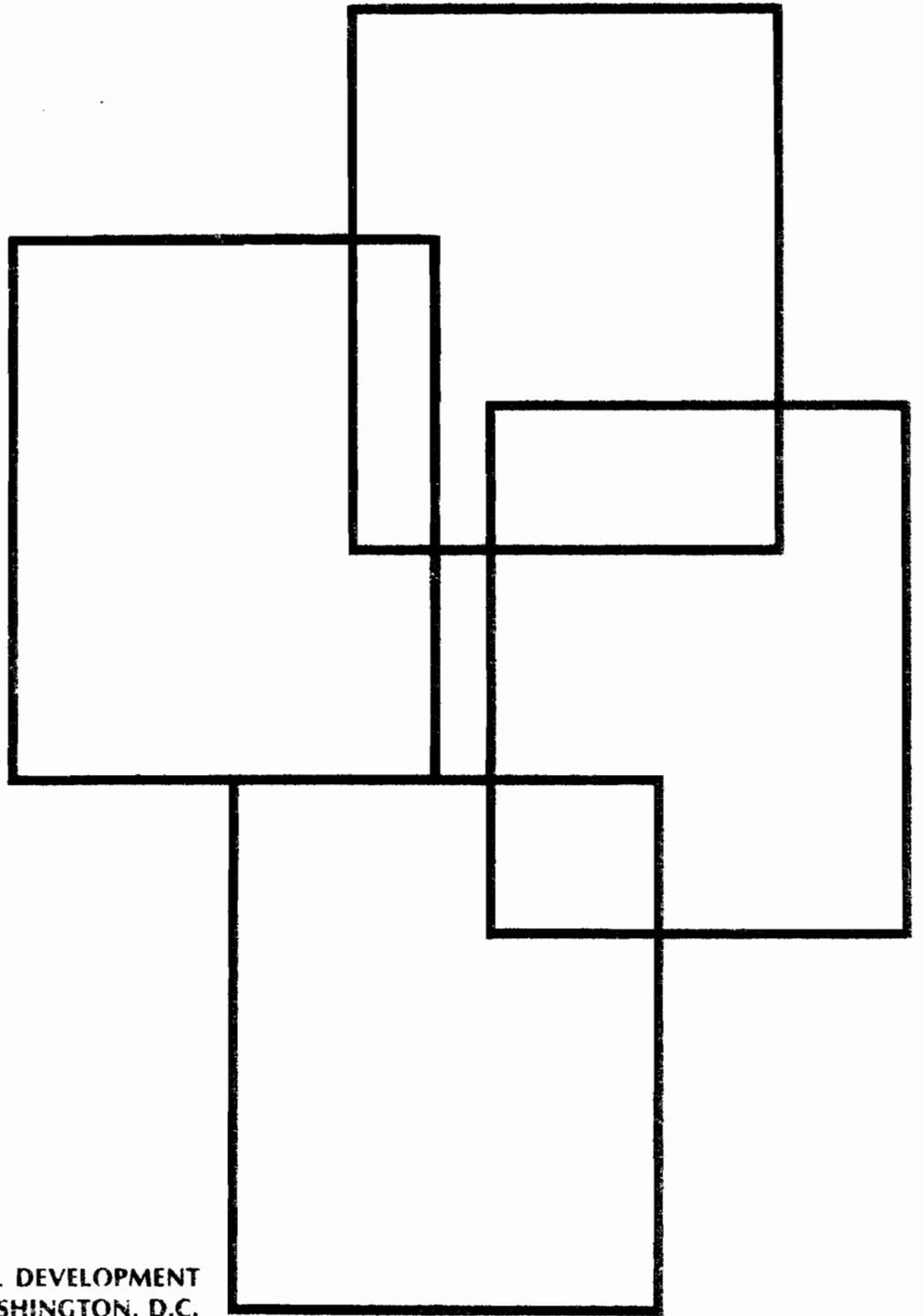


Foreign National Personnel



AGENCY for INTERNATIONAL DEVELOPMENT
WASHINGTON, D.C.

AGENCY FOR INTERNATIONAL DEVELOPMENT

HANDBOOK TRANSMITTAL MEMORANDUM	DATE June 27, 1990	TRANS. MEMO NO. 31:32
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MATERIAL TRANSMITTED:

Handbook 31 - Foreign National Personnel

Handbook 31 - Foreign National Personnel is eliminated from the Agency handbook system since it consists almost entirely of 3 FAM issuances. Hereafter, employees who have need to refer to or review material regarding the Foreign Service National personnel system should refer to 3 FAM, Chapter 900, and the Interagency Handbook on Foreign Service National Personnel Administration.

The material dealing with emergency health and accident insurance coverage, contained in Circular 31A, has been updated and is being issued as Chapter 10 in Handbook 28.

SUPERSEDES:

Handbook 31 in its entirety.

FILING INSTRUCTIONS:

1. Remove superseded material as indicated under SUPERSEDES.
2. File the attached in their appropriate places.
3. Initial the Transmittal Memorandum Checksheet (in the back of the Handbook binder) beside TM 31:32.

* * * * *

KEEP THIS TRANSMITTAL MEMORANDUM, which has an up-to-date Checklist for this Handbook on the back. File this TM 31:32 in the front of the handbook binder; discard TM sheet 31:31.

* * * * *

Address questions about this Handbook to PFM/PM/PCF.

For additional copies of this Transmittal contact MS/IRM/PE.

CHECKLIST FOR HANDBOOK 31
FOREIGN NATIONAL PERSONNEL

AUTHOR OFFICE: PFM/PM/PCF

<u>DATE</u>	<u>MATERIAL TRANSMITTED</u>	<u>TM NO.</u>
6-27-90	Handbook 31 eliminated from Handbook system	31:32

Section 13--GENERAL PROVISIONS--
CONTRACT WITH A THIRD COUNTRY NATIONAL FOR
PERSONAL SERVICES

To be used on tours of duty of less than 1 year. For tours of duty of 1 year or more these "General Provisions" will be supplemented by "Additional General Provisions" (see Section 14).

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1. DEFINITIONS (DEC 1986)

- (a) "Administrator" means the Administrator or the Deputy Administrator of the Agency for International Development.
- (b) "AID" means the Agency for International Development.
- (c) "Contracting Officer" means the person executing this Contract on behalf of the U.S. Government, or a properly designated successor to the Contracting Officer; and the term includes, except as otherwise provided in this Contract, the authorized representative of a Contracting Officer acting within authorized limits.
- (d) "Contractor" means the individual engaged to serve in the cooperating country under this Contract.
- (e) "Cooperating country" means the foreign country in or for which services are to be rendered hereunder.
- (f) "Cooperating government" means the government of the cooperating country.

(g) "Economy class" air travel (also known as jet-economy, air coach, tourist-class, etc.) means a class of air travel which is less than business or first class.

(h) "Government" means the United States Government.

(i) "Local currency" means the currency of the cooperating country.

(j) "Mission" means the United States AID Mission to, or principal AID office in, the cooperating country.

(k) "Mission Director" means the principal officer in the Mission in the cooperating country, or that person's officially-designated deputy.

(l) "Tour of duty" means the Contractor's period of service under this Contract and shall include authorized leave and international travel.

(m) "Traveler" means the Contractor in authorized travel status.

(n) "Supervising Officer" means the AID official to whom the Contractor reports, and who is responsible for monitoring the Contractor's performance.

2. COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS (DEC 1986)

(a) Conformity to Laws and Regulations of the Cooperating Country.

Contractor agrees, during the tour of duty under this contract, to abide by all applicable laws and regulations of the cooperating country and political subdivisions thereof.

(b) Purchase or Sale of Personal Property or Automobiles.

To the extent permitted by the cooperating country, the purchase, sale, import, or export of personal property or automobiles in the cooperating country by the Contractor shall be subject to the same limitations and prohibitions which apply to Mission U.S.-citizen direct-hire employees.

(c) Code of Conduct.

The Contractor shall, during the tour of duty under this Contract, be considered an "employee" (or if the tour of duty is for less than 130 days, a "special Government employee") for the purposes of, and shall be subject to, the provisions of AID Handbook 24, Chapter 2. By accepting this contract, the Contractor acknowledges receipt of a copy of said provisions.

3. PHYSICAL FITNESS (OCT 1987)

The contractor shall be examined by a licensed doctor of medicine, and the contractor shall obtain from the doctor a certificate that, in the doctor's opinion, the contractor is physically qualified to engage in the type of activity for which he/she is to be employed under the contract. A copy of the certificate shall be provided to the contracting officer before the contractor starts work under the contract. The contractor shall be reimbursed for the cost of the physical examination based on the rates prevailing locally for such examinations in accordance with Mission practice, or not to exceed \$100 if not done locally.

4. SECURITY CLEARANCE (DEC 1986)

The Contractor recognizes that a security check including any record with police authorities has been performed before the signing of this contract. The Contractor is obligated to notify immediately the contracting office if the Contractor is arrested or charged with any offense during the term of this contract.

5. WORKWEEK (DEC 1986)

The Contractor's workweek shall not be less than 40 hours, unless otherwise provided in the Schedule, and shall coincide with the workweek for those employees of the Mission or the cooperating country agency most closely associated with the work of this Contract. If the Contract is for less than full time (40 hours weekly), the leave earned shall be prorated.

6. LEAVE AND HOLIDAYS (OCT 1987)

(a) Vacation Leave.

The contractor may accrue, accumulate, use and be paid for vacation leave in the same manner as such leave is accrued, accumulated, used and paid to foreign service national direct hire employees of the Mission but no vacation leave shall be earned if the contract is for less than 90 days. Unused vacation leave may be carried over under an extension or renewal of the contract as long as it conforms to Mission policy and practice.

(b) Sick Leave.

