free for adoption.
- Clearance from ACA/State Government is mandatory for all children except wherever exempted under the Guidelines.
- Siblings/twins/triplets cannot be separated except in exceptional cases.
- Two unrelated children cannot be proposed to a foreign family at a time.
- A child may as far as possible be placed in adoption before it reaches the age of 12.
- The consent of the child has to be obtained wherever applicable.

#### **4.3 Where there is no Enlisted Foreign Adoption Agency (EFAA)**

In the case of an Indian National residing in a country where there is no Enlisted Agency, CARA may allow an organisation or individual recommended by the Indian Embassy to do the Home Study Report (HSR), undertaking as prescribed in the Guidelines and other documentation. The said application may be forwarded with the approval of the Indian Embassy to CARA.

Wherever there is no Foreign Adoption Agency enlisted by CARA in any country, the concerned Government Department/Ministry or any authorized body of that country may forward the original application and related documents of the prospective adoptive parents to CARA through the Indian Embassy/High Commission. In case of resident non-citizens where the host Govt. may not be willing to sponsor the cases, the documentation may be done through the Embassy of the country to which the applicant belongs. Home studies however will have to be prepared by a qualified Agency/Social Worker in all cases. In case CARA receives the papers it will send those papers to any of the Recognised Indian Placement Agencies (RIPA) for further processing the case only after HSR has been approved by it. The procedure to be adopted thereafter shall be the same as indicated in the process.

#### **4.4 Foreign nationals living in India**

In case of foreigners who have been living in India for one year or more, the HSR and other connected documents may be prepared by the RIPA which is processing the application of such foreigners for the guardianship of the child. An undertaking should be given by the concerned Embassy/High Commission that the child will be legally adopted in that country and also mention an agency/orgn. who would send the progress reports and take care of the child in case of any disruption as and when the child is taken abroad. However a certificate is required from the competent authority in the country of permanent residence of the FPAP indicating that the child shall be allowed to enter the country and get adopted in due course.

#### **4.5 Rights of the child taken abroad**

When the Court makes an order appointing adoptive parents as the guardians of the child, the order shall contain an undertaking of the adoptive parents that they shall protect and safeguard the best interest of the child and that the child would be legally adopted in the receiving State not later than two years from the date of the order. On such adoption in the receiving State, subject to the Laws of the country the child would have all rights recognized under International Law.

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## **RECOGNISED INDIAN PLACEMENT AGENCIES (RIPA)**

5.1 Only such voluntary agencies/institutions as are primarily engaged in child welfare programmes for the growth and development of children can undertake processing of adoption cases as a part of their total activities and may apply for recognition for inter-country adoption to CARA through the State Government. Only Recognised Agencies can undertake Inter-country Adoption. RIPAs will be known as accredited bodies for the purpose of processing inter-country adoption applications.

### **5.2 Listing with Authorities**

Every institution and child welfare agency engaged in care and custody of children or in adoption work or any other activity related to orphaned, abandoned, destitute, neglected or relinquished children shall immediately be listed by the concerned State Government and such list shall be forwarded to CARA.

### **5.3 Criteria for Recognition of Indian Placement Agency (RIPA)**

No agency will engage in placement of inter-country adoption unless it is licensed by the State Government and recognised by CARA. Any Indian agency desirous of undertaking inter-country adoption work shall apply for recognition to the Central Adoption Resource Authority, through the State Government concerned and only such agencies are recognised by the Central Adoption Resource Authority, shall be entitled to undertake processing of inter-country adoption work. Such agencies shall be termed "Recognized Indian Placement Agencies". The General criteria for granting recognition should be as follows:

- a. It is a society registered under the Societies Registration Act, 1860 or a Trust created under the Charitable Trusts Act, or an organisation registered under an appropriate law which has worked for the welfare of Women and Children during the preceding five years;
- b. Only such voluntary agencies primarily engaged in child welfare programmes which undertake adoption as a part of their total activities may apply for recognition for inter-country adoption to the Central Adoption Resource Authority.
- c. The organisation should be duly licensed/recognised by the State Government under the Orphanages and Other Charitable Homes (Supervision and Control) Act, 1960 and/or Juvenile Justice (Care & Protection of Children) Act, 2000 and/or any alternate rules or order to maintain certain minimum standards for child care in child welfare institutions. The organisation should have been functioning for a period of three years in the field of in-country adoption at the time of applying for Inter-country recognition. This will be relaxable, for organisations working in the North East region and J & K, in meritorious cases.
- d. The organization should also have a certificate of recognition from concerned State Govt. for doing in country adoption in accordance with section 41(4) of the JJ Act 2000 and corresponding states JJ Rules.
- e. Where the adoption programme is part of a larger organisation there should be a sub-committee to run the adoption programme and closely monitor the same. This Committee shall have at least some professional members with experience in the field of Child Development/Social Welfare/Law.
- f. It should have appropriate residential institution/Home for the protection and care of children including infants.
- g. It should run on a non-commercial and non-profit basis.
- h. The Chief Executive of the organisation should be willing to sign a written undertaking to follow the Guidelines laid down by the Supreme Court of India, those prescribed by the Government of India and the conditions imposed, if any, by CARA at the time of Recognition and Renewal.
- i. Recognition of the agency should be recommended by the State Government concerned.
- j. It should have required professional staff to run the adoption agency.

