



Service Planning and Delivery

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SPD 96.44: Acting as a Primary Provider

Acting as Primary Provider

Additional technical guidance provided by the Department of State. - F.2 Providers in receiving countries 96.44, 96.45, 96.46

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Self-Study Evidence

- Service planning procedures **96.44 (a)**
- Executive Verification **96.44 (a)**
- Case Record Template **96.44 (a)**
- Describe the agency's capability to act as primary provider. Describe which services will be provided directly and by supervised providers, other foreign providers, exempted providers or others, if applicable. Describe the agency/person's capability to supervise other providers and verify the work of other foreign providers **96.44 (b)**
- Organizational Chart and job descriptions illustrating responsibility for performance of primary provider functions **96.44 (b)**
- Policies and procedures for acting as a primary provider **96.44 (b)**

On-Site Evidence

- Case records (e.g., service plans with supervised providers identified) **96.44 (a)**
- Budget specifying funds allocated/necessary for supervisory activities or for ASP's who are not currently acting as a primary provider a plan for obtaining additional resources **96.44 (b)**

On-Site Activities

- Interview:
 - a. Personnel **96.44 (a)**
 - b. Supervised providers, as applicable **96.44 (a), 96.44 (b)**
 - c. CEO/Executive Director **96.44 (b)**
 - d. Personnel responsible for supervised providers **96.44 (b)**

(C) SPD 96.44.a

When required by Section 96.14(a), the agency or person acts as primary provider and adheres to the provisions in Section 96.14(b) through (e). When acting as the primary provider, the agency or person develops and implements a service plan for providing all adoption services and provides



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all such services, either directly or through arrangements with supervised providers, exempted providers, public domestic authorities, competent authorities, Central Authorities, public foreign authorities, or, to the extent permitted by Section 96.14(c), other foreign providers (agencies, persons, or other non-governmental entities).

*Additional technical guidance provided by the Department of State. - F.1
Meaning of "service plan" 96.44(a)*

(C) SPD 96.44.b

The agency or person has an organizational structure, financial and personnel resources, and policies and procedures in place that demonstrate that the agency or person is capable of acting as a primary provider in any intercountry adoption case and, when acting as the primary provider, provides appropriate supervision to supervised providers and verifies the work of other foreign providers in accordance with Section Section 96.45 and 96.46.



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SPD 96.45: Using Supervised Providers in the United States

Using Supervised Providers in the United States

Additional technical guidance provided by the Department of State. - F.2 Providers in receiving countries 96.44, 96.45, 96.46

Additional technical guidance provided by the Department of State. - F.5 Working with supervised providers; letterhead 96.45-96.47

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Self-Study Evidence

- Procedures for entering into agreements with supervised providers **96.45 (a), 96.45 (b)**
- Procedures for overseeing supervised providers **96.45 (a)**
- Executive Verification **96.45 (a), 96.45 (b)**
- Sample written agreement or draft of agreement **96.45 (b)**
- Collaborative Relationships Profile **96.45 (b)**

On-Site Evidence

- Documentation demonstrating oversight of all supervised providers the ASP currently oversees including verification of compliance with relevant licensing and legal requirements (e.g. licensing reports, documentation of compliance with standards that apply to supervised providers) **96.45 (a)**
- Information on relevant state licensing rules **96.45 (a)**
- Signed written agreements with current supervised providers **96.45 (b)**

On-Site Activities

- Interview:
 - a. CEO/Executive Director or designee **96.45 (a), 96.45 (b)**
 - b. Personnel responsible for supervised providers **96.45 (a), 96.45 (b)**
 - c. Supervised providers, as applicable **96.45 (a), 96.45 (b)**

(C) SPD 96.45.a

The agency or person, when acting as the primary provider and using supervised providers in the United States to provide adoption services, ensures that each such supervised provider:

- (1) is in compliance with applicable State licensing and regulatory



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requirements in all jurisdictions in which it provides adoption services;

(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; and

(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 Section 96.35.

Additional technical guidance provided by the Department of State. - C.6 Criminal and Child Abuse Background Checks: Are both supervised and foreign supervised providers subject to criminal and child abuse background checks? 96.35, 96.45(a)(3), and 96.46(a)(3)

Additional technical guidance provided by the Department of State. - F.4 96.45(a) Supervising accredited agencies.

(C) SPD 96.45.b

The agency or person, when acting as the primary provider and using supervised providers in the United States to provide adoption services, ensures that each such supervised provider operates under a written agreement with the primary provider that:

- (1) identifies clearly the adoption service(s) to be provided by the supervised provider and requires that the service(s) be provided in accordance with the applicable service standard(s) for accreditation and approval (for example: home study (Section 96.47); parent training (Section 96.48); child background studies and consent (Section 96.53));
- (2) requires the supervised provider to comply with the following standards regardless of the type of adoption services it is providing: Section 96.36 (prohibition on child-buying), Section 96.34 (compensation), Section 96.38 (employee training), Section 96.39(d) (waivers of liability), and Section 96.41(b) through (e) (complaints);
- (3) identifies specifically the lines of authority between the primary provider and the 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;
- (4) states clearly the compensation arrangement for the services to be provided and the fees and expenses to be charged by the supervised provider;
- (5) specifies whether the 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;