The contractor may accrue, accumulate, and use sick leave in the same manner as such leave is accumulated and used by foreign service national direct hire employees of the Mission. Unused sick leave may be carried

over under an extension of the contract. The contractor will not be paid for sick leave earned but unused at the completion of this contract.

(c) Holidays.

The contractor shall be entitled to all holidays granted by the Mission to direct hire cooperating country national employees who are on comparable assignments.

7. ALLOWANCES (DEC 1986)

Allowances will be granted to the Contractor on the same basis as to direct-hire TCN employees at the post under the Post Compensation Plan. The allowances provided shall be paid to the Contractor in the currency of the cooperating country or in accordance with the practice prevailing at the Mission.

8. SOCIAL SECURITY AND COOPERATING COUNTRY TAXES (DEC 1986)

Funds for Social Security, retirement, pension, vacation or other cooperating country programs as required by local law may be deducted and withheld in accordance with laws and regulations of the cooperating country or any agreement concerning such withholding entered into between the cooperating government and the United States government.

9. ADVANCE OF DOLLAR FUNDS (DEC 1986)

If requested by the Contractor and authorized in writing by the Contracting Officer, AID will arrange for an advance of funds to defray the initial cost of travel, travel allowances, authorized precontract expenses, and shipment of personal property. The advance shall be granted on the same basis as to an AID U.S.-citizen direct-hire employee in accordance with AID Handbook 22, Chapter 4.

10. INSURANCE (DEC 1986)

(a) Worker's Compensation Benefits.

The Contractor shall be provided worker's compensation benefits under the Federal Employees Compensation Act.

(b) Health and Life Insurance.

The Contractor shall be provided personal health and life insurance benefits on the same basis as they are granted to direct-hire TCN employees at the post under the Post Compensation Plan.

(c) Insurance on Private Automobiles - Contractor Responsibility.

If the Contractor or dependents transport, or cause to be transported, any privately

owned automobile(s) to the cooperating country, or any of them purchase an automobile within the cooperating country, the Contractor agrees to insure that all such automobile(s) during such ownership within the cooperating country will be covered by a paid-up insurance policy issued by a reliable company providing the following minimum coverages, or such other minimum coverages as may be set by the Mission Director, payable in U.S. dollars or its equivalent in the currency of the cooperating country: injury to persons, \$10,000/ \$20,000; property damage, \$5,000. The Contractor further agrees to deliver, or cause to be delivered to the Mission Director, the insurance policies required by this clause or satisfactory proof of the existence thereof, before such automobile(s) is operated within the cooperating country. The premium costs for such insurance shall not be a reimbursable cost under this Contract.

(d) Claims for Private Personal Property Losses.

The Contractor shall be reimbursed for private personal property losses in accordance with AID Handbook 23, "Overseas Support", Chapter 10.

11. TRAVEL AND TRANSPORTATION EXPENSES (OCT 1987)

(a) General.

The executive or administrative officer at the Mission may furnish Transportation Requests (TR's) for transportation authorized by this contract which is payable in local currency or is to originate outside the United States. When transportation is not provided by Government issued TR, the Contractor shall procure the transportation and the costs will be reimbursed in accordance with the following:

(b) Travel and Transportation.

(1) Notwithstanding other provisions of this Clause 11, a TCN must return to the country of recruitment or to the TCN's home country within 30 days after termination or completion of employment or will forfeit all right to reimbursement for repatriation travel. The return travel obligation [repatriation travel] assumed by the U.S. Government may have been the obligation of another employer in the area of assignment if the employee has been in substantially continuous employment which provided for the TCN's return to home country or country from which recruited.

(2) Country of Recruitment Travel and Transportation.

The Contractor shall be reimbursed for actual transportation costs and travel allowances in the country of recruitment as

authorized in the Schedule or approved in advance by the Contracting Officer or the Mission Director. Transportation costs and travel allowances shall not be reimbursed in any amount greater than the cost of, and time required for, economy-class commercial-scheduled air travel by the most expeditious route except as otherwise provided in paragraph (b)(6) below, unless economy air travel is not available and the Contractor certifies to this in the voucher or other documents submitted for reimbursement.

(3) International Travel.

(i) The Contractor shall be reimbursed for actual transportation costs and travel allowances from place of residence in the country of recruitment (or other location, provided that the cost of such travel does not exceed the cost of travel from the place of residence), to post of duty in the cooperating country and return to place of residence in the country of recruitment (or other location, provided that the cost of such travel does not exceed the cost of travel from the post of duty to the place of residence) upon completion of the contract. Such transportation costs shall not be reimbursed in an amount greater than economy-class commercial-scheduled air travel by the most expeditious route, except as otherwise provided in paragraph (b)(6) below and unless economy air travel is not available and the Contractor certifies to the facts in the voucher or other documents submitted for reimbursement.

When travel to or from the cooperating country is by economy-class accommodations, the Contractor will be reimbursed for the costs of transporting up to 22 pounds gross weight of accompanied personal baggage in addition to that regularly allowed with the economy ticket, provided that the total number of pounds of baggage does not exceed that regularly allowed for first-class travelers. Travel allowances shall be at the rate of \$6 per day for not more than the travel time required by scheduled economy-class commercial air carrier using the most expeditious route and computed in accordance with AID Handbook 22, as from time to time amended. One stopover of 24 hours is allowable when the Contractor uses economy-class accommodations for a trip of 14 hours or more of scheduled duration. Such stopover shall not be authorized when travel is by indirect route for the convenience of the Contractor. Per diem during authorized stopover shall be paid in accordance with AID Handbook 22, as from time to time amended.

(ii) Unaccompanied Baggage.

Except as provided in the Schedule or approved by the Contracting Officer, the Contractor who is on a tour of duty of 90 days or more under this Contract shall be reimbursed for the cost of unaccompanied personal effects not to exceed 400 pounds gross weight, 100 pounds gross weight of which may be shipped via airfreight and the balance by surface carrier from place of residence in the country of recruitment (or other location, provided that the cost of such shipment does not exceed the cost of shipment from the place of residence) to post of duty in the cooperating country and return to place of residence in the country of recruitment (or other location, provided that the cost of such shipment does not exceed the cost of shipment from the post of duty to the place of residence) upon completion of the contract.

(iii) Local Travel.

The Contractor shall be reimbursed at the rates established by the Mission Director for authorized travel in the cooperating country in connection with duties directly referable to work under this Contract. In the absence of such established rates, the Contractor shall be reimbursed in currency consistent with the prevailing practice at post for actual costs of authorized travel in the cooperating country if not provided by the cooperating government or the Mission in connection with duties directly referable to work hereunder, including travel allowances at rates prescribed by AID Handbook 22, as from time to time amended.

(iv) Special International Travel and Third-Country Travel.

For special travel which (1) advances the purpose of the Contract, (2) is not otherwise provided by the cooperating government, and (3) has the prior written approval of the Contracting Officer or the Mission Director, the Contractor shall travel under Government Travel Requests, or, if appropriate, be reimbursed for (i) the costs of international transportation and for local transportation within other countries, and (ii) travel allowances while in official travel status and while performing services under the Contract in such other countries at rates prescribed by AID Handbook 22, as from time to time amended.

(v) Indirect Travel for Personal Convenience.

(1) When travel is performed by an indirect route for the personal convenience of the traveler, the allowable costs of such travel will be computed on the basis of the cost of economy class air fare via the direct usually traveled route between the authorized points of departure and destination.

(2) If such costs include fares for air or ocean transportation by foreign-flag carriers, approval for indirect travel by such foreign-flag carrier pursuant to paragraph (ix)(1) below must be obtained from the Contracting Officer or the Mission Director before such travel is undertaken, otherwise only that portion of travel accomplished by U.S.-flag carriers will be reimbursable within the above limitation of allowable costs.

(vi) Delays En Route.

The Contractor may be granted reasonable delays en route in travel status, not circuitous in nature, which are caused by events beyond the control of the Contractor. It is understood that if the delay is caused by physical incapacitation the Contractor shall be eligible for such sick leave as is provided under GP Clause No. 6(b) of this Contract.

(vii) Privately Owned Vehicles (POV).

(1) If travel by POV is authorized in the Schedule or approved by the Contracting Officer, the Contractor shall be reimbursed for the cost of travel by privately owned vehicle at the rate per mile equal to the rate authorized a U.S. Government direct hire employee in equivalent circumstances, plus authorized per diem, if the vehicle is being driven in connection with (A) authorized duties under this Contract, or (B) en route to or from the cooperating country provided that the total cost of the mileage and the per diem to the Contractor shall not exceed the total constructive cost of fare and normal per diem by (1) surface common carrier or (2) less than first-class air, whichever is the lesser.

(2) Costs of the shipment of vehicle for Contract tours of duty of less than 1 year are not reimbursable under this Contract.

(viii) Emergency and Irregular Travel and Transportation.

Actual transportation costs and travel allowances while en route, as provided in this section, shall be reimbursed under the following conditions:

(1) Subject to the prior written approval of the Mission Director, the costs of going from post of duty in the cooperating country to another approved location for the Contractor when, because of reasons or conditions beyond the Contractor's control, the Contractor has not completed the required service in the cooperating country. The Mission Director may also authorize the return to the cooperating country of such Contractor.

(2) It is agreed that paragraph (viii)(1) above includes, but is not necessarily limited to, the following:

1. Need for medical care beyond that available within the areas to which the Contractor is assigned.

2. Serious effect on physical or mental health if residence is continued at assigned post of duty.

3. Serious illness, injury, or death of a member of the Contractor's immediate family.

4. Emergency evacuation, when ordered by the principal U.S. Diplomatic Officer in the cooperating country. Allowances at safe haven when authorized by the Mission Director shall be payable in accordance with established Government Regulations.

5. Preparation and return of the remains of a deceased Contractor.

(ix) Preference for U.S.-Flag Air Carriers (April 1984).