Recognition to an Indian agency shall be granted normally for a period of 3 years, subject to the conditions laid down in these Guidelines. The decision of CARA shall be final in this regard.

## 5.4 List of Prospective Adoptive Parents

Every Recognized/Licensed Indian Placement Agency shall regularly maintain a list of all registered prospective Indian adoptive parents containing their names, addresses and other relevant data. NRIs holding Indian passports can be registered with the Agencies.

## 5.5 Steps to be followed by RIPA

### Step 1) Intake of Children

- All names of children admitted, including surrendered children, to a Recognised Indian Placement Agency should be entered in the admission register with all the available information in the format prescribed by the CARA. A list of all children and newly arrived children should be sent to the ACA/Adoption Cell of the State Govt. or other Competent Authority on monthly basis. In case of the death of any child in the Agency, the same has to be immediately intimated to the State Govt./Concerned Authority.
- Every recognized/licensed Indian Placement Agency will maintain a separate file for each child with the child's complete case history. Further, the specific details of surrender, the belongings of the child left by the biological mother and other required information related to the child should be maintained/prescribed/documented. No Agency will be allowed to process cases of children belonging to other agencies including non-recognised agencies unless the concerned child has been transferred legally and physically to its custody for a minimum period of one month.
- On admission of a child in the agency, the latter has to inform the CWC/local authority within 24 hours.

### Step 2) Child becoming legally free for adoption

- When RIPA receives a child, its first responsibility is to trace the biological parents and restore the child. The biological parent/parents should be counselled and duly informed by the agency concerned of the effect of their consent for adoption and the alternatives available for the care and maintenance of the child. No Agency will directly or through agents, attempt to induce biological parents with monetary and other incentives to surrender their children.

### Step 3) Priority to In-country Adoption

- All the adoption agencies will give priority to In-country adoptions so that every child gets an opportunity to find a family within its own cultural milieu. RIPA should exhaust all possibilities to place a child within the country within a period of 30 days.
- Each Recognized Indian Placement Agency is required to adhere to the following order of priority while considering the adoption of Indian children:

1. Indian citizens living in India.
2. Indian citizens living abroad.
3. Both Parents of Indian origin abroad.\* (PIO)
4. One parent of Indian origin abroad.\* (PIO)
5. Foreign families.

**(Definition of NRI and PIO for the purpose is given at \*\*)**

### Step 4) Documentation of efforts

- Every Recognized Indian Placement Agency shall give full details of the child to the prospective adoptive parents (except the names and addresses of the biological parents), where known to the agency. Every Recognised Indian Placement Agency will keep a complete record in chronological order of the efforts made for locating Indian parents. The reasons for non-placement of a child in in-country adoption should be recorded. The names, address & contact numbers of Indian families who have not accepted the child should be made available to CARA, ACA and the State Government whenever required.
- When all efforts to place the child with Indian parents fail as per priority one, then the procedure as laid down in Chapter IV will be followed.

## 5.6 Quarterly Data to be furnished to Authorities

Every Recognised Indian Adoption Placement Agency will furnish quarterly data to the State Government in which the agency is operating and a quarterly statement to the Central Adoption Resource Authority, in such Proforma as may be prescribed by Central Adoption Resource Authority in respect of children given to Indians and others for adoption from time to time.

## 5.7 Surrender of a Child

The surrender document should be executed at the free will of the biological parents/parent with no compulsion, payment or compensation of any kind by the adoption agency. If the biological parent/s state a preference for the religious upbringing of the child, their wishes should be respected as far as possible. But ultimately the interest of the child should be the sole guiding factor before the child is placed in adoption.

Note :: \*\*NRI means Indian citizens who hold Indian passports and are presently residing abroad.

***Persons of Indian origin (PIO) means a foreign citizen (not being a citizen of Pakistan, Bangladesh and other countries as may be specified by the Central Govt. from time to time) if:***

***(a) he/she at any time held an Indian Passport; or***

***(b) he/she or either of his parents or grand parents or great grand parents was born in and permanently resident in India as defined in the govt. of India Act 1935 and other territories that became part of India thereafter provided neither was at any time a citizen of any of the aforesaid countries (as referred to) above;***

***(c) he or she is a spouse of a citizen of India or a person of Indian origin covered under (a) or (b) above.***

5.8 The parent/s should be informed by the agency of his/her/their right to reclaim the child within 60 days from the date of surrender. He/She/They should be made aware that after the period of 60 days the surrender documents will become irrevocable and the child will be considered free for adoption and the RIPA will be free to place the child in adoption or guardianship within or outside India.

5.9 The surrender document should be executed on prescribed stamped paper in the presence of two responsible witnesses of whom one should be responsible person who is not an employee of the organisation. The documents shall also be signed by a Notary/Oath Commissioner. The recognized/licensed Indian placement agency should be able to produce these witnesses if necessity arises. The responsibility for ensuring the authenticity of the surrender document would rest on the agency. In case of a minor surrendering a child, the signature of parents/relatives of the minor should be obtained, one of whom should be the person accompanying the minor. The State Govt. may cross check all surrender documents. During the surrender process, the RIPA should ensure that:

- i. If a child is surrendered, both parents sign the relinquishment document and in case a parent/s is dead, proof of death is furnished. Where a death certificate is not available, a certificate from the Sarpanch/Panchayat/Govt. Authority should be made available.
- ii. In case of a single mother, only she herself and none else, surrenders the child.
- iii. Where both biological parents of the child are dead, he or she cannot be surrendered by relatives and will be treated as an abandoned child and the requisite procedure will follow.
- iv. When a child is born to a married couple but is surrendered by one biological parent and the whereabouts of the other are not known, it will be treated as an abandoned child and the requisite procedures will be followed.
- v. If the document of surrender is considered invalid/incomplete, the same procedure is followed as for an abandoned child.
- vi. CARA will reserve the right to refer any Surrender Deed for the State Government's verification.

