



U.S. Department of State  
Bureau of Consular Affairs  
Overseas Citizen Services  
Legal Adviser's Office

## **Request for Statements of Interest**

For Parties Interested in Seeking Department Designation as Accrediting Entities, to Accreditate and Approve Adoption Service Providers in Intercountry Adoption

### **I. SUMMARY OF REQUEST FOR STATEMENTS OF INTEREST (RSI)**

#### ***A. Announcement***

The Department of State (the Department) announces through this Request for Statements of Interest (RSI) an opportunity to become a *designated accrediting entity* to provide accreditation and related services in intercountry adoption. This opportunity is extended to qualified nonprofit organizations and U.S. State or local government public authorities with responsibility for licensing adoption agencies and expertise in developing and administering standards for entities providing child welfare services.

#### ***B. Deadline for Filing of Statements of Interest***

This RSI was issued on February 21, 2013. Statements of Interest in response to this RSI are due by 5:00 p.m. EST on March 22, 2013, in electronic form only. No hard copies (printed) will be accepted. PDF documents are preferred for text-intensive documents. Excel spreadsheets are preferred for data-intensive documents. Applicants may submit Statements of Interest at any time before this deadline. Statements of Interest will be considered in the order in which they are received.

Completed Statements of Interest should be sent by email to [AdoptionUSCA@state.gov](mailto:AdoptionUSCA@state.gov). Due to strict prohibitions on the use of non-Department media, flash drives, thumb drives or any other data storage device will not be accepted; email is the only acceptable mode for submission of Statements of Interest. If you believe your submission is too large to provide by email, a link to the materials on an accessible external server will be acceptable. The burden is on the sender to ensure that the Department can access information provided via hyperlink.

For further information on the content of this RSI, contact: Carine Rosalia, Attorney Adviser, Office of Overseas Citizen Services/Office of Legal Affairs, U.S. Department of State, at 202-736-9110.

#### ***C. Authorities Related to Selection of Accrediting Entities***

Selection of accrediting entities (AEs) is carried out in conformance with the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Convention), the Intercountry Adoption Act of 2000 (IAA), the Universal Accreditation Act of

2012 (UAA), and applicable regulations in 22 CFR Part 96. Each designated accrediting entities will enter into a Memorandum of Agreement with the Department to provide accreditation and approval services as required by the IAA in cases subject to the Convention, and as required by the UAA in non-Convention orphan cases defined in section 101(b)(1)(F) of the Immigration and Nationality Act.

#### ***D. Summary of Services to be Provided and Eligibility Requirements***

In addition to accreditation and approval services, designated AEs will also provide related services such as monitoring the compliance of agencies and persons with applicable standards, investigating complaints, taking and defending adverse actions against an agency's accreditation and/or a person's approval, and collecting and reporting data on intercountry adoptions to the Department.

The IAA and 22 CFR 96.5 permit two types of entities to be designated as accrediting entities. An accrediting entity must qualify as either:

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

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 providing child welfare services.

Hereinafter, nonprofit organizations and U.S. State or local government public authorities responsible for licensing agencies are referred to collectively as *applicants* seeking designation as an accrediting entity or AE.

#### ***E. Process for Designating Accrediting Entities***

This RSI solicits Statements of Interest from interested applicants. Steps in the selection process include:

- 1) Nonprofit organizations and State licensing authorities submit Statements of Interest by the submission deadline;
- 2) The Department makes an initial review of the SIs and determines which applicants may continue with the consideration process, informing applicants whether selected to continue or not.
- 3) The Department may at its discretion conduct on-site visits of applicant organizations.
- 4) The Department reviews the terms of a proposed Memorandum of Agreement (MOA) with each applicant and considers whether adjustments to the language of the proposed MOA may be needed. The Department intends the MOAs to be substantially the same as the MOA signed with other AEs.

- 5) On the basis of the SIs, any on-site visit conducted, any other information available to it concerning the applicants, and based on discussions toward signature of an MOA, the Department makes a final selection of applicants with which it will sign an MOA, if any, and informs the parties of its decision.
- 6) The Department and the applicants, if any are selected, sign the MOAs, which formally designate applicants to be AEs.
- 7) The signed MOAs, if any, are published in the Federal Register.

The initial Memorandum of Agreement for accreditation and approval services will be for a period not to exceed five years.

#### ***F. The Department is Under No Obligation to Designate AEs***

The Department is under no obligation to enter into a Memorandum of Agreement and designate any particular accrediting entity that responds to this Request for Statements of Interest. An accrediting entity is not authorized to act as a designated accrediting entity or represent to others that it is a designated accrediting entity until the Department and the accrediting entity have signed a Memorandum of Agreement.

## **II. GENERAL INFORMATION ABOUT THE WORK OF ACCREDITING ENTITIES**

### ***A. Introduction and Statutory Framework***

The IAA confers on the Department the authority and responsibility for establishing and overseeing the system for accreditation and approval. Rather than mandating the Department to directly accredit agencies and approve persons, the IAA authorizes the Department to select and designate one or more accrediting entities to carry out those functions. Under the IAA agencies and persons that provide certain adoption services in Convention cases (cases pursuant to INA section 101(b)(1)(G)) must be accredited or approved. Once the UAA goes into effect (July 14, 2014) accreditation or approval will also be mandatory in orphan cases (cases pursuant to INA section 101(b)(1)(F)).