(1) "International air transportation," as used in this clause, means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.

"United States," as used in this clause, means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and possessions of the United States.

"U.S.-flag air carrier," as used in this clause, means an air carrier holding a certificate under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371).

(2) Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1517)(Fly America Act) requires all Federal agencies and Government contractors and subcontractors use U.S.-flag carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

(3) The contractor agrees, in performing work under this contract, to use U.S.-flag air carriers for international air transportation of personnel (and their personal effects) or property to the extent that service by those carriers is available.

(4) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation,

the Contractor shall include a certification on vouchers involving such transportation essentially as follows:

CERTIFICATION OF THE UNAVAILABILITY OF U.S.-FLAG AIR CARRIERS

I hereby certify that international air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons (see section 47.403 of the Federal Acquisition Regulation):
[State reasons]:.....

(End of certification)

12. PAYMENT (OCT 1987)

(a) Payment of compensation shall be based on written documentation supporting time and attendance which may be (1) maintained by the Mission in the same way as for direct hire FSN's or (2) the contractor may submit such written documentation in a form acceptable to Mission policy and practice as required for other personal service contractors and as directed by the Mission Controller or paying office. The documentation will also provide information required to be filed under Cooperating Country laws to permit withholding by A.I.D. of funds, if required, as described in the clause of these General Provisions entitled Social Security and Cooperating Country Taxes.

(b) Any other payments due under this contract shall be prescribed by Mission policy for the type of payment being made.

13. CONVERSION OF CURRENCY (DEC 1986)

Upon arrival in the cooperating country, and from time to time as appropriate, the Contractor shall consult with the Mission Director or his/her authorized representative who shall provide, in writing, the policy the Contractor shall follow in the conversion of one currency to another currency. This may include, but not be limited to, the conversion of said currency through the cognizant U.S. Disbursing Officer, or Mission Controller, as appropriate.

14. POST OF ASSIGNMENT PRIVILEGES (DEC 1986)

Privileges such as the use of APO, PX's, commissaries and officer's clubs are established at posts abroad pursuant to agreements between the U.S. and host

governments. These facilities are intended for and usually limited to U.S. citizen members of the official U.S. mission including the Embassy, USAID, Peace Corps, U.S. Information Service and the Military. Normally, the agreements do not permit these facilities to be made available to non-U.S. citizens if they are under contract to the United States Government. However, in those cases where the facilities are open to TCN contractor personnel, they may be used.

15. NO ACCESS TO CLASSIFIED INFORMATION (OCT 1987)

(a) The contractor shall not normally have access to classified or administratively controlled information and shall take conscious steps to avoid receiving or learning of such information. However, based on contractor's need to know, Mission may authorize access to administratively controlled information for performance of assigned scope of work on a case-by-case basis in accordance with A.I.D. Handbook 6.

(b) The Contractor agrees to submit immediately to the Mission Director or Contracting Officer a complete detailed report, marked "Privileged Information", of any information which the Contractor may have concerning existing or threatened espionage, sabotage, or subversive activity against the United States of America or the USAID Mission or the Cooperating Country Government.

16. CONTRACTOR-MISSION RELATIONSHIPS (DEC 1986)

(a) The Contractor acknowledges that this Contract is an important part of the U.S. Foreign Assistance Program and agrees that all duties will be carried out in such a manner as to be fully commensurate with the responsibilities which this entails.

(b) While in the cooperating country, the Contractor is expected to show respect for the conventions, customs, and institutions of the cooperating country and not interfere in its political affairs.

(c) If the Contractor's conduct is not in accordance with paragraph (b), the Contract may be terminated pursuant to the General Provision of this contract, entitled "Termination." The Contractor recognizes the right of the U.S. Ambassador to direct the contractor's immediate removal from any country when, in the discretion of the Ambassador, the interests of the United States so require. The contractor's failure to comply will result in forfeiture of the right of reimbursement for return travel.

(d) The Mission Director is the chief representative of AID in the cooperating country. In that capacity, the Director is responsible for the total AID Program in the cooperating country including certain administrative responsibilities set forth in this Contract and for advising AID regarding the performance of the work under the Contract and its effect on the U.S. Foreign Assistance Program. The Contractor will be responsible for performing all duties in accordance with the statement of duties called for by the Contract. However, the Contractor shall be under the general policy guidance of the Mission Director and shall keep the Mission Director currently informed of the progress of the work under the Contract.

17. TERMINATION (APR 1984)[FAR 52.249-12]

The Government may terminate this contract at any time upon at least 15 days' written notice by the Contracting Officer to the Contractor. The Contractor, with the written consent of the Contracting Officer, may terminate this contract upon at least 15 days' written notice to the Contracting Officer.

18. DISPUTES (APR 1984) [FAR 52.233-1 (Alternate I)]

(This clause is drawn directly from the FAR. We recognize that paragraphs (3)(i)(A) and (B) are not applicable to personal services contracts.)

(a) This contract is subject to the Contract Disputes Act of 1978 (41 U.S.C. 601-613) (the Act).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.

(c) "Claim," as used in this clause, means a written demand or written assertion by one of contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to his/her contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$50,000 is not a claim under the Act until certified as required by subparagraph (d)(2) below. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission

may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(d)(1) A claim by the Contractor shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.

(2) For Contractor claims exceeding \$50,000, the Contractor shall submit with the claim a certification that:

(i) The claim is made in good faith;
(ii) Supporting data are accurate and complete to the best of the Contractor's knowledge and belief; and
(iii) The amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable.

(3)(i) If the Contractor is an individual, the certification shall be executed by that individual.

(ii) If the Contractor is not an individual, the certification shall be executed by:

(A) A senior company official in charge at the Contractor's plant or location involved; or

(B) An officer or general partner of the Contractor having overall responsibility for the conduct of the Contractor's affairs.

(e) For Contractor claims of \$50,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$50,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) The Government shall pay interest on the amount found due and unpaid from (1) the date the Contracting Officer receives the claim (properly certified if required), or (2) the date payment otherwise would be due, if that date is later, until the date of payment. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

(h) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for

relief, claim, appeal, or action arising under or relating to the Contract, and comply with any decision of the Contracting Officer.

19. RELEASE OF INFORMATION (DEC 1986)

All rights in data and reports shall become the property of the U.S. Government. All information gathered under this Contract by the Contractor and all reports and recommendations hereunder shall be treated as privileged information by the Contractor and shall not, without the prior written approval of the Contracting Officer, be made available to any person, party, or government, other than AID, except as otherwise expressly provided in this Contract.

20. OFFICIALS NOT TO BENEFIT (DEC 1986)

No member of or delegate to the Congress of the United States or United States resident commissioner shall be admitted to any share or part of this Contract or to any benefit that may arise therefrom.

21. COVENANT AGAINST CONTINGENT FEES (APR 1984) [FAR 52.203-5]

The Contractor warrants that no person or selling agency has been employed or retained to solicit or obtain this Contract upon an agreement or understanding for a contingent fee, except a bona fide employee/agency. For breach or violation of this warranty, AID shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

"Bona fide agency," as used in this clause, means an established commercial or selling agency, maintained by a contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

"Bona fide employee," as used in this clause, means a person, employed by a contractor and subject to the contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor

proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

"Contingent fee," as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

"Improper influence," as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

22. NOTICES (DEC 1986)

Any notice, given by any of the parties hereunder, shall be sufficient only if in writing and delivered in person or sent by telegraph, telegram, registered, or regular mail as follows:

(a) NOTICE TO AID:

To the Mission Director of the mission in the cooperating country with a copy to the appropriate Contracting Officer.

(b) NOTICE TO THE CONTRACTOR:

At his post of duty while in the cooperating country and at the Contractor's address shown on the Cover Page of this Contract.

Notice may also be given to such other address as either of such parties shall designate by notice given as herein required. Notices hereunder shall be effective in accordance with this clause or on the effective date of the notice, whichever is later.

PAGE NO. 14-120	EFFECTIVE DATE January 21, 1987	TRANS. MEMO NO. 14:90	AID HANDBOOK 14
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Appendix J

Section 14

Additional General Provisions

Contract with a Third Country National for Personal Services

-- Pages - Sec 14-1 through 14-4

Section 14--ADDITIONAL GENERAL PROVISIONS--
CONTRACT WITH A THIRD COUNTRY NATIONAL
FOR PERSONAL SERVICES

(To be used with Section 13--General Provisions when the tour of duty will be 1 year or more.)

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3. Physical Fitness (long tour).
4. Vacation Leave (long tour).
5. Allowances (long tour).
6. Travel and Transportation Expenses (long tour).

1. DEFINITIONS (LONG TOUR) (DEC 1986)

(a) "Dependents" means:

- (1) Spouse
- (2) Children (including step and adopted children) who are unmarried and under 21 years of age or, regardless of age, are incapable of self-support.

(b) "Traveler" also means dependents of the Contractor who are in authorized travel status.

2. COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS (LONG TOUR) (DEC 1986) (DEPENDENTS)

(a) Conformity to Laws and Regulations of the Cooperating Country.

While in the cooperating country, the Contractor agrees to make every effort to assure that authorized dependents shall abide by all applicable laws and regulations of the cooperating country and political subdivisions thereof.

(b) Purchase, Sale, Import, or Export of Personal Property or Automobiles.

To the extent permitted by the cooperating country, the purchase, sale, import, or export of personal property or automobiles by the Contractor's authorized dependents in the cooperating country shall also be subject to the limitations and prohibitions which apply to U.S. national direct-hire employee dependents.

3. PHYSICAL FITNESS (LONG TOUR) (OCT 1987)

(a) Predeparture.

The contractor's authorized dependents shall also be required to be examined by a licensed doctor of medicine. The contractor shall require the doctor to certify that in

the doctor's opinion, the contractor's authorized dependents are physically qualified to reside in the cooperating country. A copy of the certificate shall be provided to the contracting officer prior to the dependent's departure for the cooperating country.