### **5.10 Abandoned Child**

The procedures for declaring an abandoned child free of adoption will be as per the relevant provisions of the Juvenile Justice (Care & Protection of Children) Act-2000 and concerned State Rules in this regard.

### **5.11 Reporting**

A monthly statement on status of children, number of Indian adoptions and lists of all registered prospective adoptive parents will be sent to ACA and the concerned department of the State Government. All RIPAs shall send their Annual Reports, audited statement of accounts and a copy of FCRA to CARA which should include statement on adoption fees, donations and data on children adopted during the period.

### **5.12 Transfer of Children**

The procedure of transfer of child will be followed as applicable in JJ Act, 2000 or concerned State JJ Rules in this regard. All transfer cases should be informed to the concerned ACA. All such children transferred to the Recognised Indian Placement Agency (recognised by CARA, GOI) from an unrecognized agency, whether within the State or from outside, should be in the physical custody of the Recognised Indian Placement Agency for a period of not less than one month before any action for the adoption of the child abroad is initiated. This is applicable in case of transfer of children from branches of the same organisation also.

5.13 Transfer of the child should be accompanied by available documents pertaining to its admission, preliminary case history, documentary evidence to prove that the child is legally free for adoption, and a letter of transfer. In addition, the photograph of the child, CSR, PER and other relevant documents should be sent. The Recognised Indian Placement Agency should verify all the facts before accepting the child, as it is legally responsible for its placement.

5.14 In the case of inter-state transfer of children, the following procedures should be followed:

- a. Children from any orphanage/agency can be transferred to another State with the permission of the State Government.
- b. The child should be registered with the nearest ACA and ACA will make all possible efforts to find suitable Indian parents within the stipulated period.
- c. If there is no ACA in the State of origin then ACA registration has to be done in the State to which the child has been transferred.

### **5.15 Follow-up**

RIPA will regularly receive follow up reports from EFAA and inform about any disruption or negative report about any child to CARA. It shall also monitor progress reports of children placed in in-country adoption as per In-country Guidelines.

### **5.16 Records**

The following records and registers should be maintained by every RIPA/ Licensed Indian Placement Agency.

- i. Master Admission Register as prescribed.
- ii. A separate file on each child in the prescribed format, giving the full details/history. Relevant legal documents of every adoption and child's background/history should be maintained at least for a period of 18 years, for future reference. The file should have other relevant information i.e. immunization chart, medical history etc.
- iii. Separate register of prospective Indian, NRI and Foreign adoptive parents with details.
- iv. Separate follow-up register for children placed both in Domestic and Inter Country adoption.
- v. Quarterly reports in the prescribed format as forwarded to the State Government, Central Adoption Resource Authority and ACA.

- vi. The annual report of the organisation clearly reflecting its adoption and other social and child welfare activities.
- vii. An audited statement of accounts, together with a copy of FCRA account submitted to the Home Ministry.
- viii. Other records stipulated under the Societies Registration Act, 1860 or the relevant State Law relating to public trusts

#### **5.17 Recovery of Costs in case of Inter-country Adoption**

- a. The organisation will pursue only non-profit objectives. Under no circumstances should it derive improper financial gain from any activity related to inter-country or in-country adoption. In inter-country adoption, an adoption fee of a fixed amount of US\$3500 or its equivalent in Indian rupees will be payable by the adoptive parents to the Recognised Indian Placement Agencies through EFAA or a central authority. This fee will include the cost involved in providing quality child care, medical and legal services, passport, visa, payment towards professional staff, monitoring, correspondence, preparation of child study reports, medical reports, etc. This outer limit of recoverable expenses may be reviewed by CARA/Govt. of India once in a period of five years depending upon escalation of the expenses including cost of living. In case of disruption or failure of adoption, the cost of repatriating the child to India, will be borne by the Enlisted Foreign Adoption Agency, if no alternative placement for the child is effected in the foreigner's country with the concurrence of the Recognised Indian Placement Agency.
- b. No donation shall be received by a Recognised Indian Placement Agency from a Foreign Prospective Adoptive Parent/Parents or Enlisted Foreign Adoption Agency.
  - i. If it comes to CARA's notice that any RIPA charges more than the prescribed fees or tries to financially exploit the sponsoring agency/adoptive parents, CARA may after giving an opportunity to such agency to explain its position, suspend or withdraw its recognition as well as recommend criminal prosecution to the State Govt. as per law i.e. in terms of the principles of accountability of the person found defaulter. Similarly, if any Enlisted Foreign Adoption Agency induces a Recognized Adoption Placement Agency by giving offers of more money than the prescribed fees for processing a case of inter-country adoption of an Indian child, CARA may after giving an opportunity to such agency to explain its point of view, de-enlist the foreign agency along with recommendation to prosecute the defaulters as per law of that country.
  - ii. There should not be any agreement between Indian and Foreign Agencies on number of children to be offered for adoption to foreign families. Similarly, no such agreement on donations and fees will be entered between such Agencies.