The Department's accreditation regulations concerning the standards and procedures for accreditation and approval are found in [part 96 of title 22 of the Code of Federal Regulations \(CFR\)](#). **It is critical that any interested accrediting entity be thoroughly familiar with the content of the accreditation regulations and with the [IAA](#).**

### ***B. Requirements for Accreditation and Approval of Adoption Service Providers***

The IAA designates the Department of State as the Central Authority for the United States. Some duties are explicitly assigned to other entities, including the Department of Homeland Security (DHS), formerly the Immigration and Naturalization Service. Under the IAA, the Department is responsible for designating and supervising accrediting entities.

The IAA's accreditation and approval provisions require that agencies and persons that wish to offer or provide adoption services (as defined in the accreditation regulations) in cases subject to the Convention must either be accredited, approved, or be operating under the supervision and responsibility of a U.S. accredited agency or approved person, unless the agency or person falls under one of the exceptions to these requirements as set forth in the IAA. The UAA imposes this same requirement on adoption service providers offering or providing adoption services in orphan cases, in non-Convention countries. Designated accrediting entities will, as stated in the Memorandum of Agreement with the Department, assume responsibility for determining whether applicant agencies and persons are eligible for accreditation or approval in accordance with procedures and standards set forth in the implementing regulations.

Any designated accrediting entity must use the Department's standards in subpart F of the accreditation regulations and may not impose any different or additional accreditation/approval standards.

### ***C. Costs and Fees***

Accreditation and approval services as well as ongoing monitoring and oversight are provided on a fee for service basis. Accreditation and approval services as well as ongoing monitoring and oversight are provided on a fee for service basis without costs to the Department and other parts of the United States Government.

Designated accrediting entities may recover their costs through the assessment and collection of fees from the applicants for accreditation, or approval. An accrediting entity's fee schedule shall be subject to the approval of the Department. The fees that the accrediting entity expects to collect shall not exceed the full costs of accreditation and approval, 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.

### ***D. Invitation to Submit Statements of Interest***

The Department of State invites interested accrediting entities to submit Statements of Interest by the indicated deadline. This RSI generally summarizes the requirements applicable to accrediting entities; however, applicants are expected to review thoroughly the requirements applicable to accrediting entities in the IAA and in the accreditation regulations in 22 CFR Part 96. Applicants should submit a Statement of Interest containing the information requested in Section IV, below.

Applicants must address all of the criteria set forth in this RSI but need not limit their proposals to the RSI requirements. Applicants may submit additional information to provide supporting information or to better characterize their expertise in licensing and accreditation.

After applicants have submitted Statements of Interest by the deadline, the Department will proceed with the selection process outlined in section *I (D) Process for Designating Accrediting Entities*.

The Department is under no obligation to conclude a Memorandum of Agreement with any candidate seeking designation as an accrediting entity. It has the authority to make decisions regarding the number of designated accrediting entities and to determine the responsibilities to be assumed by the designated accrediting entities.

The Memoranda of Agreement signed by the Department and the AE will confer authority on a designated accrediting entity to provide accreditation and approval services, to renew accreditation and approval as appropriate, to monitor agencies and persons for compliance with applicable requirements, to investigate complaints and take appropriate action, and to take adverse action when an agency or person is determined to be out of substantial compliance with applicable standards. The responsibilities of designated accrediting entities are outlined in further detail in the accreditation regulations at subpart B of part 96.

The first Memorandum of Agreement will be for a period not to exceed five years (assuming accrediting entity ongoing compliance with the IAA, the regulations, and the Memorandum of Agreement).

#### ***E. Statutory Basis for The Department's and Accrediting Entity's Authority***

Applicants should be familiar with the following statutory and regulatory documents laying out the Department's and AEs' legal authority and regulatory requirements:

The [1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption](#) (Senate Treaty Doc. 105-51, 105th Cong., 2d Sess.);

The [Intercountry Adoption Act of 2000](#) (Public Law 106-279; 114 Stat. 825; 42 U.S.C. 14901 et seq.);

The [Intercountry Adoption Universal Accreditation Act of 2012](#) (Public Law 112-276), and

The [accreditation regulations](#) published at 22 CFR Part 96.

### **III. REQUIREMENTS FOR DESIGNATION**

#### ***A. IAA Eligibility Requirements For Accrediting Entities***

As noted in section I(D) above, only two types of entities qualify under the IAA and its regulations to be designated by the Department to carry out accreditation and approval functions. They are:

- 1) An organization as described in section 501(c)(3) under the Internal Revenue Code of 1986, as amended, that has expertise in developing and administering standards for entities providing child welfare services.

The private, nonprofit entity must also meet the other criteria set forth in this RSI and in the regulations governing accrediting entities in part 96.

- 2) 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.

Any State or local government entity must meet the other criteria set forth in this RSI and in the regulations governing accrediting entities in part 96. If designated as an accrediting entity, a State entity may only accredit or approve agencies or persons located in the State where it is located.

