

provider's provision of the contracted adoption services and its compliance with the standards in this subpart F; and

(2) Maintains a bond, escrow account, or liability insurance in an amount sufficient to cover the risks of liability arising from its work with supervised providers.

(d) Nothing in this section shall be construed as prohibiting the primary provider from obtaining indemnification or from seeking damages or other redress from a supervised provider for breach of contract, or from pursuing any other legal claim against such supervised provider arising from the provision of contracted adoption services.

§ 96.46 Using supervised providers in other Convention countries.

(a) The agency or person, when acting as the primary provider and using foreign supervised providers to provide adoption services in other Convention countries, ensures that each such foreign supervised provider:

(1) Is in compliance with the laws of the Convention country in which it operates;

(2) Does not engage in practices inconsistent with the Convention's principles of furthering the best interests of the child and preventing the sale, abduction, exploitation, or trafficking of children;

(3) Before entering into an agreement with the primary provider for the provision of adoption services, discloses to the primary provider the suitability information listed in § 96.35, taking into account the authorities in the Convention country that are analogous to the authorities identified in that section; and

(4) Does not have a pattern of licensing suspensions or other sanctions and has not lost the right to provide adoption services in any jurisdiction for reasons germane to the Convention.

(b) The agency or person, when acting as the primary provider and using foreign supervised providers to provide adoption services in other Convention countries, ensures that each such foreign supervised provider operates under a written agreement with the primary provider that:

(1) Clearly identifies the adoption service(s) to be provided by the foreign supervised provider;

(2) Requires the foreign supervised provider, if responsible for obtaining medical or social information on the child, to comply with the standards in § 96.49(d) through (j).

(3) Requires the foreign supervised provider to prohibit child buying by any of its employees and agents; to have a

written policy prohibiting its employees and agents from giving money or other consideration, directly or indirectly, to a child's parent(s), other individual(s), or an entity as payment for the child or as an inducement to release the child, other than reasonable or required payments for activities related to the adoption proceedings, pre-birth and birth medical costs, the care of the child, or the provision of child welfare and child protection services generally; and to provide training to its employees and agents on this policy;

(4) Requires the foreign supervised provider to compensate its directors, officers, and employees who provide intercountry adoption services on a fee-for-service, hourly wage, or salary basis, rather than based on whether a child is placed for adoption or on a similar contingent fee basis;

(5) Identifies specifically the lines of authority between the primary provider and the foreign supervised provider, the employee of the primary provider who will be responsible for supervision, and the employee of the supervised provider who will be responsible for ensuring compliance with the written agreement;

(6) Clearly states the compensation arrangement for the services to be provided and the fees and expenses to be charged by the foreign supervised provider;

(7) Specifies whether the foreign supervised provider's fees and expenses will be billed to and paid by the client(s) directly or billed to the client through the primary provider;

(8) Provides that, if billing the client(s) directly for its service, the foreign supervised provider will give the client(s) an itemized bill of all fees and expenses to be paid, with a written explanation of how and when such fees and expenses will be refunded if the service is not completed, and will return any funds collected to which the client(s) may be entitled within thirty days of the completion of the delivery of services;

(9) Provides that the primary provider will retain legal responsibility for each case in which adoption services are provided, as required by paragraph (c) of this section;

(10) Requires the foreign supervised provider to respond within a reasonable period of time to any request for information from the primary provider, the Secretary, or the accrediting entity that issued the primary provider's accreditation or approval;

(11) Requires the foreign supervised provider to provide the primary provider on a timely basis any data that is necessary to comply with the primary provider's reporting requirements;

(12) Requires the foreign supervised provider to disclose promptly to the primary provider any changes in the suitability information required by § 96.35; and

(13) Permits suspension or termination of the agreement on reasonable notice if the primary provider has grounds to believe that the foreign supervised provider is not in compliance with the agreement or the requirements of this section.

(c) The agency or person, when acting as the primary provider and using foreign supervised providers to provide adoption services in other Convention countries, does the following in relation to risk management:

(1) Assumes tort, contract, and other civil liability to the prospective adoptive parent(s) for the foreign supervised provider's provision of the contracted adoption services and its compliance with the standards in this subpart F; and

(2) Maintains a bond, escrow account, or liability insurance in an amount sufficient to cover the risks of liability arising from its work with foreign supervised providers.

(d) Nothing in this section shall be construed as prohibiting the primary provider from obtaining indemnification or from seeking damages or other redress from a foreign supervised provider for breach of contract, or from pursuing any other legal claim against such supervised provider arising from the provision of contracted adoption services.

Standards for Cases in Which a Child Is Immigrating to the United States (Incoming Cases)

§ 96.47 Preparation of home studies in incoming cases.

(a) The agency or person ensures that a home study on the prospective adoptive parent(s) is completed that includes the following:

(1) Information about the prospective adoptive parent(s)' identity, eligibility and suitability to adopt, background, family and medical history, social environment, reasons for adoption, ability to undertake an intercountry adoption, and the characteristics of the children for whom the prospective adoptive parent(s) would be qualified to care (specifying in particular whether they are willing and able to care for a child with special needs);

(2) A determination whether the prospective adoptive parent(s) are eligible and suited to adopt;

(3) A statement describing the counseling and training provided to the prospective adoptive parent(s);