#### **5.18 Renewal of Recognition of RIPA**

RIPA should apply for renewal of recognition, 6 months prior to the date of expiry of the previous recognition. The original application should be sent by the agency to the appropriate authority of the State Government and a copy of it should simultaneously be forwarded directly to CARA. The State Government will forward the original application to CARA along with its comments within a period of two months from the date of receipt of the complete application. If the State Government does not respond within three months from the date of receipt of application, CARA may conduct a joint inspection and consider the renewal of recognition. Recognition would normally be renewable for a period of three years subject to the following conditions:

- a. Recommendation/views of the concerned State Government accompanied by the inspection report of the Agency.
- b. Satisfactory performance in relation to in-country adoption will be an important factor to assess and consider further renewal of recognition of any RIPA. The agencies shall sufficiently exhibit their involvement in the area of In-country adoption. The Agencies will place 50% or more children in adoption to Indians in India.
- c. Regular submission of Annual report, quarterly reports of the Agencies and audited statement of accounts as prescribed, adoption charges per child, donations received, if any.
- d. No instance of proved malpractice against the RIPA.



- e. Whether the agency is still recognized by the appropriate authority of concerned State govt. for running the children Home and doing in country adoption under relevant rules.
- f. List of children placed in in-country and inter-country adoption, year-wise for the period of three years to support the data submitted.

#### **5.19 Agencies to maintain Accounts**

- i. Every agency shall maintain proper accounts to be audited by a Chartered Accountant every year.
- ii. An attested copy of audited accounts together with audit report shall be furnished by every agency within one month from the date accounts have been audited by the Chartered Accountant, to the relevant Department of the State Government concerned and to the CARA.
- iii. An attested copy of the FCRA accounts submitted to the Home Ministry should be furnished to CARA together with the audited accounts, by the agency. The adoption charges and donations received from different sources will be submitted to CARA at the end of every financial year.

#### **5.20 Recognised Indian Placement Agencies to deal with Enlisted Foreign Adoption Agencies only**

No Recognised Indian Placement Agency shall entertain any application for adoption of an Indian child from foreigners [including NRIs/PIOs (as applicable)] unless it is forwarded through Enlisted Foreign Adoption Agency/central authority or from the appropriate Government authority/duly authorized body in countries where there is no enlisted agency. The Recognised Indian Placement Agency should not entertain an application direct from any foreign individual or Foreign Agency that is not enlisted by CARA.

#### **5.21 Inspection of Agencies**

The premises of the Recognised Indian Placement Agencies including their children Homes, and their records shall be open to inspection by CARA, State Government or any other agency authorized by CARA.

#### **5.22 De-recognition**

Recognition can be withdrawn or suspended by CARA wherever the need arises after giving due opportunity to the agency by way of show cause notice. No recognition is granted on a permanent basis and the same shall be subject to review from time to time.

#### **5.23 Safeguards**

- i. No contact between the FPAPs and the biological parents will be allowed. Counseling facilities should be made available to biological mother/parents by the adoption agency. Consent of the biological mother cannot be obtained before the birth of the child.
  - ii. No child should be proposed for intercountry adoption before ACA Clearance except in the case of NRIs
  - iii. RIPA will maintain the confidentiality of the child's origin, his or her parents
  - iv. No one shall derive improper financial gain or other gain from an activity related to adoption. A receipt shall be issued in case of receipt of any payment for any service rendered.
  - v. There can't be any direct adoption by any FPAPs and all such adoptions shall be through recognized/enlisted agencies as defined under the Guidelines
  - vi. All RIPAs shall adhere to strict ethical practices and work in the best interest of children as defined in the Guidelines and described in Hague Convention on Inter-country Adoption–1993 failing which action as deems fit will be taken against any defaulting agency/ies. The office bearers of the agency/ies will be held responsible for any breach of procedural safeguards or non-compliance of ethical practices.
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## **ENLISTED FOREIGN AGENCIES FOR ADOPTION (EFAA)**

### **6.1 Foreign Agencies to Apply to India's Diplomatic Missions**

A foreign social/child welfare agency desirous of sponsoring applications of foreign adoptive parents for adopting an Indian child shall make an application for authorization to CARA through the Office of Indian Diplomatic Mission in that country and only such foreign agencies enlisted for this purpose by CARA shall undertake this activity.

### **6.2 Criteria for Enlistment of Foreign Agencies**

The criteria for enlistment/authorization of foreign agencies by CARA for the purpose of inter-country adoption are as under: -

