

and volume of Convention cases of the agencies and persons it expects to serve;

(2) That the total fees the accrediting entity expects to collect under the schedule of fees will not exceed the full costs of accreditation and approval under this part (including, but not limited to, costs for completing the accreditation or approval process, complaint review and investigation, routine oversight and enforcement, and other data collection and reporting activities).

(b) The schedule of fees must: (1) Establish separate non-refundable fees for Convention accreditation and Convention approval;

(2) Include in each fee for full Convention accreditation or approval the costs of all activities associated with the accreditation or approval cycle, including but not limited to, costs for completing the accreditation or approval process, complaint review and investigation, routine oversight and enforcement, and other data collection and reporting activities, except that separate fees based on actual costs incurred may be charged for the travel and maintenance of evaluators; and

(3) If the accrediting entity provides temporary accreditation services, include fees as required by § 96.111 for agencies seeking temporary accreditation under subpart N of this part.

(c) An accrediting entity must make its approved schedule of fees available to the public, including prospective applicants for accreditation or approval, upon request. At the time of application, the accrediting entity must specify the fees to be charged to the applicant in a contract between the parties and must provide notice to the applicant that no portion of the fee will be refunded if the applicant fails to become accredited or approved.

(d) Nothing in this section shall be construed to provide a private right of action to challenge any fee charged by an accrediting entity pursuant to a schedule of fees approved by the Secretary.

§ 96.9 Agreement between the Secretary and the accrediting entity.

An accrediting entity must perform its functions pursuant to a written Agreement with the Department of State that will be published in the **Federal Register**. The Agreement will address:

(a) The responsibilities and duties of the accrediting entity;

(b) The method by which the costs of delivering the accreditation, temporary accreditation, and approval services may be recovered through the collection of fees from those seeking accreditation,

temporary accreditation, or approval, and how the entity's schedule of fees will be approved;

(c) How the accrediting entity will address complaints about accredited agencies, temporarily accredited agencies, approved persons, and the accrediting entity itself;

(d) Data collection requirements;

(e) Matters of communication and accountability between both the accrediting entity and the applicant(s) and between the accrediting entity and the Secretary; and

(f) Other matters upon which the parties have agreed.

§ 96.10 Suspension or cancellation of the designation of an accrediting entity by the Secretary.

(a) The Secretary will suspend or cancel the designation of an accrediting entity if the Secretary concludes that it is substantially out of compliance with the Convention, the IAA, the regulations implementing the IAA, other applicable laws, or the Agreement with the Secretary. Complaints regarding the performance of the accrediting entity may be submitted to the Department of State, Bureau of Consular Affairs. The Secretary will consider complaints in determining whether an accrediting entity's designation should be suspended or canceled.

(b) An accrediting entity may be considered substantially out of compliance under circumstances that include, but are not limited to:

(1) Failing to act in a timely manner when presented with evidence that an accredited agency or approved person is substantially out of compliance with the standards in subpart F of this part or a temporarily accredited agency is substantially out of compliance with the standards in § 96.104;

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

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

(4) Violating prohibitions on conflicts of interest;

(5) Failing to meet its reporting requirements;

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

(7) Failing frequently and carefully to monitor the compliance of accredited agencies, temporarily accredited agencies, and approved persons with the home study requirements of the Convention, section 203(b)(1)(A)(ii) of the IAA (Pub. L. 106–279, 42 U.S.C.

14923(b)(1)(A)(ii)), and § 96.47 of these regulations.

(c) An accrediting entity that is subject to a final action of suspension or cancellation may petition the United States District Court for the District of Columbia or the United States district court in the judicial district in which the accrediting entity is located to set aside the action as provided in section 204(d) of the IAA (Pub. L. 106–279, 42 U.S.C. 14924(d)).

§ 96.11 [Reserved]

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

§ 96.12 Authorized adoption service providers.

Once the Convention has entered into force for the United States, an agency or person may not offer, provide, or facilitate the provision of any adoption service in the United States in connection with a Convention adoption unless it is:

(a) An accredited agency, a temporarily accredited agency, or an approved person;

(b) A supervised provider;

(c) An exempted provider; or

(d) A public body.

§ 96.13 Activities that do not require accreditation, approval, or supervision.

(a) *Home studies and child background studies.* A social work professional or organization that is performing a home study on the prospective adoptive parent(s) or a child background study (including any reports or updates) in connection with a Convention adoption but is not providing any other adoption service in the case is an “exempted provider.” Exempted providers do not have to be accredited, temporarily accredited, approved, or operate as a supervised provider. If the agency or person provides another adoption service in the case in addition to the home study or child background study, it must be accredited, temporarily accredited, approved, or operate as a supervised provider. The home study or child background study prepared by an exempted provider must be submitted to an accredited agency or temporarily accredited agency, not an approved person, for review and approval. An accredited agency or temporarily accredited agency must approve an exempted provider's home study in accordance with § 96.47(c) and an exempted provider's child background study in accordance with § 96.53(b).

(b) *Child welfare services.* An agency or person does not need to be