### ***B. Types of Services to be Provided by Designated Accrediting Entities***

The Department expects designated accrediting entities to provide both accreditation and approval services. The accreditation and approval processes are nearly identical: the distinction between accreditation and approval lies in the type of adoption service provider seeking accreditation or approval. The IAA provides for the accreditation of agencies and the approval of persons. The accreditation regulations define the term “agency” to mean a private, nonprofit organization licensed to provide adoption services in at least one State. The term “agency” does not include individuals or for-profit entities. The accreditation regulations define “person” to mean an individual or for-profit entity (including a corporation, company, association, firm, partnership, society, or joint stock company) providing adoption services. In the United States, both accredited agencies and approved persons must demonstrate substantial compliance with all applicable standards in 22 CFR Part 96. By separating accreditation from approval, the IAA respects distinctions made in the Convention. Certain Convention party countries do not allow individuals or for-profit agencies to provide adoption services.

Any interested applicant should submit a Statement of Interest that reflects its ability to provide both accreditation and approval services.

If there are qualified accrediting entities interested and able to provide only accreditation or approval services, the Department may, at its discretion, designate accrediting entities to provide either accreditation services or approval services, rather than perform both functions.

**A note about Temporary Accreditation:** Please also note that although the IAA references *temporary accreditation*, accrediting entities no longer provide temporary accreditation services. Temporary accreditation was an option for some adoption service providers only during the initial accreditation period when the Convention first entered into force with respect to the United States. It’s operability ended two years from entry into force of the Convention, and, for this reason, accrediting entities no longer provide temporary accreditation services.

### ***C. The Universal Accreditation Act’s Impact on Accreditation***

On January 14, 2013, President Obama signed into law the Intercountry Adoption Universal Accreditation Act of 2012 (UAA). The law impacts the work of many adoption service providers: it imposes an accreditation requirement on agencies and persons providing adoption services in non-Convention orphan adoption cases. The effective date of the UAA is July 14, 2014. This period of time should allow all agencies planning to continue to provide adoption services in non-Convention orphan adoption cases to become accredited or approved. The Department is considering designating additional AEs in order to help manage the increase in workload both to accredit or approve all who seek it and the ongoing monitoring and oversight of these agencies/persons. In consultation with the selected AEs, the Department will determine a date by which agencies and persons seeking accreditation/approval may apply with the reasonable expectation that their accreditation/approval process will be completed by July 14, 2014. This date is called the *Accreditation Application Deadline*, the AAD.

It has not been possible to determine the exact number of additional applicants likely to apply for accreditation or approval by the AAD. Of over 400 adoption agencies licensed by U.S. States to provide adoption services, over 200 are not already accredited or approved to provide adoption services in Convention cases, but self report as having intercountry adoption programs. Some of these agencies are home study agencies that provide home studies as exempted providers in Convention cases. Some of these agencies provide a range of services in non-Convention orphan cases and may seek accreditation or approval in order to continue to provide this range of services. One of the factors leading the Department to consider designating additional accrediting entities is the perception that a good number of agencies providing services in non-Convention cases will now seek accreditation as a consequence of the UAA. The Department understands that doing so places a burden on the potential accrediting entity to be able to act quickly to prepare for designation and be ready no later than the AAD to begin an expeditious accreditation process – without any guarantee that agencies or persons will apply to it for accreditation.

#### **IV. INFORMATION TO BE PROVIDED IN THE STATEMENT OF INTEREST**

##### ***A. Mandatory Services to be Provided by Accrediting Entities***

The mandatory requirements that an applicant must meet are set forth in the following sections of the IAA.

Specific information requested below, help to elucidate how applicants will meet these statutory requirements.

##### **IAA Section 202(b)**

(b) DUTIES OF ACCREDITING ENTITIES.—The duties described in this subsection are the following:

(1) ACCREDITATION AND APPROVAL.—Accreditation of agencies, and approval of persons, to provide adoption services in the United States in cases subject to the Convention.

(2) OVERSIGHT.—Ongoing monitoring of the compliance of accredited agencies and approved persons with applicable requirements, including review of complaints against such agencies and persons in accordance with procedures established by the accrediting entity and approved by the Secretary.

(3) ENFORCEMENT.—Taking of adverse actions (including requiring corrective action, imposing sanctions, and refusing to renew, suspending, or canceling accreditation or approval) for noncompliance with applicable requirements, and notifying the agency or person against whom adverse actions are taken of the deficiencies necessitating the adverse action.

(4) DATA, RECORDS, AND REPORTS.—Collection of data, maintenance of records, and reporting to the Secretary, the United States central authority, State courts, and other entities (including on persons and agencies granted or denied approval or accreditation), to the extent and in the manner that the Secretary requires.

### **IAA Section 203(b)(1), (2) and (3)**

(b) MINIMUM REQUIREMENTS.—

(1) ACCREDITATION.—The standards prescribed under subsection

(a) shall include the requirement that accreditation of an agency may not be provided or continued under this title unless the agency meets the following requirements:

(A) SPECIFIC REQUIREMENTS.—

(i) The agency provides prospective adoptive parents of a child in a prospective Convention adoption a copy of the medical records of the child (which, to the fullest extent practicable, shall include an English-language translation of such records) on a date which is not later than the earlier of the date that is 2 weeks before: (I) the adoption; or (II) the date on which the prospective parents travel to a foreign country to complete all procedures in such country relating to the adoption.