(b) End of Tour.

The contractor and his/her authorized dependents are authorized physical examinations within 60 days after completion of the contractor's tour of duty.

(c) Reimbursement.

The contractor shall be reimbursed for the cost of the physical examinations mentioned in paragraphs (a) and (b) above as follows: (1) based on those rates prevailing locally for such examinations in accordance with Mission practice or (2) if not done locally, not to exceed \$100 per examination for the contractor's dependents of 12 years of age and over and not to exceed \$40 per examination for contractor's dependents under 12 years of age. The contractor shall also be reimbursed for the cost of all immunizations normally authorized and extended to FSN employees.

4. VACATION LEAVE (LONG TOUR) (DEC 1986)

With the approval of the Mission Director, and if the circumstances warrant, a Contractor may be granted advance vacation leave in excess of that earned but in no case shall a Contractor be granted advance vacation leave in excess of that which will be earned over the life of the Contract. The Contractor agrees to reimburse AID for leave used in excess of the amount earned during the Contractor's assignment under the Contract.

5. ALLOWANCES (LONG TOUR) (DEC 1986)

Allowances shall be granted to the Contractor and authorized dependents to the same extent, and on the same basis as, they are granted to direct-hire TCN employees and their dependents at the post under the Post Compensation Plan.

The allowances provided shall be paid to the Contractor in the currency of the cooperating country or in accordance with the practice prevailing at the Mission.

6. TRAVEL AND TRANSPORTATION EXPENSES (LONG TOUR) (DEC 1986)

(a) General.

Pursuant to paragraph (a) of Clause 11 of the General Provisions, when transportation is not provided by Government-issued TR for the

items listed below, the Contractor shall procure the transportation and the cost will be reimbursed in accordance with the following:

(1) International Travel.

(i) International travel costs and allowances and stopovers for authorized dependents shall be reimbursed on the same basis as for the Contractor under General Provision Clause No. 11(b)(2)(1) of this Contract except that travel allowances for such dependents shall be at the rate of \$6 per day for persons 11 years of age or over and \$3 per day for persons under 11 years of age payable for not more than the travel time required by scheduled economy class commercial air carrier using the most expeditious route and computed in accordance with AID Handbook 22, as from time to time amended.

(ii) 1. All international ocean transportation of things which is to be reimbursed in U.S. dollars as authorized under this Contract shall be by U.S.-flag vessels to the extent they are available. When U.S.-flag vessels are not available, or their use would result in a significant delay, the Contractor may request a release from this requirement from the M/SER/OP/TRANS, Transportation Support Division, Agency for International Development, Washington, D.C. 20523, giving the basis for the request.

2. All international air transportation of dependents shall be in accordance with paragraph (b)(ix) of Clause 11 of the General Provisions, entitled "Preference for U.S. Flag Air Carriers."

(b) Limitation on Travel by Dependents.

Travel costs and allowances will be allowed for authorized dependents of the Contractor and such costs shall be reimbursed for travel from place of abode in the country of recruitment to the assigned station in the cooperating country and return, only if the dependent remains in the cooperating country for at least 9 months or one-half of the required tour of duty of the Contractor, whichever is greater, except as otherwise authorized hereunder for education, medical, or emergency visitation travel.

Dependents of the Contractor must return to the country of recruitment or home country within thirty days of the termination or completion of the Contractor's employment, otherwise such travel will not be reimbursed under this contract.

(c) Delays En Route.

Dependents may be granted reasonable delays en route, not circuitous in nature, while in travel status, caused by events beyond the control of such dependents.

(d) Travel by Privately Owned Vehicle (POV).

Notwithstanding the provisions of paragraph (b)(vii) of Clause 11 of the General Provisions, if travel by POV is authorized in the Schedule or approved by the Contracting Officer, the Contractor shall be reimbursed for the cost of travel by privately owned vehicle at the rate per mile equal to the rate authorized a U.S. Government employee in equivalent circumstances, plus authorized per diem for the Contractor and for each of the authorized dependents traveling in the vehicle if the vehicle is being driven in connection with (1) authorized duties under this Contract or (2) en route to or from the cooperating country as authorized in the Schedule; provided that the total cost of the mileage and the per diem paid to all authorized travelers shall not exceed the total constructive cost of fare and normal per diem by all authorized travelers by (i) surface common carrier or (ii) less-than-first-class air, whichever is the lesser.

(e) Emergency and Irregular Travel and Transportation.

Notwithstanding the provisions of paragraph (b)(8) of Clause 11 of the General Provisions, actual transportation costs and travel allowances while en route, as provided in this section, will also be reimbursed under the following conditions:

(1) Subject to the prior written approval of the Mission Director, the costs of going from post of duty in the cooperating country to another approved location for the Contractor and authorized dependents, when because of reasons or conditions beyond his/her control, the Contractor has not completed the required service in the cooperating country or the dependent must leave the cooperating country. The Mission Director may also authorize the return to the cooperating country of such Contractor and/or authorized dependents.

(2) It is agreed that paragraph (e)(1) above, includes but is not necessarily limited to the following:

(i) Need for medical care beyond that available within the area to which Contractor is assigned.

(ii) Serious effect on physical or mental health if residence is continued at assigned post of duty.

(iii) Serious illness, injury, or death of a member of a Contractor's immediate family or the immediate family of a dependent.

(iv) Emergency evacuation, when ordered by the principal U.S. Diplomatic Officer in the cooperating country. Transportation and

travel allowances at safe haven and the transportation of household effects and automobile or storage thereof when authorized by the Mission Director shall be payable in accordance with established Government regulations.

(v) Preparation and return of the remains of a deceased Contractor or dependents.

(f) Transportation of Personal Effects (excluding Automobiles) and Household Goods.

(1) General.

Transportation, including packing and crating costs, will be paid for shipment from Contractor's residence in the country of recruitment or other location (provided that the cost of transportation does not exceed the cost from the Contractor's residence) to post of duty in the cooperating country and return to the country of recruitment or other location (provided that the cost of transportation does not exceed the cost to the Contractor's residence), (i) of personal effects of the Contractor, and (ii) of household goods of Contractor not to exceed the following limitations.

.....	)	Basic	)	Basic
	)	household	)	household
	)	furniture	)	furniture
	)	not	)	supplied
	)	supplied	)	(pounds
	)	(pounds	)	net
	)	net weight)	)	weight)
.....))	
Contractor with))	
dependents in))	
cooperating))	
country.....	)	18,000	)	7,200
Contractor without))	
dependents in))	
cooperating))	
country	)	18,000	)	7,200
.....))	

NOTE.--For the purpose of this Clause, "net weight" and "gross weight" are defined and determined in accordance with the provisions of Section 162.1 of the Uniform State/AID/USIA Foreign Service Travel Regulations.

The cost of transporting household goods shall not exceed the cost of packing, crating, and transportation by surface common carrier.

(2) Unaccompanied Baggage.

The contractor will be reimbursed for costs of shipment of unaccompanied baggage (in

addition to the weight allowance above for household effects) not to exceed the following:

.....	)	Gross
	)	Weight
.....)	
Employee	)	250 lbs.
First dependent traveling	)	200 lbs.
Second dependent traveling	)	150 lbs.
Each additional dependent)	
traveling	)	100 lbs.
.....)	

This unaccompanied baggage may be shipped as air freight by the most direct route between authorized points of origin and destination regardless of the modes of travel used.

Unaccompanied baggage is considered to be those personal belongings needed by the traveler immediately upon arrival at destination.

If the Contractor ships no household effects, the Contractor may ship not in excess of 400 pounds (gross weight) of personal effects for self and 300 pounds (gross weight) for each dependent. One hundred pounds (gross weight) of each traveler's allowance may be transported by airfreight; the balance is transported by surface carrier, if the cost is less than air shipment.

(3) Reduced Rates on U.S.-Flag Carriers.

Reduced rates on U.S.-flag carriers are in effect for shipments of household goods and personal effects of AID Contractors between certain locations. These reduced rates are available provided the shipper furnishes to the carrier at the time of the issuance of the Bill of Lading documentary evidence that the shipment is for the account of AID. The Contracting Officer will, on request, furnish to the Contractor current information concerning the availability of a reduced rate with respect to any proposed shipment. The Contractor will not be reimbursed for shipments of household goods or personal effects in amounts in excess of the reduced rates which are available in accordance with the foregoing.

(g) Storage of Household Effects.

The cost of storage charges (including packing, crating, and drayage costs) in the country of recruitment of household goods of Contractor will be permitted, in lieu of transportation of all or any part of such goods to the cooperating country under paragraph (f) above, provided that (1) the total amount of household goods shipped to the cooperating country and stored in the country of recruitment shall not exceed 18,000 pounds net for each Contractor employee regardless of family status, and (2) at least 200 pounds net

of household effects will be stored;
quantities of less than 200 pounds net stored
will not be reimbursed.

(h) Rest and Recuperation Travel.

If approved in writing by the Mission
Director, the Contractor and dependents shall
be allowed rest and recuperation travel on the
same basis as direct-hire TCN employees and
their dependents at the post under the Local
Compensation Plan.

AGENCY FOR INTERNATIONAL DEVELOPMENT

HANDBOOK TRANSMITTAL MEMORANDUM	DATE January 6, 1988	TRANS. MEMO NO. 31:30
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MATERIAL TRANSMITTED:

Handbook 31 -- Foreign National Personnel

- 3 FAM Exhibit 931.2, Memorandum of Agreement
- 3 FAM Exhibit 932.6, Mass Pay Adjustment Action
- 3 FAM Exhibit 934.3-2, Sample Bonus Payment Plan Statement
- 3 FAM Exhibit 934.3-3, Sample Severance Pay Plan

3 FAM Exhibits 931.2, 932.6 and 934.3-2 were inadvertently omitted when 3 FAM 930 was published in May (TM 31:29 dated May 22, 1987).

