

c. Child Abuse and Neglect Check

Child abuse and neglect checks are run on all Category 3 sponsors. They are run on Category 1 and 2 sponsors only when there is a special concern, the UAC is especially vulnerable, and/or if the case is being referred for a mandatory home study.¹⁰² HHS runs child abuse and neglect checks on other adults living with a sponsor when “a special concern is identified.”¹⁰³

Because there is no national repository of information against which to run a check for information on child abuse and neglect, such reviews are run on a state-by-state basis.¹⁰⁴ A child abuse and neglect check is run for all localities in which the individual has resided for the past five years.¹⁰⁵ HHS may waive the requirement that the results of a child abuse and neglect check be obtained prior to making a release decision, if all other documentation needed to approve a safe release has been received and reviewed by the case manager.¹⁰⁶

4. Consider Conducting a Study of the Sponsor’s Home

Under some circumstances, HHS will order the care provider to conduct a home study—*i.e.*, “an in-depth investigation of the potential sponsor’s ability to ensure the child’s safety and well-being.”¹⁰⁷ Home studies are normally performed by a specialized provider and typically consist of an interview with the UAC, an interview with the potential sponsor, and an interview with any other individuals residing with the potential sponsor.¹⁰⁸ Home studies also include assessments of the potential sponsor’s neighborhood and of the potential sponsor’s home (including a determination regarding where a UAC will sleep, whether there is running water, electricity, food readily available, and any visible weapon or illegal substances in the home).¹⁰⁹

Unlike state foster-care systems, HHS does not conduct home studies for all prospective sponsors—even Category 3 sponsors. Instead, HHS authorizes home studies in circumstances where the TVPRA mandates them and in a few other discrete categories.

The TVPRA makes home studies mandatory in four situations:

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*; see *ORR Guide to Terms*.

¹⁰⁸ *ORR Guide to Terms*.

¹⁰⁹ Interview with Southwest Key (Sept. 21, 2015).

- 1) The UAC is identified as a victim of a severe form of trafficking in persons (a UAC does not need an Eligibility Letter from HHS to qualify for home study);
- 2) The UAC is a special needs child with a disability as defined in section 3 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12102(1);
- 3) The UAC has been a victim of physical or sexual abuse under circumstances that indicate that the child's health or welfare has been significantly harmed or threatened; or
- 4) The UAC's sponsor clearly presents a risk of abuse, maltreatment, exploitation or trafficking, to the child based on all available objective evidence.¹¹⁰

In addition, HHS policy requires home studies in two other circumstances. Under a pilot program announced by HHS on July 1, 2015, home studies are now required for all UACs 12 years of age and under who are to be placed with a Category 3 sponsor.¹¹¹ And on July 27, 2015, HHS began requiring a home study if the proposed sponsor is a non-relative who is seeking to sponsor multiple children or has previously sponsored a child and is seeking to sponsor additional children.¹¹²

If a case meets any of the criteria described above, the care provider makes a recommendation to perform a home study in the request for release of the UAC. That recommendation is then reviewed by the third-party case coordinator and the Field Specialist. The Field Specialist ultimately decides whether to conduct a home study before a final release decision can be made.¹¹³

5. Make a Release Recommendation

Once the care provider has reviewed the Family Reunification Application and supporting documentation and spoken to the necessary individuals, it makes a release recommendation to the third-party case coordinator.¹¹⁴ The case coordinator provides an independent review of the case and makes a recommendation to HHS based on information in the UAC's case file.¹¹⁵ Case coordinators meet with care providers on a weekly basis to get status updates on

¹¹⁰ 8 U.S.C. § 1232(c)(3)(B).

¹¹¹ App. 238.

¹¹² *See id.* ("HHS also requires a mandatory home study before releasing any child to a non-relative sponsor who is seeking to sponsor multiple children, or previously sponsored a child and is seeking to sponsor additional children.").

¹¹³ *ORR Policy Guide* §2.7.

¹¹⁴ General Dynamics Information Technology is the current contractor for the provision of case coordination services.

¹¹⁵ *ORR Operations Guide* § 2.3.4.