(ii) The agency ensures that a thorough background report (home study) on the prospective adoptive parent or parents has been completed in accordance with the Convention and with applicable Federal and State requirements and transmitted to the Attorney General with respect to each Convention adoption. Each such report shall include a criminal background check and a full and complete statement of all facts relevant to the eligibility of the prospective adopting parent or parents to adopt a child under any requirements specified by the central authority of the child's country of origin under section 102(b)(3), including, in the case of a child emigrating to the United States for the purpose of adoption, the requirements of the child's country of origin applicable to adoptions taking place in such country. For purposes of this clause, the term "background report (home study)" includes any supplemental statement submitted by the agency to the Attorney General for the purpose of providing information relevant to any requirements specified by the child's country of origin.

(iii) The agency provides prospective adoptive parents with a training program that includes counseling and guidance for the purpose of promoting a successful intercountry adoption before such parents travel to adopt the child or the child is placed with such parents for adoption.

(iv) The agency employs personnel providing intercountry adoption services on a fee for service basis rather than on a contingent fee basis.

(v) The agency discloses fully its policies and practices, the disruption rates of its placements for intercountry adoption, and all fees charged by such agency for intercountry adoption.

(B) CAPACITY TO PROVIDE ADOPTION SERVICES.—The agency has, directly or through arrangements with other persons, a sufficient number of appropriately trained and qualified personnel, sufficient financial resources, appropriate organizational structure, and appropriate procedures to enable the agency to provide, in accordance with this Act, all adoption services in cases subject to the Convention.

(C) USE OF SOCIAL SERVICE PROFESSIONALS.—The agency has established procedures designed to ensure that social service functions requiring the application of clinical skills and judgment are performed only by professionals with appropriate qualifications and credentials.

(D) RECORDS, REPORTS, AND INFORMATION MATTERS.—

The agency is capable of—

(i) maintaining such records and making such reports as may be required by the Secretary, the United States central authority, and the accrediting entity that accredits the agency;

(ii) cooperating with reviews, inspections, and audits;

(iii) safeguarding sensitive individual information; and

(iv) complying with other requirements concerning information management necessary to ensure compliance with the Convention, this Act, and any other applicable law.

(E) LIABILITY INSURANCE.—The agency agrees to have in force adequate liability insurance for professional negligence and any other insurance that the Secretary considers appropriate.

(F) COMPLIANCE WITH APPLICABLE RULES.—The agency has established adequate measures to comply (and to ensure compliance of their agents and clients) with the Convention, this Act, and any other applicable law.

(G) NONPROFIT ORGANIZATION WITH STATE LICENSE TO PROVIDE ADOPTION SERVICES.—The agency is a private nonprofit organization licensed to provide adoption services in at least one State.

(2) APPROVAL.—The standards prescribed under subsection (a) shall include the requirement that a person shall not be approved under this title unless the person is a private forprofit entity that meets the requirements of subparagraphs (A) through (F) of paragraph (1) of this subsection.

(3) RENEWAL OF ACCREDITATION OR APPROVAL.—The standards prescribed under subsection (a) shall provide that the accreditation of an agency or approval of a person under this title shall be for a period of not less than 3 years and not

more than 5 years, and may be renewed on a showing that the agency or person meets the requirements applicable to original accreditation or approval under this title.

## **IAA Section 204(e)(1) and (2)**

(e) FAILURE TO ENSURE A FULL AND COMPLETE HOME STUDY.—

(1) IN GENERAL.—Willful, grossly negligent, or repeated failure to ensure the completion and transmission of a background report (home study) that fully complies with the requirements of section 203(b)(1)(A)(ii) shall constitute substantial noncompliance with applicable requirements.

(2) REGULATIONS.—Regulations promulgated under section 203 shall provide for—

(A) frequent and careful monitoring of compliance by agencies and approved persons with the requirements of section 203(b)(A)(ii); and

(B) consultation between the Secretary and the accrediting entity where an agency or person has engaged in substantial noncompliance with the requirements of section 203(b)(A)(ii), unless the accrediting entity has taken appropriate corrective action and the noncompliance has not recurred.

***B. Specific requests for information to be provided in Statements of Interest. In some cases, descriptive information is provided to assist in preparing a full response.***

### **(1) Evaluating Agencies or Persons for Accreditation or Approval**

This section concerns the measures and procedures you propose to use to evaluate whether an applicant should be granted or denied accreditation or approval. Submitted sample materials may be provided as attached exhibits to accompany any Statement of Interest. Sample materials currently used for the accreditation/licensing of adoption service providers or for the accreditation of other types of providers may be also submitted.

**Accreditation Standards:** Any designated accrediting entity must use the standards in 22 CFR, Part 96, subpart F. No other additional standards may be imposed.

- Describe the application procedures that you would use to process applications for accreditation and approval.
- Provide sample applications and instructions.
- Provide a copy of a sample contract currently used with applicants for accreditation.