3 FAM Exhibit 934.3-3 has been revised to reflect changes in 3 FAM 934.3-3 published under TM 31:29 (Section 930, Handbook 31).

SUPERSEDES:

Pages 42 thru 46 (TM 31:25) of Handbook 31.

FILING INSTRUCTIONS:

1. Remove superseded material as indicated under SUPERSEDES.
2. File the attached in their appropriate places.
3. Initial the Transmittal Memorandum Checksheet (in the back of the Handbook binder) beside TM 31:30.

* * * * *

KEEP THIS TRANSMITTAL MEMORANDUM, which has an up-to-date Checklist for this Handbook on the back. File this TM 31:30 in the front of the Handbook binder; discard TM sheet 31:29.

* * * * *

Address questions about this Handbook to M/PM//PCF/PP.

KEEP YOUR AID HANDBOOK UP-TO-DATE

CHECKLIST FOR HANDBOOK 31
FOREIGN NATIONAL PERSONNEL

AUTHOR OFFICE: M/PM/PCF/PP

<u>DATE</u>	<u>MATERIAL TRANSMITTED</u>	<u>TM NO.</u>
Various	Pages 1 and 2, the note regarding sex-biased language and the Preface	31:22
1-2-85	Handbook Circular 31-A	31:24
7-18-85	Pages 47 thru 71	31:25
Aug. '86	New Handbook Index	31:27
9-19-86	Pages 3 thru 27	31:28
5-22-87	Pages 28 thru 41e	31:29
1-6-88	Pages 41f thru 411 and 42 thru 46	31:30

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AID Handbook Circular 31A

File: This Handbook issuance will be filed in front of Handbook Circular 31.

**EMERGENCY HEALTH AND ACCIDENT INSURANCE COVERAGE -
FOREIGN NATIONAL EMPLOYEES OF AID**

I. Introduction

A. Purpose

1. This circular sets forth the policies, procedures and responsibilities relative to providing emergency health and accident insurance coverage to protect foreign national employees of AID missions against excessive and expensive medical costs while participating in officially approved training activities or temporary duty (TDY) assignments in one of the 50 States, Puerto Rico or a territory of the United States. Information concerning insurance coverage for AID participant trainees is contained in Handbook 10, Chapter 23, Health and Accident Coverage.

2. This insurance coverage is not in lieu of and does not affect any requirement for coverage by Worker's Compensation Insurance.

B. Background

Formerly, emergency health and accident insurance coverage for foreign national employees was funded and administered by the Training and Development Division of AID's Office of Personnel Management, M/PM/TD, by means of a contractual arrangement with a private sector insurance carrier in the United States. As of September 15, 1983, a new contractual arrangement was established using appropriated funds under the control of AID's Office of Financial Management, M/PM/BUD. At the same time, responsibility for administering the emergency health and accident insurance policy was transferred to the Foreign Service Personnel Division, M/PM/FSP.

II. Authority

The Foreign Assistance Act (FAA) of 1961, as amended, section 635(e)(2).

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III. Funding of Insurance Coverage

Premiums for emergency health and accident insurance coverage for AID foreign national employees are funded by AID/W. Upon notification by a mission that a foreign national employee will be in the United States for authorized training or TDY, M/PM/FSP will enroll the employee under the policy and will authorize payment of the premium.

Costs incurred by a foreign national employee for medical services or treatment not covered by the insurance policy are the employee's responsibility. In addition, the employee is responsible for the ~~\$50.00~~ deductible fee required by the insurance policy. \$100.00

IV. Period of Coverage

Coverage will become effective the date the employee begins travel (see Schedule of Insurance, I(c) for specifics) and will continue while the employee is in the United States, Puerto Rico or a territory of the United States on official training or TDY covered by an approved travel authorization. Coverage is not provided during periods of annual leave while in the United States, or during training/TDY assignments in countries outside of the 50 States, Puerto Rico, or a territory of the United States. To avoid financial hardship resulting from medical expenses incurred during periods when coverage is not provided by the AID/W policy, missions are urged to consider other arrangements or alternatives to provide for emergency health and accident protection.

V. Eligibility for Coverage

A. Eligibility for coverage is limited to the following groups of foreign national employees:

1. Foreign Service National (FSN) and Third Country National (TCN) direct-hire employees of AID.
2. FSN and TCN employees of the U.S. Department of State approved by an AID mission and the Embassy to participate in AID-sponsored training programs or TDYs in the United States, Puerto Rico or a territory of the United States.
3. Foreign nationals and TCNs employed under AID personal services contracts.

B. Coverage is not provided at Agency expense for the dependents of a foreign national employee who accompany the employee to the United States. A foreign national employee, however, may at his/her own expense purchase coverage for dependents at the rates established under the policy for dependent coverage. A foreign national employee on personal travel in the United States (e.g. annual leave) may purchase coverage, at his/her own expense, at the rates established under the policy for individual coverage.

C. Foreign nationals and TCNs employed under a direct AID contract (which is not a personal services contract) are not eligible for coverage under this policy.

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The required information must be received by M/PM/FSP more than 30 days in advance of the employee's departure from post in order to satisfy the insurance policy's requirement that enrollments be received by the insurance carrier at least 30 days before the effective date of coverage. The requirement for 30-days advance notice may be waived at the discretion of the insurance carrier. Therefore, missions should cable the required information, along with a statement justifying the need for delayed notification, if unable to meet the 30-days requirement, even if an employee has already left post, and M/PM/FSP will attempt to obtain a waiver.

AID missions must advise foreign national employees of the terms, conditions, and exclusions of the policy, including the employee's responsibility for payment of the ~~\$50.00~~ deductible and any other costs incurred for medical services or treatment not covered by the policy.

\$100.00

B. Foreign Service Personnel Division (M/PM/FSP)

M/PM/FSP is responsible for enrolling employees under the insurance policy; forwarding the insurance carrier's billings for premiums to the Support Service Division, M/PM/SSD, for payment; advising foreign national employees in the United States who need medical services or treatment on the procedures for filing a claim; providing claim form(s) and an identification card to employees who require medical treatment; forwarding claims to the insurance carrier; and following up on claims, as needed.

C. Other AID/W Offices and Bureaus

Any AID/W office or bureau, e.g., M/PM/TD, S&T, country desks, regional EMS and technical offices, coordinating with an overseas mission on training or TDY activities in the United States for a foreign national employee must remind the overseas mission to inform M/PM/FSP of the employee's anticipated date of arrival and provide the information necessary to enroll the employee under the insurance policy.

D. Foreign National Employees

It is recommended that foreign national employees have a medical examination before departure for the United States to ensure they are in good health and not suffering from a medical condition that may affect their participation in training or TDY activities.

VIII. Procedure For Filing An Insurance Claim

A foreign national employee who is not located in the Washington, D.C. metropolitan area and needs medical services or treatment should telephone M/PM/FSP to obtain guidance and the required forms. The employee should be given the AID/W telephone number of M/PM/FSP prior to departure from post (202-632-1802).

D. Eligibility for coverage under this policy does not extend to foreign nationals in the United States under invitational travel orders or to foreign nationals in the United States under any other authorization unless eligibility is established under V.A. above. Missions are encouraged to explore other means to provide protection for such individuals in these situations.

E. Foreign national employees of AID are not eligible for coverage under this policy while traveling locally or in third countries. However, missions may provide, from their own funds, similar coverage for their foreign national employees in these situations .

VI. Limitations on Coverage

A. Coverage is limited to those expenses incurred for medical services or treatment covered by the policy (a copy of the insurance policy is included as Attachment 1.) Expenses for medical services not covered are the employee's responsibility.

B. Missions should familiarize themselves with the terms, conditions, and exclusions of the insurance policy and make these clear to the employee (see Attachment 1). Coverage is provided only for illnesses or accidents which occur during the period of coverage (see IV. above). The following is a partial list of expenses which are excluded from coverage under this policy:

1. Routine physical checkups;
2. Routine eye or dental examinations;
3. Cosmetic surgery;
4. Self-inflicted injuries;
5. Pregnancy-related treatment including childbirth, miscarriage, abortion, or complications thereof unless the optional maternity expense benefit is purchased at the employee's expense (see policy for specifics); and
6. Pre-existing medical conditions (when incurred, such expenses are the employee's responsibility).

VII. Responsibilities

A. AID Missions

AID missions must notify M/PM/FSP whenever a foreign national employee will be in the United States for officially-approved training or TDY and request that the employee be enrolled under the insurance policy. The following information is required to enroll an employee, and may be sent to M/PM/FSP by separate cable or included in cable messages concerning the training or TDY, by typing "M/PM/FSP" on the caption line of the cable: the employee's full name, age, and dates he/she will be in the United States for official training or TDY.

A foreign national employee in AID/W should phone or visit M/PM/FSP for guidance and to obtain the required forms. The employee may obtain a list of physicians in the Washington metropolitan area through the Office of Medical Services, Department of State (M/MED), although treatment is not available through that office.

Whenever possible a foreign national employee should contact M/PM/FSP before receiving treatment to obtain the claim forms which must be signed by the physician or hospital providing treatment. If emergency treatment is required, the employee will necessarily have to obtain the forms after treatment for the attending physician to sign. The employee is responsible for the ~~\$50.00~~ deductible fee and any other charges for services or treatment not covered by the insurance policy.
\$100.00

Depending on the physician's or hospital's policies and procedures, the employee may have to pay the physician directly and be reimbursed by the insurance carrier for covered expenses. If the physician or hospital will accept direct payment from the insurance carrier, the employee will be responsible for the \$50.00 deductible (that should be paid at the time of service and be subtracted from the total billing) and for any charges for services or treatment not covered by the policy.