- i. It will be an Agency duly registered under the relevant law of the concerned country and should be recognized/ licensed by the appropriate authority of that country to undertake inter-country adoption.
- ii. It must have been duly accredited and authorized by the Competent Authority under the Hague Convention on Inter-country Adoptions, 1993 (wherever applicable).
- iii. It will submit the Memorandum, Mission statement, copies of Registration status, latest license issued by the concerned Government authority to undertake domestic and International Adoptions, list of Board/Executive Members and list of countries it is working with.
- iv. It shall be a child welfare agency with an established standing in this field and it must be staffed with qualified social workers who have experience in the field of adoption. It shall submit the activities of the organization, Annual Reports for the last 3 years, list of staff with qualification and accounts for the last two years.
- v. The agency shall run on a non-commercial and non-profit basis and shall provide an annual statement on payment made to the Indian agencies.
- vi. An undertaking by the enlisted foreign adoption agency that in case of disruption of the foreigner's family before adoption is effected or in case the child is not properly looked after or is mistreated or abused in the adoptive family, it will undertake responsibility for the care of the child under intimation to the Indian Diplomatic Mission, the Central Adoption Resource Authority, the concerned Recognised Indian Placement Agency immediately with full details and action taken for care and protection of the child. This shall include finding a suitable alternative placement for the child with the concurrence of the Recognised Indian Placement Agency, which processed the case and report such alternative placement to the Indian Court, which made the order for Guardianship. In such a case wherein the child is being repatriated to India either to his/her biological family, or to the Recognised Indian Placement Agency or to any other organisation, CARA should be consulted. All Social and Medical Reports should be furnished. The legal status of the child, his/her rights of citizens in the foreign country and the adoptive parents legal liabilities should be stated. A care plan for the child will be worked out and the State Government or any other organisation authorized by CARA will monitor the well being of the child. All cost including repatriation and after care will be met by the Enlisted Foreign Adoption Agency.
- vii. The Head/Chief Executive of the Organisation should be willing to sign a written undertaking to follow the Guidelines, to send progress reports as required, to send a copy of the adoption decree.
- viii. Concerned Departments of the Foreign Govt./Central Authorities which agree to give the aforementioned undertaking will be treated as enlisted Agencies for the purpose of sponsoring the applications of foreign nationals. Central Authorities need not to apply for enlistment with CARA.

### **6.3 Procedure for Enlistment**

- i. A foreign social/child welfare agency desirous of sponsoring applications of foreign adoptive parents for adopting Indian children shall apply for enlistment to CARA, through the office of India's Diplomatic Mission and the Government of the country where it is located.
- ii. On the recommendation of India's Diplomatic Mission in the country concerned, CARA shall examine the application for enlistment and consider

the agency concerned for enlistment provided it fulfils the criteria stated in paragraph 6.2 above

- iii. A foreign adoption agency may be enlisted for a period of 5 years.

#### 6.4 Renewal of Enlistment

- i. The enlistment would be renewable for 5 years subject to satisfactory performance and fulfillment of terms and conditions attached to its enlistment.
- ii. Every EFAA should apply for renewal of enlistment to CARA through the concerned Indian Diplomatic Mission, 6 months prior to the date of expiry of the previous recognition.

#### 6.5 De-enlistment

The Central Adoption Resource Authority, Ministry of Social Justice & Empowerment, Government of India, may at any time de-enlist any Enlisted Foreign Adoption Agency for adoption for valid or legitimate reasons to be recorded in writing. However, if at the time of de-enlistment, there is any case under process that would be allowed to be completed unless CARA decides it will not be in the best interests of the child to do so. Non-submission of regular progress reports can lead to de-enlistment.

#### 6.6 Follow-up Report

- a. The EFAA/Central Authority with reference to every child, shall send, follow-up reports with photographs of the child on a six monthly basis for a period of 2 years or until such time as the legal adoption is completed and citizenship is acquired in the receiving country, to
  - i) CARA
  - ii) Court that awarded the guardianship in India
  - iii) Indian Embassy
  - iv) Concerned RIPA
- b. The EFAA/central authority will forward a copy of the legal adoption order of the appropriate Authority in that country as soon as it is made, to:
  1. CARA
  2. The Court that awarded the guardianship in India
- c. Where the child is not legally adopted by the adoptive parents in the receiving State within two years from the date of order of the Court in India appointing the adoptive parents as guardians either on account of disruption in the family or on account of the adoptive parents failing to get adjusted to the behaviour of the child or otherwise, the foreign EFAA which has processed the adoption of the child in the receiving State should immediately withdraw the child from the adoptive parents and keep the child in its custody and care and find out new adoptive parents for placement of the child in adoption as soon as possible. The foreign agency shall give an undertaking to this effect to the Court processing the case in India.

6.7 EFAA or Central Authority in the receiving country may arrange get-together of children of Indian origin and their adoptive families from time to time and may also involve concerned Indian Diplomatic Missions.

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## **ROLE OF INDIAN DIPLOMATIC MISSIONS ABROAD**

7.1 The Indian Missions located in different countries will play a significant role in the process of Inter-country adoption of Indian children. The Missions will help CARA in maintaining liaison with the different authorities and agencies operating in the countries of their jurisdiction. The role envisaged for the Missions broadly fall under the following categories: -

- i. The recommendation for fresh enlistment and subsequent renewals of foreign agencies desirous of working with India.
- ii. Attestation of Dossier/documents of prospective adoptive parents submitted by the foreign authorities/agencies before the same is sent to CARA, (wherever the 1961 Hague Convention on Abolishing Requirement of Legalization for Foreign Public Documents is not applicable).

7.2 While recommendations for fresh enlistment should be made by the concerned Indian Embassy/High Commission only, in case of renewals, the same may be recommended by the Offices of the Consulate Generals and Dy. High Commissions also.

7.3 In case of Indian passport holders residing in a country where there is no enlisted agency or where they cannot be recommended by the host Govt. as per local laws, the Indian Embassy may authorise a qualified social worker to do the Home Study Report (HSR) and other documentation including Undertaking to send progress reports etc. and send the dossier to CARA with its recommendation.

