

unnecessary. The Department is aware that many of the fees charged by public authorities in other Convention countries—for example, for passports, birth certificates, adoption certificates, or court documents—must be paid in currency. Therefore, these regulations strike a balance that takes into consideration the reliability and feasibility of using non-cash transactions in a particular Convention country, but requires agencies and persons to use available methods so that the need for direct cash transactions by prospective adoptive parent(s) is minimized.

Section 96.41: Procedures for Responding to Complaints and Improving Service Delivery: The Department recognizes that the handling of complaints against agencies and persons is one of the areas of greatest concern in the adoption community. To address this concern, the regulations provide for the Department to establish a Complaint Registry that may be funded in whole or in part by accreditation and approval fees or fees paid to the Department. The Complaint Registry's responsibilities and functions are described in subpart J of these regulations. In addition, the standards address requirements for the handling of complaints by agencies and persons. In particular, the standards require agencies and persons to have written complaint policies and procedures that are provided to clients at the time the adoption contract is signed. The procedures must permit any birth parent, prospective adoptive parent, or adoptee to lodge a complaint about services and activities that he or she believes are inconsistent with the Convention, the IAA, or the regulations implementing the IAA. The regulations also set forth time frames for responding to complaints. Some prospective adoptive parent(s) also indicated that fear of retaliation or other adverse action hampered their ability to make complaints about wrongful behavior. Thus, the regulations also explicitly prohibit retaliatory action or other conduct that would discourage clients from registering complaints.

Section 96.42: Retention, Preservation, and Disclosure of Adoption Records: This section addresses preservation of and access to adoption records. Adoption records are defined as the records held by agencies or persons or State public bodies and do not include records held by Federal government agencies. Records held by Federal government agencies are called Convention records, and will be addressed in a separate regulation to be published in part 98 of title 22 of the

CFR. The proposed rule for part 98 is also published in a separate rulemaking document in today's **Federal Register**.

The Department recognizes the wide range of views on access to records sealed in accordance with State law. Both the Senate and House committee reports on the IAA contain almost identical language stating that there was no intent to change current State law governing access to birth parent identifying information in adoption records. (See Report of the Senate Committee on Foreign Relations, S. Rep. No. 106–276 at 11 (2000); Report of the House Committee on International Relations, H.R. Rep. No. 106–691 at 30 (2000)). Moreover, section 401(c) of the IAA expressly states that access to adoption records that are not Convention records will be governed by applicable State law. Therefore, the standards in this section mirror the IAA's neutral position on access to adoption records and simply provide that agencies and persons follow applicable State law regarding access to identifying information.

On the issue of the preservation of adoption records, the Convention requires that a child's social and medical information be preserved, but it does not set a specific retention period. In response to the Convention's requirements, the regulations require that an agency or person preserve adoption records, including personal effects, for any period of time required by applicable State law. The Department seeks comment on the adoption records preservation standard. Commenters should address the issue of whether or not a uniform Federal time frame for the retention of adoption records should be included in the standards. Commenters should provide suggestions on what the adoption records preservation standard should be and provide information on the costs and burden of maintaining adoption records, including personal items, for a period of time that they believe would be appropriate.

Section 96.43: Case Tracking, Data Management, and Reporting: This section addresses the IAA's extensive reporting requirements. The Department is required to report to Congress all of the information contained in this section. Some of this information, as indicated, is required for both incoming and outgoing cases, and for both Convention and non-Convention cases. There also is a provision requiring agencies and persons to provide information directly to the Department about outgoing cases to non-Convention countries, even though those cases are not subject to the Convention.

Sections 96.45 and 96.46: Using Supervised Providers in the United States; Using Supervised Providers in Other Convention Countries: The standards in §§ 96.45 and 96.46 apply when a primary provider is using a supervised provider to provide services in a Convention case. As is noted earlier, such supervised providers are not required to be accredited or approved, and hence need not be in substantial compliance with all of the accreditation and approval standards set forth in subpart F. However, §§ 96.45 and 96.46 do set forth specific procedures and requirements that must be followed when a primary provider uses a supervised provider. Non-compliance by the supervised provider with these requirements may jeopardize the accreditation or approval status of the primary provider.

As is noted above, if public bodies, public authorities, competent authorities, or agencies, persons, or other entities accredited or approved by the United States or another Convention country are used to provide services, the primary provider is not required to comply with §§ 96.45 and 96.46 for those entities or individuals. The IAA does not require such supervision and primary providers cannot practically supervise these entities, especially those in another Convention country. For this reason, these regulations do not make the primary provider responsible for the acts of these entities for the purposes of accreditation or approval or legal responsibility to the client. This distinction is particularly important where the primary provider is required by the other Convention country to use its public authorities, competent authorities, or accredited bodies. Because the primary provider has no control over these entities, it is appropriate to exclude them from the supervision and responsibility rubric. Problems originating from public or competent authorities or from bodies accredited by the other Convention countries may, of course, be addressed by the Department, as U.S. Central Authority, with other Central Authorities as appropriate.

On the other hand, supervised providers, while not subject to all of the accreditation and approval standards listed in subpart F, nevertheless must provide adoption services in Convention cases in a manner that is consistent with the principles of the Convention, the IAA, and sound and ethical practice. The Department has heard significant concerns about the behavior of individuals and organizations used by adoption service providers to assist them in providing