When treatment has been completed, the employee should sign and return the claim form, with the physician's part completed and signed by the physician, to M/PM/FSP for forwarding to the insurance carrier.

Any charges disallowed under the policy will be deducted from the insurance reimbursement. If the carrier reimburses the physician or hospital directly, the physician or hospital will bill the employee for the unpaid balance. The employee, even though he/she has returned to post, will be responsible for any remaining payments. AID will neither pay any of these disallowed amounts nor collect from the employee for the physician or hospital.

N A F S A

The Policyholder for this Plan is the National Association for Foreign Student Affairs.

GROUP MEDICAL INSURANCE

for international visitors
participating in educational
activities in the U.S.A.

- \$75,000 Medical Expense Insurance including
 - Medical Evacuation Benefit
 - Repatriation Benefit
- PLUS OPTIONAL
- Maternity Insurance

**HEALTH
CARE
PLUS**



SCHEDULE OF INDEMNIFIED EXPENSES

\$75,000

Aggregate Benefit Available For:

**Medical Accident and Sickness Expenses (Subject to a \$50.00 Deductible)
Medical Evacuation Expenses
Repatriation of Remains Expenses**

MEDICAL ACCIDENT AND SICKNESS EXPENSES

When as a result of a Covered Injury or Covered Sickness, an Insured Person incurs Covered Expenses (see "Definitions") upon the recommendation and approval of a Licensed Physician, the Underwriters will pay the amount of the Covered Expenses actually incurred up to (a), (b), or (c), whichever first occurs:

- (a) The maximum dollar amount stated in the policy; or
- (b) 52 weeks after the onset of the Covered Injury or Covered Sickness; or
- (c) 26 weeks after the termination of the Insurance.

Coverage for Mental and Emotional Disorders is limited to 30 days In-hospital expenses and this Insurance will pay only 50% of such expenses.

MEDICAL EVACUATION EXPENSES

When as a result of a Covered Injury or Covered Sickness, an Insured Person is hospitalized for five (5) consecutive days or more, the Underwriters will pay upon the recommendation and prior approval of the attending Licensed Physician and the Administrator of this Insurance for the evacuation of the Insured Person to his home country or to a facility operated pursuant to the law for the care and treatment of injured or ill persons the actual expense incurred but not to exceed the aggregate benefit of this Insurance. Medical Evacuation to the Insured Person's home country will terminate any future coverage under this Insurance.

REPATRIATION (PREPARATION AND TRANSPORTATION OF REMAINS) EXPENSES

In the event of the death of an Insured Person while insured under this Insurance, the Underwriters will pay the actual expense incurred for preparation and transportation to their home country, the remains of the Insured Person (in accordance with the applicable international requirements) but not to exceed the aggregate benefit of this Insurance. All expenses must be approved by the Administrator of this Insurance before the remains are prepared for transportation to the Insured Person's home country.

MATERNITY EXPENSE BENEFIT

OPTIONAL

This optional insurance provides the only benefits available for maternity related expenses.

	<u>Maximum Benefit</u>
Normal Delivery of Child or Children.....	\$1,500.00
Caesarean Section (including Delivery).....	\$1,500.00
Abdominal Operation for Extra-Uterine Pregnancy.	\$1,500.00
Miscarriage or Therapeutic Abortion.....	\$ 500.00

This Insurance is not applicable for a pregnancy if conception took place prior to the Insured Person's Effective Date of Insurance; nor will this Insurance cover any expenses arising from pregnancy which results in childbirth within ten (10) months of the Insured Person's Effective Date of Insurance. However, if the Insured Person has been covered for at least twelve (12) continuous months, the Maternity Expense Benefit will then remain in force for an additional nine (9) months following the Termination of Insurance to cover a pregnancy existing on the date of such termination.

The Maternity Expense Benefit is available only at the initial enrollment and may not be added at a later date. The Maternity Expense Benefit must be purchased with the Medical Accident and Sickness Expense Benefit for a period of one year.

These scheduled benefits are the only benefits payable for Maternity Coverage, and are payable only at the end of the pregnancy for those Covered Expenses incurred within the U.S.A.

These benefits are available only to Class I and II Insured Persons. (Dependent children are not eligible for this coverage).

SCHEDULE OF PERSONS INSURED

The classes of persons eligible to be insured under this Insurance are:

- Class I : All those international participants under 65 years of age, who are not U.S. citizens and who are actively engaged in educational, research, consultant or industrial activity sponsored by the Policyholder, in the United States of America and whose enrollment form and name are on file with the Administrator.**

- Class II : Spouse of Class I Insured Person under 65 years of age, who is dependent upon the Class I Insured Person for support and resides with the Class I Insured Person in the United States of America and whose enrollment form and name are on file with the Administrator.**

- Class III : Unmarried dependent children of Class I Insured Persons. Unmarried dependent children shall include natural children, stepchildren, foster children, or legally adopted children over 14 days and under 19 years of age, who are dependent on the Class I Insured Person for support and maintenance, and reside with the Insured Person in the United States of America and whose enrollment form and name are on file with the Administrator.**

Note: In no event shall this Insurance cover U.S. citizens, immigrants or resident aliens in the United States of America.

SCHEDULE OF INSURANCE

I. Effective Date of Insurance: The Insurance of an Insured Person will become effective on the later of:

- (a) the requested Effective Date for the Insured Person for which premium has been paid.
- (b) one month prior to receipt by International Underwriters/Brokers, Inc. of written notification requesting such insurance.
- (c) the date the Insured Person departs his home country to travel to the United States of America, provided that the scheduled arrival in the United States of America is no more than 48 hours later than the Insured Person's departure from his home country. In the event that there is an unexpected delay to the flight, the 48-hour period will be extended until such time as the flight arrives in the United States of America.

COVERAGE UNDER THIS INSURANCE CAN BE MADE EFFECTIVE ONLY BY INTERNATIONAL UNDERWRITERS/BROKERS, INC. AT ITS OFFICES.

II. Termination of Insurance: The Insurance of an Insured Person will terminate on the earliest of:

- (a) twelve months from the date the Master Policy terminates;
- (b) the last day for which premium has been paid for an Insured Person;
- (c) the date the Insured Person ceases to be eligible for the Insurance;
- (d) the date the Insured Person is medically evacuated to their home country.

DEFINITIONS

"COVERED INJURY"

means accidental bodily injuries occurring to an Insured Person while insured under this Insurance which are the direct and independent cause of the claim being made under this Insurance. The term "Covered Injury" does not include any injuries (or complications arising from any injuries) which existed or for which a Licensed Physician was consulted or for which treatment or medication was received prior to the effective date of this insurance.

"COVERED SICKNESS"

means sickness or disease contracted by an Insured Person which first reveals itself by symptoms while insured under this Insurance. The term "Covered Sickness" does not include any sickness or disease (or complications arising from any sickness or disease) which had its origin or for which a Licensed Physician was consulted or for which treatment or medication was received prior to the effective date of this insurance.

"PRE-EXISTING CONDITION"

means any injury which existed prior to the effective date of this insurance. Pre-existing condition also means any sickness or its symptoms which existed prior to the effective date of this insurance, whether or not the Insured Person had knowledge the symptoms were related to the sickness. Complications arising from a pre-existing condition will be considered part of that pre-existing condition.

"LICENSED PHYSICIAN"

means any person, other than the Insured Person or a member of his immediate family who is recognized by the laws of the jurisdiction in which treatment is received as qualified to treat the Covered Injury or Covered Sickness causing the loss for which claim is made.

"YOU" OR "INSURED PERSON"

means any person engaged in educational or research activities at an institution affiliated to the Policyholder who elects to purchase coverage under this Insurance ("The Participant"), his/her spouse who is dependent upon him/her for support and resides with him/her in the United States of America, and his/her unmarried dependent children, (including natural children, stepchildren, foster children or legally adopted children), over 14 days and under 19 years who are dependent upon him/her for support and who reside with him/her in the United States of America. All such persons' Enrollment Forms, names, and visa status must be on file with the Administrator.

"COVERED EXPENSES"

will be the reasonable and customary fees charged for unavoidable, necessary medical services, supplies and treatments authorized by a legally qualified physician, subject to the conditions and exclusions of this Insurance.

DEFINITIONS (CONTINUED)

"THE UNDERWRITERS"

means certain Underwriters at Lloyd's, London.

"THE ADMINISTRATOR"

means International Underwriters/Brokers, Inc. (IU/B)
8027 Leesburg Pike
Vienna, Virginia 22180
(800) 336-3310

All correspondence and inquiries should be directed to the Administrator.

EXCLUSIONS

- (1) No claim will be paid in respect of any injury or sickness (or complication arising from any injury or sickness) which had its origins or for which a Licensed Physician was consulted or for which treatment or medication was received prior to the effective date of this Insurance.
- (2) No claim will be paid where the Insured Person, at the time of taking out this Insurance:

 - (a) is on a waiting list for treatment;
 - (b) has travelled for the purpose of obtaining treatment;
 - (c) has received a terminal prognosis;
 - (d) has travelled to the U.S.A. against the advice of a physician;
 - (e) is over 65 years of age.
- (3) This Insurance will not cover:

 - (a) Any claim for dental treatment except when as the direct result of a Covered Injury. Benefits will be limited to \$100 per natural tooth subject to a maximum of \$500 per injury;
 - (b) Any claim in respect of the treatment of congenital conditions or the costs of cosmetic surgery except when necessitated by a Covered Injury to the Insured Person. Correction of deviated nasal septum will not be covered under this Insurance unless it results from an injury which occurred after the Insured Person became insured under this Insurance;
 - (c) Any claim arising from intentionally self-inflicted injury, suicide or attempted suicide, the influence of alcohol or intoxicants, the use of drugs except as prescribed by a Licensed Physician;
 - (d) Any claim arising from routine physical or other examination where there are no objective indications of impairment of normal health;
 - (e) Any claim arising from war, declared or undeclared, or any act of war, or loss while in military, naval or air service of any country;
 - (f) Any claim arising from riding in any aircraft other than as a passenger in an aircraft licensed for the transportation of passengers;
 - (g) Any claim in respect of examinations for, or prescriptions of eyeglasses or hearing aids;
 - (h) Expenses not recommended and approved as necessary and reasonable by the attending Licensed Physician;
 - (i) Any claim in respect of treatment by a chiropractor unless prescribed by a medical doctor (M.D.);
 - (j) Any claim arising from participation in Club or Interscholastic Sports.
 - (k) Expenses incurred as a result of diagnostic investigation or medical treatment in connection with infertility.
- (4) This Insurance will not cover any medical treatment received in the home country of the Insured Person.
- (5) This Insurance will not cover medical expenses resulting from a motor vehicle accident if such expenses are recoverable under any other valid and collectible insurance, including a "No-Fault" automobile insurance contract, regardless of whether the Insured Person asserts his rights to obtain benefits from these sources.