7.4 Whenever a report is received on adoption disruption of an Indian child by a foreign couple, the Embassy should contact the local central authority and other concerned authorities to ensure that the interest of the child is being looked after. A report in this regard should also be sent to CARA at the earliest.

In case the child is required to be returned to India, the Embassy may render necessary help and facilitate the repatriation of the child in consultation with the local authorities, agency and CARA.

7.5 The Embassy should communicate any report or observation which it feels is important and relevant vis-à-vis inter-country adoptions to CARA.

7.6 At the time of attestation of documents, the Embassy should ensure the inclusion of duly authenticated English translation if the documents are in a language other than English.

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## **OPTION COORDINATING AGENCY (ACA)**

8.1 There will be an Adoption Coordinating Agency (ACA) in a State or in special circumstances for a group of states where there are several children homes and adoption agencies to carry out the functions prescribed under the Guidelines and as assigned to it by CARA from time to time.

8.2 The ACA shall be registered under the Societies Registration Act, 1860 or authority created by the State Government with detailed Rules and Regulations and will comply with all the Rules laid down under the Act and also Guidelines.

### **8.3 Functions:**

- i. The ACA will receive periodically a list of children who are legally free for adoption every month from the following and shall maintain a register for the same:
  - a. Recognized Indian Placement Agencies.
  - b. Licensed Adoption Placement Agencies.
  - c. Government Homes.
  - d. Other children's Homes.
- ii. It will coordinate the work of all its Member Agencies and other Child Welfare Institutions in the field of Indian adoption.
- iii. It shall call for a periodic meeting of Members as per the Memorandum and at least one meeting in each quarter.
- iv. It shall receive details of children who are being sought to be made free for inter-country adoptions from RIPAs and ensure that the priority laid down by the Hon'ble Supreme Court on adoption within the country is adhered to.
- v. It shall register prospective Indian adoptive parents and prepare the HSR of prospective Indian parents where necessary.
- vi. It shall also receive an updated list of prospective adoptive parents from Member Agencies.
- vii. If at the end of 30th day, no suitable adoptive parents are found, the ACA will give a Clearance Certificate to the child placed under their assistance after seeing the child verifying all relevant documents to be placed with foreign adoptive parents. The Clearance Certificate must include a current photo of the child.
- viii. In cases where CARA Guidelines are not being followed by any recognised/licensed agency, the concerned ACA will bring it to the notice of State Government and CARA.
- ix. The ACA should undertake programmes for promotion of in-country adoption.
- x. It should undertake Training Programmes to upgrade the skills of adoption functionaries.
- xi. It should provide pre and post adoption counseling wherever required.
- xii. The ACA shall promote observance of quality childcare, health and hygiene at placement agency. Any irregularities or neglect of children should be reported to CARA.
- xiii. All ACAs shall submit to CARA an annual report including an audited statement of accounts and activities conducted throughout the year.
- xiv. It will feed regular information on children placed under ACA assistance to CARA for preparing a Central Pool.
- xv. The ACA will carry out any other tasks in the field of adoption as directed by CARA from time to time.
- xvi. The ACA will make all possible efforts to place a child in in-country adoption through inter- VCA coordination before issue of clearance to the child for placement in inter-country adoption within the prescribed period.

8.4 ACA shall have a minimum of two professionally trained persons

### **8.5 Recognition**

Every recognised ACA should apply for renewal of recognition, 6 months prior to the date of expiry of the previous recognition.

The recognition will be normally for period of three years. CARA may accord recognition for less than 3 years depending on the performance of the particular ACA.

a. Criteria for Recognition

In order to be recognised as ACA, an agency must fulfill the following

- i. It should be a society registered under the Societies Registration Act, 1860 or an authority created by concerned State Government with detailed Rules & Regulations.
- ii. The agency must be recommended by the concerned State Government for recognition by CARA.
- iii. The agency should run on a non-commercial and non-profitable basis.
- iv. Undertaking to Comply with CARA Guidelines.
- v. All the Office-bearers should be Indian Nationals.

**b. Renewal of Recognition**

ACA which seeks renewal of recognition should apply to CARA through the State Government for renewal of recognition six months prior to the date of expiry of the previous recognition. If the State Government does not respond within the stipulated 60 day period from the date of receipt of application, it shall be presumed that the State Government has no objection. However, CARA may issue recognition after Joint Inspection of CARA and State Government. The following would be the main criteria for renewal of recognition

- i. Satisfactory performance in the promotion of in-country adoptions.
- ii. Timely submission of reports and audited statement of accounts as may be specified by CARA,
- iii. Compliance with Guidelines.

c. Withdrawal of Recognition

Recognition of ACA may be withdrawn by CARA for violation of Terms & Conditions as given in these Guidelines after giving the ACA an opportunity to explain its position. Any malpractice, if proved, would immediately invite action in the shape of withdrawal of recognition. Delay and non-compliance in the submission of reports/accounts asked for by the State Government or CARA may also be a ground for withdrawal of recognition.

In the event of withdrawal of recognition CARA shall evolve suitable alternate mechanism for issue of Clearance Certificates.