**Demonstrating Substantial Compliance:** An agency or person seeking accreditation or approval must demonstrate that it is in substantial compliance with the accreditation and approval standards in subpart F of the proposed regulations in 22 CFR Part 96.

The Substantial Compliance System, [found here on the COA website](#), gives the scoring and weighting system for deciding whether an agency or person is in substantial compliance with applicable accreditation standards and may or may not be accredited or approved.

- Provide samples of your current methods of scoring compliance with accreditation criteria or licensing standards and include any accompanying instructions or explanations that are provided to applicants for accreditation or licensing.

**On-Site Visits as Part of the Accreditation Process:** A designated accrediting entity must use site visits as part of the process of determining whether an agency or person is in substantial compliance with all applicable standards in 22 CFR Part 96, subpart F.

- Describe the on-site evaluation procedures that you would use. Include information on recruiting and training evaluators, and state whether or not you would rely on volunteer site evaluators.
- Provide a list of current site evaluators with summary information on their qualifications.

**Managing the Volume of Accreditation and Approval Applications:**

- Describe your plan for evaluating large numbers of agencies and persons for accreditation/approval at the same time so as to ensure expeditious processing and to assist the Department in meeting the goal of completing the accreditation/approval of new applicants by the effective date of the UAA.
- Similarly, describe how you will determine when it is appropriate to deny accreditation or approval rather than continue to permit remedying deficiencies. Your response should particularly focus on agencies that apply by the AAD and seek to be accredited by the effective date of the UAA, July 14, 2014.

**(2) Monitoring Compliance with Applicable Requirements/Evaluating Renewal Requests**

**Monitoring and Oversight of Accredited Agencies and Approved Persons:**

Accrediting entities are required to monitor the continued compliance of accredited agencies and approved persons with the accreditation and approval standards. At a minimum, such monitoring must include: verifying continued compliance with State licensing requirements; investigating any complaints and any other matters suggesting that the agency or person may not be providing adoption services in compliance with the standards for accreditation and approval; reviewing and monitoring any administrative or legal actions filed against agencies or persons; and responding to allegations about an agency's or person's compliance with the standards from the Department, other Central Authorities, and DHS.

- Please describe how you propose to undertake these ongoing monitoring and oversight tasks for agencies and persons that you have accredited or approved (details regarding complaint investigation may be submitted under section (3), below).

**Renewal of Accreditation and Approval:** The normal period of accreditation/approval is four years.

- Describe your methods and process for renewing an agency's or person's accreditation/approval. Such evaluations for renewal must determine whether the agency or person is in substantial compliance with the standards in subpart F of the proposed regulations for part 96 and also must include a site visit.

### **(3) Reviewing and Investigating Complaints Against Agencies and Persons**

Designated accrediting entities will be required to process and investigate complaints submitted to the Hague Complaint Registry as well as complaints referred from other sources. Information on the Hague Complaint registry is available at:

[http://adoption.state.gov/hague\\_convention/agency\\_accreditation/complaints.php](http://adoption.state.gov/hague_convention/agency_accreditation/complaints.php).

- Please describe how you propose to investigate and respond to such complaints. Specifically explain how you will ensure the timely processing of complaints submitted to the Hague Complaint Registry.
- In addition, describe how you propose to screen complaints for processing on an expedited basis and the details of such expedited processing.
- Please also discuss what type of internal review process, if any, you propose to make available to the agency or person against whom the complaint has been lodged. Internal complaint procedures shall be subject to approval by the Department.

### **(4) Enforcing Substantial Compliance with Accreditation and Approval Standards/Taking Adverse Actions**

An accrediting entity must impose adverse actions against an accredited agency or approved person when it determines that an accredited agency or approved person fails to be in substantial compliance with the standards in 22 CFR Part 96, subpart F. The types of adverse actions that an accrediting entity can take against accredited agencies or approved persons are described in 22 CFR Part 96, subpart K. Such actions may include requiring specific corrective action, suspending accreditation or approval, canceling accreditation or approval, and refusing to renew accreditation or approval at the expiration of the accreditation or approval period. Under the IAA, the adverse actions taken by designated accrediting entities are subject to judicial review in Federal courts. Thus, agencies and persons may challenge adverse actions taken. Designated accrediting entities, pursuant to the IAA, must defend themselves against such suits brought in Federal courts.

- Applicants should describe in detail their proposed methods for handling adverse actions. In particular, interested entities should describe the internal process that will be used to review investigative material and determine if an accredited agency's or approved person's accreditation/approval should be suspended or canceled.
- Provide information on the resources available or that could be allocated to defend any challenges to adverse actions that are taken.

### **(5) Collecting, Maintaining, and Reporting Data**

Section 104 of the IAA requires the Department to prepare annual reports to submit to Congress. The mandatory content for the reports is listed in section 104 of the IAA. Subpart M of the regulations in part 96 lists the IAA-mandated data and any additional information that designated accrediting entities must report to the Department so that the Department may meet its reporting requirements. The required data may be collected in a variety of fashions, including through the monitoring and renewal processes.