EXCLUSIONS (CONTINUED)

- (6) This Insurance will not cover pregnancy, including resulting childbirth, miscarriage, abortion or complication of any of these unless the optional Maternity Expense Benefit has been purchased.**
- (7) This Insurance will not cover expenses resulting from the diagnosis or treatment of mental or emotional disorders, except while hospital confined. Benefits are limited to 50% of the Covered Expenses up to 30 days hospitalization as an in-patient.**
- (8) This Insurance will not cover any amount covered under any occupational benefit plan, other insurance or public assistance program. (See General Conditions - Right of Subrogation).**

GENERAL CONDITIONS

ENTIRE CONTRACT

This Evidence, together with the Enrollment Form, constitutes the entire contract of coverage between the parties. All statements made by an Insured Person shall be deemed representations and not warranties. No such statements shall void the Insurance or reduce the benefits under this Insurance or be used in defense of a claim under this Insurance unless the statements are contained in a written application signed by the Insured Person. No statement made by an Insured Person shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to the Insured Person or to his beneficiary.

CLERICAL ERROR

Clerical error shall not deprive any individual of insurance under this Insurance nor affect the amount of any benefits to which he is entitled. Neither shall delay nor failure to report the termination of any Period of Insurance continue the Insurance beyond the date it is scheduled to terminate according to the terms of this Insurance.

ALTERATIONS

No alteration of this Evidence and no waiver of any of its terms shall be valid unless made in writing, signed by the Administrator, as agents of the Underwriters and endorsed on or attached to this Evidence. No such power extends to or may be delegated to any agent. No terms of this Insurance shall be waived, modified or rendered unenforceable at any time or under any situation as a result of the Underwriters' prior failure to insist upon compliance with the terms of this Insurance.

VISA STATUS

If at any time during the Period of Insurance the visa status of the Insured Person changes, the Administrator must be notified in writing within 30 days of such change. Any such change may render this insurance void.

PRONOUNS

All personal pronouns used in this Evidence shall include either gender unless the context indicates otherwise.

CONFORMITY

Any term herein which, on the Effective Date of this Insurance, is in conflict with the statutes of the jurisdiction in which this Evidence is delivered, is hereby amended to conform to the minimum requirements of the statutes.

WORKER'S COMPENSATION NOT AFFECTED

The Insurance evidenced by this document is not in lieu of and does not affect any requirement for coverage by Worker's Compensation Insurance.

GENERAL CONDITIONS (CONTINUED)

RIGHT OF SUBROGATION

Underwriters shall be fully and completely subrogated to the rights of the Insured Person against parties who may be liable to provide indemnity or make a contribution in respect of any matter which is the subject of a claim under this Insurance.

The Insured Person further agrees to cooperate fully with Underwriters in seeking such indemnity or contribution including where appropriate, Underwriters instituting proceedings at their own expense against such parties in the name of the Insured Person.

SERVICE OF SUIT

In relation to all claims arising under this Insurance, the Underwriters submit to the jurisdiction of any Court of competent jurisdiction in the United States of America. Underwriters further agree that Service of Suit in any such action may be made upon Mendes & Mount of 3 Park Avenue, New York, New York 10016 USA.

CLAIM PROCEDURE CONDITIONS

NOTIFICATION OF CLAIM

- (1) **Hospitalization:** Prior notification must be given to International Underwriters/Brokers, Inc. (IU/B), 8027 Leesburg Pike, Vienna, Virginia 22180, ("The Administrators"), except in life threatening or organ threatening situation where notification must be immediate. By Telephone: If calling from Virginia: 703-790-5655 (Collect), otherwise: 1-800-336-3310.
- (2) **Non-Hospitalization:** Written notification of any claim under this Insurance and proof of loss must be given to International Underwriters/Brokers, Inc. (IU/B), 8027 Leesburg Pike, Vienna, Virginia 22180, ("The Administrators"), within 90 days after the date of loss with respect to claim for any loss covered by this Insurance.

PROOF OF LOSS

Written notice given by or on behalf of an Insured Person to the Underwriters or to any authorized agent of the Underwriters with information sufficient to identify the Insured Person shall satisfy the requirements for notice of claim.

Failure to furnish proof of loss within the time required shall not invalidate or reduce any claim if it was not reasonably possible to give proof within the required time, provided proof of loss is furnished as soon afterwards as is reasonably possible.

All necessary forms for filing proof of loss will be furnished by IU/B ("The Administrators") after it receives written notice of claim. However, if IU/B fails to furnish the forms within 15 days after the notice is given, the requirements for proof of loss will be satisfied if written proof describing the occurrence, the character and the extent of the loss is furnished to IU/B within the required time.

PAYMENT OF CLAIMS

All benefits payable under this Insurance will be paid immediately upon receipt of proof of loss satisfactory to the Underwriters.

Benefits payable under this Insurance will be paid directly to the Insured Person who sustains the loss. However, all or any part of the benefits payable under this Insurance in respect of hospital, dental, nursing, medical or surgical services may, at the Underwriters' option unless such Insured Person requests otherwise in writing not later than when filing proof of loss, be paid directly to the hospital or individuals rendering the services. Any benefit unpaid at such Insured Person's death will be paid to such Insured Person's estate.

LEGAL ACTIONS

No action at law or in equity shall be brought to recover under this Insurance prior to the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of this Insurance. No such action shall be brought after the expiration of three years after the time written proof of loss is required to be furnished.

ADMINISTRATIVE PROCEDURES

ENROLLMENT PROCEDURES

1. **International Underwriters/Brokers, Inc. (IU/B) will provide enrollment forms for listing the names of the persons to be insured.**
 - (a) **On the enrollment form, the names of the Insured Persons should be listed alphabetically, last name first, first name, age, Dates of Coverage and the appropriate premium due.**
 - (b) **All copies of the enrollment form should be returned to IU/B with a single check for payment of the total premium due. No claims will be processed until the total premium due has been received by IU/B.**
 - (c) **Upon receipt of the enrollment form and premium, IU/B will verify coverage and return a copy of the enrollment form with a PAID invoice statement to the administrator.**
2. **For convenience, there may be an "open" enrollment period of no more than two weeks (in duration) at the beginning of each term. This will allow each individual who enrolls during this open period to have the same effective date and the same expiration date. For those students enrolling in the Insurance after the open enrollment period has been terminated, their effective date of insurance will be the same day they pay for the Insurance.**
3. **THE ENROLLMENT FORM MUST BE RECEIVED BY IU/B WITHIN ONE MONTH OF THE EARLIEST EFFECTIVE DATE OF THE ENROLLMENT FORM (See Page #4, Paragraph I(b)).**
4. **Each Insured Person will receive an Identification Card, Evidence of Insurance and Claim Forms. A supply of Claim Forms may be kept in reserve and distributed as necessary.**

CLAIM PROCEDURES

1. **It is always beneficial to assist the Insured Person in completing the Claim Form. An incomplete Claim Form will be returned to the Insured Person thereby delaying the processing of the claim. The Underwriters are insistent upon completion of all pertinent information on the Claim Forms.**
2. **Claims must be submitted to IU/B within 90 days after treatment. Claims received after the 90 day period will be denied.**
3. **All claims will be paid directly from the IU/B office. Any questions about claims should be directed to the Claims Department.**

**INTERNATIONAL EDUCATIONAL GROUP INSURANCE PLAN
ACCIDENT AND SICKNESS POLICY
PROOF OF CLAIM**

Mail this form, bills or statements after medical treatment, but mail within 90 days of first treatment.

FOLLOW THESE INSTRUCTIONS ON YOUR BILLS WILL NOT BE PAID:
(1) ALL bills MUST be filed out.
ONLY ONE (1) person for each claim form.
(2) **ONLY ONE (1) illness or accident** for each claim form.
(3) **Send ITEMIZED BILLS and diagnosis.**

Be sure to show Insurance Certificate Number* and the name of school in question 1.
Have your doctor complete "Part B" on the back side of this form and give diagnosis.
Mail filed out form to: International Underwriters/Brokers, Inc., 8027 Leesburg Pike, Vienna, Virginia 22180.