**8.6 Membership of ACA**

All the Recognised Indian Placement Agencies, Licensed Adoption Agencies, Sishu Grehs and Government run Children Homes would be required to become members of an ACA. Child welfare agencies, which are not placing children in adoption but are running Homes for children etc. would also be eligible to be members of the ACA. Any agency de-recognised by CARA or de-licensed by the State Government shall cease to be a member of an ACA and it shall not be eligible for membership of an ACA unless it is once again recognised or licensed. Adoptive Parent Associations shall also be eligible for membership. Individuals with expertise in adoption/child welfare may be enrolled as members. The above will constitute the General Body of the ACA.

**8.7 Structure of ACA**

There shall be an Executive Committee for managing the affairs of an ACA. The Executive Committee shall consist of not less than 5 members. Only ACAs recognised by CARA can carry out the functions envisaged in these Committees. Where there is no ACA existing, reputed Child Welfare organisation or an academic body can function as ACA in accordance with existing Guidelines for ACA formation. CARA, in consultation with State Government, may identify such an organisation not involved in adoption placement work. However, its recognition as an ACA shall come through the State Government if all other conditions are met.

The office bearers of the Executive Committee of an ACA will consist of a Chairperson, Secretary and Treasurer. Who shall be elected from and by the General Body of Members of the ACA for a term of 3 years. No office bearer shall be from any

inter-country adoption agency. Office bearer shall not hold office for more than two consecutive terms.

The tenure of Executive Members will be for a period of 3 years.

The Executive Committee shall consist of the following Members:

1. Chairperson, Secretary, Treasurer;
2. One representative of the State Government not below the rank of Assistant Director;
3. One representative of the Scrutiny Agency/Agencies working in the jurisdiction of the concerned ACA;
4. One representative of the agencies exclusively involved in Indian adoption (without having Inter-country Adoption recognition);
5. One representative of the Recognised Indian Placement Agencies (Inter-Country) wherever existing;
6. One representative from Adoptive Parents Associations, wherever existing;
7. One representative from the Deptt. of Health, State Govt.
8. One representative from the Academic Community preferably from the field of Social Work/Law/Child Development without any direct link with the adoption agencies.

The representation from Points 2 to 7 shall be on a rotation basis wherever there are more such agencies/organizations. Representative of the Scrutiny Agency in the ACA Executive Committee should not be member of the Adoption Scrutiny Committee.

8.8 The Executive Committee of an ACA may appoint staff to carry out the day-to-day functions of the ACA. Such paid staff would be accountable to the Executive Committee.

8.9 No Recognized Indian Placement Agency shall process the application of foreign families for inter-country adoption before obtaining the Clearance Certificate (CC) from the ACA.

#### **8.10 ACA Clearance Certificate**

The ACA clearance certificate shall have two signatures. This comprises the Chairperson and Secretary of the ACA. The procedure will be followed as per Para 4.1 Step II of the Guidelines.

#### **8.11 Existing VCAs**

The existing VCAs shall be reconstituted within a period of six months of issue of these Guidelines and will be known as ACA.

No organisation can function as an ACA as prescribed in the Guidelines without a valid recognition of CARA.

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## **CENTRAL AUTHORITIES**

9.1 By virtue of ratification of Hague Convention, all RIPAs will be treated as accredited agencies of CARA. The Application of PFAPs shall be transmitted to the Central Authority of the State of origin by the Central Authority of the Receiving country directly or through one of its Accredited Bodies with its approval.

**The Central Authorities of the receiving countries have to declare in their letter of approval that:**

- the PFAPs/NRIs are eligible & suitable to adopt a child from India as per the Law of their countries.
- the Home Study Report & Health Report (by the medical professional) of the PFAPs are prepared by the professionally trained social workers of the agencies/bodies accredited by the authority.
- the PFAPs have agreed to the proposed adoption.
- the child will be authorized to enter & reside permanently & will be treated at par with other natural born citizen of the country.

9.2 With reference to every child, it shall send either directly or through its accredited agencies follow-up reports with photographs of the child on a six monthly basis until such time till legal adoption is completed and the child becomes the citizen of the receiving country to:

1. CARA
2. Court that awarded the guardianship in India

9.3 In case of any disruption etc. it shall take appropriate measures as envisaged under Art. 21 of the Convention, including, inter alia:

- to inform CARA immediately the disruption & the possibility of child's placement with a new prospective adoptive parent;
  - and where this is not appropriate or possible, to arrange long term care under intimation to CARA;
  - it shall arrange for the return of the child to India if his/her interest so required due to the disruption.
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## MISCELLANEOUS

### Violation of Guidelines

If it comes to the notice of any State Government or any of India's Diplomatic Missions abroad or CARA or any other source that a RIPA or EFAA is not observing all or any of the provisions of these guidelines or is otherwise functioning in a manner which is not in the interest of children CARA may, at its discretion suspend or withdraw recognition of such enlisted agency or placement agency and/or take any other such action as may be deemed necessary.

10.2 Apprehensions have been expressed that unscrupulous elements arrange illegal transfer of babies to adoptive parents at the time of their birth in some hospitals, nursing homes, maternity homes in the country. Such transfer of babies taking place without observing the appropriate norms and procedure is illegal and thus it is not at all in the interest of the child. If any such complaints are brought to the notice of CARA, it shall advise the State Government to cause an enquiry to be made and take up the matter with the appropriate authorities of the Central or State Government including the Medical Council of India.