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(6) provides that, if billing the client(s) directly for its service, the 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 sixty days of the completion of the delivery of services;

(7) requires the supervised provider to meet the same personnel qualifications as accredited agencies and approved persons, as provided for in Section 96.37, except that, for purposes of Sections 96.37(e)(3), (f)(3), and (g)(2), the work of the employee must be supervised by an employee of an accredited agency or approved person;

(8) requires the supervised provider to limit the use of and safeguard personal data gathered or transmitted in connection with an adoption, as provided for in Section 96.42;

(9) requires the 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;

(10) requires the 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;

(11) requires the supervised provider to disclose promptly to the primary provider any changes in the suitability information required by Section 96.35;

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

Additional technical guidance provided by the Department of State. - F.6 Home study preparers who are independent contractors - when are they supervised? 96.45(b) 96.14

Additional technical guidance provided by the Department of State. - F.7 Employees of supervised providers supervised by primary and own agency. 96.45(b)(7)

Additional technical guidance provided by the Department of State. - F.10 Use of master agreements with supervised providers. 96.46



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SPD 96.46: Using supervised providers in other foreign countries

Using Providers in Foreign Countries

Additional technical guidance provided by the Department of State. - F.2
Providers in receiving countries 96.44, 96.45, 96.46

Additional technical guidance provided by the Department of State. - F.9
When is foreign provider a foreign supervised provider? 96.46

Additional technical guidance provided by the Department of State. - F.11
For foreign providers, when must supervise and when can verify. 96.46

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- Procedures for entering into agreements with foreign supervised providers **96.46 (a), 96.46 (b)**
- Procedures for overseeing foreign supervised providers **96.46 (a)**
- Executive Verification **96.46 (a), 96.46 (b), 96.46 (c)**
- Sample or draft agreement **96.46 (b)**
- Procedures for obtaining and verifying information received from foreign providers who are not supervised providers **96.46 (c)**

On-Site Evidence

- Documentation demonstrating oversight of current foreign supervised providers including verification of compliance with relevant licensing, accreditation and legal requirements **96.46 (a)**
- Written agreements with current foreign supervised providers **96.46 (b)**
- Documentation demonstrating oversight of current foreign supervised providers including verification of compliance with relevant laws and the Convention **96.46 (c)**

On-Site Activities

- Interview:
 - a. CEO/Executive Director or designee **96.46 (a), 96.46 (b), 96.46 (c)**
 - b. Personnel responsible for supervising providers in foreign countries **96.46 (a), 96.46 (b), 96.46 (c)**
 - c. Foreign supervised provider, as necessary **96.46 (a), 96.46 (b), 96.46 (c)**
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- Review relevant case records, as applicable **96.46 (c)**



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(F) SPD 96.46.a

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

- (1) is in compliance with the laws of the foreign 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 Section 96.35, taking into account the authorities in the foreign country that are analogous to the authorities identified in that section;
- (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 or the Convention's principles of ensuring that intercountry adoptions take place in the best interests of children and preventing the abduction, exploitation, sale, or trafficking of children; and
- (5) is accredited in the foreign country in which it operates, if such accreditation is required by the laws of that foreign country to perform the adoption services it is providing.

Additional technical guidance provided by the Department of State. - C.6 Criminal and Child Abuse Background Checks: Are both supervised and foreign supervised providers subject to criminal and child abuse background checks? 96.35, 96.45(a)(3), and 96.46(a)(3)

Additional technical guidance provided by the Department of State. - F.12 Suitability info from foreign supervised providers. 96.46(a)(3), referencing 96.35

Additional technical guidance provided by the Department of State. - G.2 Conducting home studies for American citizens residing abroad in incoming/immigrating Convention cases. 96.2 96.14(c) 96.37(f) 96.46(a) 96.47(c)

(F) SPD 96.46.b

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



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- (1) identifies clearly 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 Section 96.49(d) through (j);
- (3) requires the foreign supervised provider to adhere to the standard in Section 96.36(a) prohibiting child buying; and has written policies and procedures in place reflecting the prohibitions in Section 96.36(a) and reinforces them in training programs for its employees and agents;
- (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, located for an adoptive placement, 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) states clearly 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 sixty days of the completion of the delivery of services;
- (9) 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;
- (10) 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;
- (11) requires the foreign supervised provider to disclose promptly to the primary provider any changes in the suitability information required by Section 96.35; and



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(12) 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.

*Additional technical guidance provided by the Department of State. - F.8
Time to get supervisory agreements signed 96.46*

*Additional technical guidance provided by the Department of State. - F.10
Use of master agreements with supervised providers. 96.46*

(F) SPD 96.46.c

The agency or person, when acting as the primary provider and, in accordance with Section 96.14, using foreign providers that are not under its supervision, verifies, through review of the relevant documentation and other appropriate steps, that:

- (1) any necessary consent to termination of parental rights or to adoption obtained by the foreign provider was obtained in accordance with applicable foreign law and Article 4 of the Convention;
- (2) any background study and report on a child in a case involving immigration to the United States (an incoming case) performed by the foreign provider was performed in accordance with applicable foreign law and Article 16 of the Convention; and
- (3) any home study and report on prospective adoptive parent(s) in a case involving emigration from the United States (an outgoing case) performed by the foreign provider was performed in accordance with applicable foreign law and Article 15 of the Convention.