- Please describe how you will collect and report data to the Department and detail your ability to retrieve, to maintain, to review, and to make available such information to the Department.
- In particular, discuss your ability to manage the required data collection functions, including your information management, data processing, and recordkeeping capacity. Describe whether you have prior experience collecting, processing, and maintaining similar types of data and, if not, your plan for developing the capacity to do so.
- Your Statement of Interest should include information on your current ability to integrate the new data requirements into your operation's current data management system and what enhancements, if any, you believe will be necessary to perform the data collection functions.

Designated accrediting entities must agree to maintain permanent accreditation and approval records. At a minimum, the accrediting entity must retain a hard copy, or electronic or microfiche copies of the original application for accreditation or approval, any self-evaluations and any other documentation that provided a basis for accreditation or approval decisions. A permanent record of the outcome of all accreditation and approval evaluations must also be retained. The accrediting entity must also maintain information on complaint investigations and substantiated complaints.

- Please describe your proposed procedures for maintaining records on the agencies or persons that you accredit, temporarily accredit, or approve.
- Also discuss your procedures for safeguarding sensitive or confidential information.

#### **(6) Communicating with the Department of State**

Accrediting entities must communicate information to the Department about agencies it has accredited and persons it has approved in accordance with 22 CFR Part 96, subpart M. Such communication will include regularly updating the lists of accredited agencies and approved persons, reporting on the results of complaint investigations, reporting on adverse actions taken against agencies and persons, recommending debarment of agencies and persons, providing updates on the range of fees charged for services, and providing the information required for the IAA's reporting requirements.

- Please describe how you propose to communicate required information to the Department on a regular basis.

#### ***C. Additional Services***

In addition to the mandatory services listed above, please provide information on how you would provide the following additional services if required to do so in the Memorandum of Agreement. When evaluating your Statement of Interest, the Department will take your proposals on the following functions and issues into account.

**(1) Guidance for Applicants**

- Describe what kind of guidance, beyond the application form and its instructions, you would anticipate offering potential applicants to assist them in completing meaningful and useful applications and self-evaluations.
- Also, discuss types of training and assistance your organization would be willing to offer and provide for applicants and whether separate fees would be charged for such training services.
- If you propose to also offer counseling services, please explain how you will separate your counseling and evaluative functions so as to ensure that there is no conflict in your role as an accrediting entity.
- In addition, describe how you propose to fully disclose to applicants the Substantial Compliance System and procedures that you will use to evaluate an agency or person for accreditation or approval. Discuss your plans to communicate the criteria to applicants in writing in advance of initiating the accreditation or approval process.

**(2) Expedient Review of Applicants who apply by the AAD**

- Describe how you propose to organize the review of applications received by the Accreditation Application Date.
- Describe in particular how you will ensure that all applicants are reviewed and their applications are processed to final disposition as expeditiously as possible.
- Include in your Statement of Interest how you propose to order the review of applications and how you intend to begin processing first those agencies and persons that might need more time to come into substantial compliance with the accreditation and approval standards.

**(3) Standardized Procedures**

- Please describe how you propose to ensure that all applications are subject to uniform procedures and that accreditation and approval standards are consistently applied.
- Also, discuss how your handling of on-site reviews will ensure consistency of evaluations.
- Discuss how you plan to coordinate with other accrediting entities and the Department on the format and requirements contained in application forms and other decision-making materials to ensure consistency among accrediting entities.

**(4) Hiring and Training for Staff and Evaluators**

- Describe your ability to recruit and train sufficient numbers of qualified individuals to undertake the functions described in this RSI.

- Describe the types of training you would develop and provide for staff and evaluators to prepare them for the processing of applications and for evaluating applicant agencies and persons.
- Discuss how you propose to ensure that individuals who conduct site visits have expertise in the field and have been adequately trained in the accreditation and approval process.
- State also whether you would support joint training of evaluators from different accrediting entities in order to promote uniformity in the accreditation and approval process; and
- Provide information on the steps you would take, including your willingness to use content of established and approved accreditation policies, procedures, forms, outreach, and training materials, to ensure uniform and consistent evaluations of agencies and persons when there are several accrediting entities.

**(5) Public Information about Complaints and General Performance**

- Please propose a plan for handling inquiries about the status and services of agencies or persons that you have accredited, temporarily accredited, or approved. Subpart M of the accreditation regulations contains the requirements on the minimum information an accrediting entity must provide to the public.
- Provide information on how your organization would handle inquiries from any possible sources, including but not limited to, the public, prospective adoptive parent(s), consumer groups, U.S. or foreign governmental authorities, and the media.
- Outline how you would provide information on: (i) the general performance of an agency or person; (ii) complaints lodged against the agency or person; (iii) adverse action taken against the agency or person; and (iv) referrals made to the Department for debarment or to the Department of Justice or other law enforcement body for civil or criminal enforcement action.
- Discuss whether you would be in favor of using "report cards" or other types of reports on agencies and persons to provide general performance information to the public. Provide samples of current report cards or other similar documents used to disseminate information on accredited agencies or persons.

**(6) Effect of Adverse Action on Pending Cases**

- Please describe how you will manage situations where an agency or person with active intercountry adoption cases has its accreditation or approval suspended, cancelled, withdrawn, or not renewed, or if the provider is debarred or otherwise ceases to operate.
- Discuss how you believe pending cases should be handled and transferred and how the agency's or person's records on completed and pending cases will be preserved and maintained.

