

in a Convention case under the supervision and responsibility of the accredited agency, temporarily accredited agency, or approved person that is acting as the primary provider in the case.

Temporarily accredited agency means an agency that has been accredited on a temporary basis by an accrediting entity, in accordance with the standards in subpart N of this part, to provide adoption services in the United States in cases subject to the Convention. It does not include an accredited agency.

§ 96.3 [Reserved]

Subpart B—Selection, Designation, and Duties of Accrediting Entities

§ 96.4 Designation of accrediting entities by the Secretary.

(a) The Secretary will solicit applications from eligible private non-profit and public entities for designation as an accrediting entity through a request for statements of interest that will be publicly announced. Announcements soliciting statements of interest will be published on the Department of State's Web site, at <http://www.state.gov>. The Secretary will designate one or more entities that meet the criteria set forth in § 96.5 to perform the accreditation (including temporary accreditation) and/or approval functions. Each accredited entity's designation will be set forth in an Agreement between the Secretary and the accrediting entity that will govern the entity's operations. The Agreement will be published in the **Federal Register**.

(b) The Secretary's designation may authorize an accrediting entity to accredit (including temporarily accredit) agencies, to approve persons, or to both accredit agencies and approve persons. The designation may also limit the accrediting entity's geographic jurisdiction or impose other limits on the entity's jurisdiction.

(c) A public entity may only be designated to accredit agencies and approve persons that are located in the public entity's State.

§ 96.5 Requirement that accrediting entity be a non-profit or public entity.

An accrediting entity must qualify as either:

- (a) An organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended, that has expertise in developing and administering standards for entities providing child welfare services; or
- (b) A public entity (other than a Federal entity), including, but not limited to, any State or local

government or governmental unit or any political subdivision, agency, or instrumentality thereof, that is responsible for licensing adoption agencies in a State and that has expertise in developing and administering standards for entities providing child welfare services.

§ 96.6 Performance criteria for designation as an accrediting entity.

An entity that seeks to be designated as an accrediting entity must demonstrate to the Secretary:

- (a) That it has a governing structure, the human and financial resources, and systems of control adequate to ensure its reliability;
- (b) That it is capable of performing the accreditation or approval functions or both on a timely basis and of administering any renewal cycle selected by the Secretary;
- (c) That it can monitor the performance of agencies it has accredited and persons it has approved to ensure their continued compliance with the Convention, the IAA, and the regulations implementing the IAA;
- (d) That it has the capacity to take appropriate adverse actions against agencies it has accredited and persons it has approved and appropriate enforcement action against agencies to which it has granted temporary accreditation;
- (e) That it can perform the required data collection, reporting, and other similar functions;
- (f) Except in the case of a public entity, that it operates independently of any agency or person that provides adoption services, and of any membership organization that includes agencies or persons that provide adoption services;
- (g) That it has the capacity to conduct its accreditation, temporary accreditation, and approval functions fairly and impartially; and
- (h) That it can comply with any conflict-of-interest prohibitions set by the Secretary in the request for statements of interest.

§ 96.7 Authorities and responsibilities of an accrediting entity.

- (a) An accrediting entity may be authorized by the Secretary to perform some or all of the following functions:
 - (1) Determining whether agencies are eligible for accreditation and/or temporary accreditation;
 - (2) Determining whether persons are eligible for approval;
 - (3) Overseeing accredited agencies, temporarily accredited agencies, and/or approved persons by monitoring their compliance with applicable requirements;

(4) Investigating and responding to complaints about accredited agencies, temporarily accredited agencies, and approved persons;

(5) Taking adverse action against an accredited agency, temporarily accredited agency, or approved person, and/or referring an accredited agency, temporarily accredited agency, or approved person for possible action by the Secretary;

(6) Determining whether the accredited agencies and approved persons that it oversees are eligible for renewal of their accreditation or approval on a cyclical basis consistent with § 96.60;

(7) Collecting data from accredited agencies, temporarily accredited agencies, and approved persons, maintaining records, and reporting information to the Secretary, State courts, and other entities; and

(8) Assisting as required by the Secretary in transferring adoption cases and adoption records of agencies or persons that cease to provide or are no longer permitted to provide adoption services in Convention cases.

(b) The Secretary may require an accrediting entity:

(1) To enter into an agreement with the Complaint Registry for services in screening complaints and performing other services relevant to the accrediting entity's functions; and

(2) Pursuant to such agreement, to remit to the Complaint Registry a portion of the accrediting entity's fees collected under its approved schedule of fees, to cover the costs of such services. Any such agreement between the accrediting entity and the Complaint Registry and the portion of accreditation/approval fees to be remitted to the Complaint Registry shall be subject to the approval of the Secretary.

(c) An accrediting entity must perform these responsibilities in accordance with the Convention, the IAA, the regulations implementing the IAA, and its Agreement with the Secretary.

§ 96.8 Fees charged by accrediting entities.

(a) An accrediting entity may charge fees for accreditation or approval services under this part only in accordance with a schedule of fees approved by the Secretary. Before approving a schedule of fees proposed by an accrediting entity, or subsequent proposed changes to an approved schedule, the Secretary will require the accrediting entity to demonstrate:

- (1) That its proposed schedule of fees reflects appropriate consideration of the relative size and geographic location