### 10.3 Cases deserving relaxations

In the light of obligations as a result of ratification of the Hague Convention on Inter-country Adoption-1993 and in the best interest of Indian children, CARA and the Ministry of Social Justice & Empowerment, Govt. of India shall take all appropriate measures from time to time. In all cases of clearances for inter-country adoptions, recognitions, enlistments and renewals of all concerned agencies, decisions will be taken at the discretion of CARA and in such cases where CARA feels that a particular provision needs to be relaxed, it may do so by recording on file the reasons as to how the best interest of the child is being served by such relaxation.

### 10.4 Amendments to Guidelines

The Ministry of Social Justice and Empowerment, Government of India, reserves to itself the power, at its discretion to make such amendments, additions, deletions or alterations in these guidelines as are deemed necessary from time to time.

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### List of documents required from EFAA

List of documents required from foreign adoptive parents and Social or Child Welfare Agency enlisted by Government of India for consideration of an inter-country application of Indian Child

- a. Home Study Report\* of the foreign adoptive parents prepared by a professional social worker of EFAA/person authorized by Central Authority/Government Departments.
- b. Recent photographs of the adoptive parents/family.
- c. Marriage certificate of prospective adoptive parents.
- d. Certificate of medical fitness of adoptive parents duly certified by a medical doctor.
- e. Declaration regarding financial status of prospective adoptive parents along with supporting documents, employer's certificate/Income Tax Return Order and Bank references.
- f. Three reference letters from acquaintance/relatives regarding suitability of PAPs to adopt.
- g. Adoption decree of previously adopted child/children, if any.
- h. Police clearance report.
- i. Birth certificate/passport, as proof of age
- j. Approval of the Central Authority (suitability report – HSR).
- k. Documentary proof of citizenship/nationality of PAPs.
- l. Undertaking from EFAA sponsoring the foreigner to the effect that child would be legally adopted by the foreign adoptive parents according to the law of the country within a period not exceeding two years from the time of arrival of the child and as soon as the adoption is effected, the enlisted agency will send certified copies of adoption order each to all concerned.
- m. Undertaking from the EFAA that follow up report relating to progress of the child along with his/her recent photograph would be sent six monthly basis

- for a period of 2 years or until such time as the legal adoption is completed and citizenship is acquired in the receiving country.
- n. Power of Attorney from prospective adoptive parents in favour of office/official of RIPA in India which will be required to process the case and such Power of Attorney should authorise the Attorney to handle the cases on behalf of the foreigner in case the foreigner is not in a position to come to India.
  - o. Undertaking from the EFAA to the effect that in case of disruption of the family of the foreigner before legal adoption has been effected, it will take care of the child and find a suitable alternative placement for the child with the approval of Central Adoption Resource Authority. After seeking the necessary approval from CARA, it will report alternative placement to the concerned Indian court handling guardianship proceedings with the help of concerned RIPA and such information shall be passed on to all concerned as per Para 6.7(b).
  - p. Undertaking from the EFAA that it will pay adoption fee to the concerned RIPA as per para 5.17 of the Guidelines.
  - q. Certificate from EFAA sponsoring application of the foreigner to the effect that adoptive parents are permitted to adopt a child according to the law of their country and the child will receive an entry permit/visa.

**Note: \*Home study report should include Social status and family background; Description of Home; standard of living as it appears in the Home; Current relationship between husband and wife; Current relationship between the parents and children (if any children); Development of already adopted children (if any); Current relationship between the couple and the members of each other's family; Employment status of the couple; Health details such as clinical test, hear condition, past illness, etc. (medical certificate, etc.); Economic status of the couple; Accommodation for the child; Schooling facilities; Amenities in the Home; Reasons for wanting to adopt an Indian child; Attitude of grand-parent and relatives towards adoption; Anticipated plans for the adoptive child; and Legal status of the prospective adoptive parents.**

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#### **LIST OF DOCUMENTS TO BE SUBMITTED BY RIPA TO CARA FOR OBTAINING NOC**

- a. RIPA should apply on the format prescribed by CARA
  - b. All documents listed under Annexure-2
  - c. Child Study Report" duly accepted and approved by PAPs (notarized/ attested as per Para 4.1 Step I)
  - d. Physical Examination Report of the child duly accepted and approved by PAPs (notarized/attested as per Para 4.1 Step I)
  - e. Proof of the child legally free for adoption (CWC certificate/copy of the surrender deed).
  - f. ACA clearance certificate (not required for NRI).
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#### **Annexure IV - Tentative Time Schedule for Placement of Children in Inter - Country Adoption**

Sl. No.	Services to be rendered by concerned Agency/Authority	Proposed Time frame
1.	RIPA to place a child in domestic adoption	Within 30 days from the date on which the child is legally free for adoption.
2.	ACA to issue a Clearance Certificate	On 31 <sup>st</sup> day in case of a normal child and within 10 days in case of a special needs child.
3.	CARA to issue NOC for inter-country adoption.	Within 15 days from the date of receipt of NOC application from RIPA, complete in all respect.
4.	RIPA to file the case in the competent Court for an appropriate order after CARA NOC	Within 15 days from the date of receipt of NOC from CARA.
5.	The competent <b>Court</b> to dispose the case	Within 02 months from the date of filing of application by RIPA, complete in all respect.
6.	The concerned <b>Passport Office</b> to issue passport for the child	Within 10 days from the date of submission.

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