Please note that the accrediting entity may be required to assist and oversee the agency or person in transferring cases and related records.

#### ***D. Budget and Proposed Fee Schedule***

The Department provides no funds to accrediting entities for the process of accrediting and approving agencies and persons. The designated accrediting entities may recoup the costs of providing the accreditation/approval services by charging fees. The fees charged to the agencies and persons may include all the costs associated with the accreditation and approval process; however, costs for other services or programs may not be included.

When considering your budget and proposing a fee schedule, you may want to consider the following issues: acquiring and training staff and evaluators; preparing policies, internal procedures, and application forms; processing applications (including performing site visits); providing counseling and training to applicants; monitoring compliance after accreditation or approval and until renewal; investigating and handling complaints (which may include site visits); imposing corrective and/or adverse action; travel and maintenance costs for standards evaluators; handling publicity, public relations, and public inquiries; defending in Federal court any challenges to adverse actions imposed and responding to other possible court actions; assembling, collecting, and submitting required data; overseeing the appropriate transfer of pending cases and records of agencies or persons whose services under the Convention have been terminated through adverse action, closure, or other action.

As noted, the fee schedule must be approved by the Department and may not exceed the aggregate costs for providing accreditation and approval services for a projected number of applicants. The Department understands that in the absence of more detailed information about the actual number of applicants, it may be difficult to project a fee schedule; therefore, the fee schedule will be an item discussed and prepared concurrently during the negotiations between the Department and any applicant on the terms of the Memorandum of Agreement. The Department and any designated accrediting entities may find it necessary to modify the schedule of fees once the number of applicants is known. The Department must approve any modifications to the fee schedule.

The projected budget of all applicant entities should identify all costs involved in fulfilling the tasks set out in the accreditation regulations outlined in this RSI. The costs should include the development costs that will be incurred prior to receipt of fees from applicants. The budget should reflect planning for these tasks.

- Please **project a budget** for handling the tasks outlined in this RSI.
- For reference, please include a current budget for your organization's accreditation program and, if applicable, your organization's intercountry adoption accreditation program.
  - Provide in summary form a budget for the current and next financial year for the entire organization.
  - If you are a State entity, please provide a summary of your department's budget for the present and upcoming years.
- If you are a new entity, please provide a business plan that includes a projected budget and a detailed plan for financing startup operations.

- Based on this budget, please **propose an estimated fee schedule** for accreditation and approval services. The allowable fees are listed in subpart B of the accreditation regulations.
  - To the extent possible, your proposed fees should be consonant with fees currently charged for comparable services by your organization and other accrediting entities.

In your Statement of Interest, please discuss the following fee considerations:

- How you would take the differing circumstances, such as geographic location, number of cases handled, revenue from adoption services provided, and budget size of applicants into account when assessing fees;
- Whether and how you would impose lower costs or alternative arrangements for small agencies (for example, permitting installment payments over a period of time);
- How you would fund necessary research, investigation, and site visits involved in investigating complaints and taking appropriate action; and
- The fiscal management practices you propose to have in place for the prudent use and proper disbursement and adequate accounting of all funds collected and disbursed.
- Finally, please indicate the estimated number of accreditation and approval applications that your organization would have to process to break even under the estimated budget and fee schedule.

***E. Organizational Capacity to Perform Accrediting Entity Functions and Responsibilities***

**(1) History and Expertise in Operating an Accreditation System**

- Please provide a brief history of your organization, highlighting in particular the development of your accreditation and/or licensing practice and your experience in developing and administering standards for child welfare services. If applicable, briefly describe the range of other services provided by your organization.
- Describe your experience with intercountry adoption programs and how that practice area fits into the services provided by your organization generally.

The Department is particularly interested in information about your past performance that would demonstrate your capacity to assume the tasks described in this RSI.

Please include in your statement the following information, if known, for the previous five-year period:

- Summary figures on the volume of your accrediting and/or licensing activity;
- Percentage and numbers of organizations that were granted accreditation or licensure the first time that the organization applied for accreditation or licensure;
- Percentage and numbers of applicants required to remedy deficiencies before accreditation or licensure was granted;

- Number of organizations that applied for accreditation or licensure and were not accredited or licensed; and
- Number of instances where accreditation or licensure was withdrawn or not renewed.
- If you are a newly formed entity, describe the expertise, experience, and strengths of your organizational team.

**(2) Familiarity with Convention and U.S. laws and Regulations Governing Accreditation**

- Please describe your familiarity with the Convention, the IAA, the UAA, and 22 CFR Part 96.
- If you are not currently familiar with these documents and requirements, please describe your plan to acquire the knowledge necessary to undertake the tasks described in this RSI.

**(3) Organizational Structure and Resources**

Your organizational structure, human resources practices, financial resources, and systems of control must be adequate to undertake the tasks described in this RSI. Please provide information on the following:

Structure:

- Describe your organizational structure and division of responsibilities.
- Provide a general description of the capacities and strengths of the organization's personnel to carry out the accreditation and approval functions.

Insurance:

- Describe the insurance you propose to carry to cover your liability for tasks undertaken pursuant to this RSI.

Contingency Funds:

- Describe whether you plan to set aside funds to cover unexpected contingencies, such as additional site visits, extensive complaint investigations, or overseeing the transfer of pending adoption cases and related records when adverse action prevents an entity from continuing to provide services in Convention cases.

**(4) Qualifications of Personnel**

- Please discuss the proposed qualifications of the personnel that would be devoted to the tasks described in this RSI.
- Provide the names, job assignments, and resumes of persons whom you would assign to key positions (for example, the project manager, the liaison with the State Department, the attorney responsible for enforcement and adverse actions, the individual responsible for training and recruiting site evaluators).

- Specifically, please provide information on the project manager who will have overall responsibility for implementing the Memorandum of Agreement. Identify all other positions that will be created to perform the required tasks and indicate which positions will be exclusively assigned tasks to implement the Memorandum of Agreement.
- Also, discuss your ability to recruit, train, and supervise a sufficient number of appropriately trained individuals to act as standards evaluators and to undertake the on-site component of accreditation and approval.

### **(5) Past Practices**

Please provide the following information for the previous ten-year period, unless otherwise stated:

- Any instances where your organization has permanently lost the right to provide accrediting or licensing services in a State, under any present or any former names, including the basis for such action(s);
- Any instances where your organization's license or charter was suspended for cause or where your organization was penalized by an oversight body, including the basis and disposition of such action(s);
- Any formal, written complaints against your organization in the past five years by those who have used its services, including the basis and disposition of such complaint(s);
- Any past or pending investigations by Federal or State authorities, criminal charge(s) or convictions, malpractice complaints or lawsuits against your organization, including the basis and disposition of such action(s);
- Any convictions or current investigations of the senior management of your organization for acts involving financial irregularities;
- Any instances where your organization has filed for bankruptcy or lost its nonprofit status.

### ***F. Safeguards Against Conflicts of Interest or Appearance of Conflicts of Interest***

- Please describe any actual or apparent conflicts of interest that might arise in your performance of the duties outlined in this RSI. When responding, please consider any relationship your entity may have with, or support your entity may receive from, adoption agencies or membership organizations of adoption agencies, organizations of attorneys or social workers, or other organizations or individuals who might apply to your entity for accreditation or approval, regardless of whether that relationship or support is publicly known.
- In the event there are such relationships or support that may involve an actual or apparent conflict of interest, discuss what steps you are prepared to take, including termination of that relationship or support, in connection with your designation as an accrediting entity.
- Please discuss whether and how you can demonstrate that you operate with independence and autonomy from any agency, person, or membership organization(s)

that provide adoption services or otherwise have a vested interest in accreditation and approval decisions.

- Finally, please describe how you will ensure that your review systems and decision-making processes are free of conflict of interest or undue influence, both in appearance and fact.

In responding to the above questions, you may wish to consult an attorney.

### ***G. Other Supporting Documents***

#### **(1) Audit**

- Provide audited Financial Statements from a Certified Public Accounting firm, including the management letter, for the most recent accounting period.
- If you are a State entity, please provide equivalent information for the most recent financial year.
- If you are a newly formed entity, please provide a letter from the accounting firm engaged to advise you with regard to financial management.

#### **(2) Additional Supporting Documents**

Include with your submission the following documents and supporting information:

- a copy of your articles of incorporation or charter, or
- your authorization as a State government instrumentality, or,
- for newly formed entities, your business plan with anticipated dates of incorporation and operation.
- Include a copy of your IRS determination letter confirming your tax-exempt status or a copy of your IRS application for tax-exempt status.
- Include a copy of your organizational chart of your present or planned organization. To the extent possible, show projected additions required to undertake the tasks outlined in this RSI and provide information on the unit or staff that would perform these tasks.
- Provide names, addresses, and phone numbers of the members of your board of directors, and any members of advisory boards to your organization.
- Also, include all information about any directors' employment, names and addresses of other organizations on which the individual board members serve, and any other relevant affiliations of board members.
- Enclose a copy of any internal policies for resolving board member conflicts of interests.
- Include a copy of the minutes of the board meeting, copy of the board's decision, or letter from the official with appropriate authority, authorizing you to seek to become a designated accrediting entity.
- Provide a disclosure of your organization's major sources of income, including a list of all individuals or organizations involved in providing adoptions services that have

paid membership fees or dues or made grants or donations to your organization during the past two financial years.

- Identify any agencies and persons whom you accredit or otherwise review who provide adoption services.
- Identify any of your membership organizations whose members include adoption agencies or persons who provide adoption services, and provide information on how accreditation services are provided to agencies and persons in membership groups.
- Attach information on how fees for accreditation are charged to agencies and persons who obtain accreditation services based on their inclusion in a membership group.
- Include a copy of your organization's policy prohibiting the offer or acceptance of any donation, in cash or kind, from an agency or person whom you accredit, monitor, or otherwise review.

#### ***H. Compliance with Applicable Federal Laws***

- Provide written assurances of your capacity and willingness to comply with all applicable Federal and State laws including, but not necessarily limited to, Federal and State anti-discrimination and EEO laws, State worker's compensation laws, Federal and State tax laws and procedures and related requirements, and any other obligations applicable to entities performing work for the Department under a Memorandum of Agreement.