PART A. (Please Print) TO BE COMPLETED BY INSURED

1. Name of Insured _____ Date of Birth _____
Name as it appears on your passport Month—Day—Year
Name of Patient _____ Relationship: _____
(If different _____ Husband Male
Insured) _____ Wife Female
Name as it appears on your passport _____ Child
Date of Birth _____
Month—Day—Year

Present Address _____

Name of School* _____ Insurance Certificate No.* _____

What type of Visa do you have: B-1 B-2 F-1 H-1 H-3 J-1 Other: _____

When did you first enter the United States: Month _____ Day _____ Year _____

2. Does your claim result from: an accident? a sickness?
3. Explain your accident or how you felt: _____

4. Date of accident or sickness: Month _____ Day _____ Year _____

5. What was the date you first went to the doctor? Month _____ Day _____ Year _____

6. Give the name and address of the doctor who is now treating you for this illness or accident: _____

7. Have you had any treatment before for this condition? Yes No When? Month _____ Day _____ Year _____
Give the name and address of the doctor who treated you for this illness or accident at that time. _____

8. What other insurance do you have? (Give name, address and policy number of insurance companies.) _____

Date _____ X _____ Insured's Signature _____

**THIS SECTION MUST BE SIGNED BY INSURED
MEDICAL AUTHORIZATION**

International Underwriters/Brokers, Inc.
Upon presentation of the original or a photocopy of this signed authorization, I authorize any medical professional, hospital or other medical-care institution, insurance support organization, pharmacy, governmental agency, insurance company, group policyholder, employer or benefit plan administrator to provide International Underwriters/Brokers, Inc. or an agent, attorney, consumer reporting agency or independent administrator, acting on its behalf, information concerning advice, care or treatment provided the patient or decedent named below, including information relating to medical bills, use of drugs or alcohol. I also authorize my group policyholder or benefit plan administrator to provide International Underwriters/Brokers, Inc. with financial or employment-related information.

I understand that such information will be used by International Underwriters/Brokers, Inc. for the purpose of evaluating any claim for insurance benefits and that I or any authorized representative will receive a copy of this authorization upon request.

This authorization is valid from the date signed for the duration of the claim.

Name of Patient
for Decedent

Signature of Patient
or Representative
at of him

Date Signed (Month/Day/Year)

(If Patient is under eighteen (18) years of age or is incapacitated, Personal Guardian must sign. If Patient is deceased, Personal Representative or next of kin must sign.)

PART A (CON'T.)

TO BE COMPLETED BY PATIENT (INSURED)

AUTHORIZATION TO PAY BENEFITS TO PHYSICIAN: I hereby authorize payment directly to the undersigned Physician of the Surgical and/or Medical Benefits, if any, otherwise payable to me for his services as described below but not to exceed the reasonable and customary charge for those services.

Signed (Insured Person)

DATE

AUTHORIZATION TO RELEASE INFORMATION: I hereby authorize the undersigned Physician to release any information acquired in the course of my examination or treatment.

Signed (Patient, or Parent if Minor)

DATE

PART B

ATTENDING PHYSICIAN'S STATEMENT

Patient's Name

Diagnosis and Concurrent Conditions
(If Diagnosis Code Other Than ICDA* Used, Give Name)

Is Condition Due to Injury or Sickness Arising out Of Patient's Employment?

YES NO

Pregnancy?

YES NO

If yes, Approximate Date
Pregnancy Commenced.

Report of Services (for Attach Itemized Bill) (If Previous Form Submitted to this Corner, You Need Show Only Dates and Services Since Last Report)

Date of Services	Place of Services†	Description of Surgical or Medical Services Rendered	Procedure Code - If used (If code other than CPT** used, give Name)	Charges

TOTAL CHARGES ▶ \$ _____

AMOUNT PAID ▶ \$ _____

BALANCE DUE ▶ \$ _____



- † O - Doctor's Office IH - Inpatient Hospital NH - Nursing Home
- H - Patient's Home OH - Outpatient Hospital OL - Other Locations
- * ICDA - International Classification of Diseases
- ** CPT - Current Procedural Terminology (current edition)

Patient Ever Had Same or Similar Condition?

YES NO If "Yes" When and Describe:

Patient Still Under Your Care for This Condition?

YES NO

Patient Was Continuously Totally Disabled (Unable to work).

From _____ Thru _____

If Still Disabled, Date Patient Should Be Able To Return To Work.

From _____ Thru _____

Does Patient Have Other Health Coverage?

YES NO If "Yes" Please Identify

Date _____ Physician's Name (Print) _____ Degree _____

Physician's Signature _____ Telephone _____

Individual Practitioners - SS#

All Others - Employer ID#

Street Address

City or Town

Must Be Furnished Under Authority of Law

State

Zip Code

**HEALTH
CARE
PLUS**



International Underwriters/Brokers, Inc.
8027 Leesburg Pike
Vienna, VA 22180

703/790-5655

AID HANDBOOK CIRCULAR	HB 31	CHAP.	TRANS. MEMO NUMBER 31:22	EFFECTIVE DATE January 30, 1984	PAGE NO. 1
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FILE: This Handbook issuance will be filed in front of Handbook 31.

Employment by Personal Services Contract - Foreign Service Nationals and Third Country Nationals

Pending the issuance of revisions to 3 FAM 926.2d(4), the following should be made available to all AID personnel overseas:

New material which will be issued to follow immediately after the current 3 FAM 926.2d(4)(c) -- (Page 29).

(ADD)

(d) Compensation may deviate from the direct-hire local or TCN plan only when the work to be performed by the contractor clearly exceeds the job standards for the highest grade established in the post plan. (In those posts where the Interagency Local Employee Position Classification Handbook (LEPCH) has been applied the highest grade in the post plan will normally be FSN-12.) All requests to compensate a contractor at a rate which exceeds the local compensation plan must be fully justified in writing, with reference to applicable and/or related standards in the LEPCH and include specific information as to how they are exceeded. Such requests must include a position description in the format prescribed in the LEPCH, with careful attention given to the actual qualifications of the proposed contractor. Requests should be signed by the principal AID officer at post and forwarded to AID/W, M/PM/PMC; the request and approval must be kept as a permanent part of the contract file. In considering such exceptions it should be remembered that post compensation plans recognize a rank-in-position approach to classifying jobs, thus compensation should be appropriate to the duties to be performed and not merely based on outstanding individuals qualifications. In addition, the effect of an exception on the morale and expectations of present and future employees at post should be carefully weighed.

AGENCY FOR INTERNATIONAL DEVELOPMENT

HANDBOOK 31

FOREIGN NATIONAL PERSONNEL

TM 31:22
1-31-1984

PREFACE

Early in 1972 the Agency made the decision to convert the AID manual orders to a series of specialized handbooks. In compliance, SER/PM has developed new personnel handbooks to replace existing personnel manual orders. The objectives have been:

- To condense and simplify directive material.
- To place, to the extent practicable, all information and instructions of general Agency-wide utility on a given subject in one location.
- To highlight principal personnel policies, rules, and regulations.

The personnel handbooks include those rules, regulations, and operating procedures which affect more than one Office, Bureau, or Mission. They also incorporate pertinent Uniform Foreign Affairs Regulations and portions of the Federal Personnel Manual. They do not include detailed background information, functional statements, or internal personnel office procedures, unless this information is essential to users generally.

There are ten volumes:

- Handbook 24, General Personnel Policy
- Handbook 25, Employment and Promotion
- Handbook 26, Position Classification, Pay, and Allowances
- Handbook 27, Attendance and Leave
- Handbook 28, Training and Staff Development
- Handbook 29, Employee Relations and Benefits
- Handbook 30, Separation and Disciplinary Actions
- Handbook 31, Foreign National Personnel
- Handbook 32, Personnel Actions, Records, and Reports
- Handbook 33, Overseas Position Management
(Existing handbook, formerly an attachment to M.C. 435.4, designated as an AID Handbook)

Each handbook is organized into chapters dealing with a topic within the general subject area indicated by the title. A table of contents is included in each handbook.

Supervisors, employees, and administrative/executive officers should use the handbooks for general guidance in all matters of personnel to which they pertain. For unusual problems or counseling needs, the appropriate office in M/PM should be contacted.

TM 31:22
(1-31-1984)

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N O T E

Throughout this Handbook, masculine pronouns are to be interpreted as including both men and women, unless the context specifically excludes this interpretation.

Future revisions will take into account the AID directive (HB 18, Part I, 2E) of 12/30/75 on the avoidance of sex-biased language.

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UNIFORM FOREIGN AFFAIRS REGULATIONS

(For State/AID/USIA/Commerce/Agriculture)

*900 FOREIGN SERVICE NATIONAL EMPLOYEES, CONSULAR AGENTS, AND SPECIAL CATEGORIES

910 FOREIGN SERVICE NATIONAL EMPLOYEE PERSONNEL ADMINISTRATION

911 Introductions

911.1 Scope

Sections 910 through 970 contain the major portion of regulations for the administration of a Foreign Service national (FSN) personnel program, which includes nationals of the host country and third-country nationals (TCN's). These regulations, procedures, and guides are applicable to each State, AID, USIA, Commerce and Agriculture overseas establishment, unless otherwise indicated. Cross-references are made to regulations which are the same for U.S. citizen and Foreign Service national employees.

911.2 Legal Authority

911.2-1 Basic Appointment Authority

a. State

Section 303 of the Foreign Service Act of 1980 (hereafter referred to as the Act), provides that: "The Secretary may appoint the members of the Service (other than the members of the Service who are in the personnel categories specified in section 302(a) in accordance with this Act and such regulations as the Secretary may prescribe." Section 302(a) pertains to appointments by the President.

b. Other Agencies or Establishments

Section 408(b) of the Act provides that: "For the purpose of performing functions abroad, any agency or other Government establishment (including any establishment in the legislative or judicial branch) may administer employment programs for its employees who are foreign nationals or are family members of Government employees assigned abroad, in accordance with the applicable provisions of this Act."

911.2-2 Delegation of Authority

The extent to which authorities in section 911.2-1 are delegated is specified in respective sections of these regulations.

To the extent necessary for efficient operations, heads of overseas establishments may redelegate to their designated representatives any authority granted them by or under those regulations.

911.3 Definitions

a. "Foreign Service national employee" or "FSN" means an employee of any foreign service related mission/program/activity of any USG department or agency overseas establishment including, but not limited to, State, AID, USIA, Commerce, Agriculture, Peace Corps, Department of Defense, and the Library of Congress (exclusive of consular agents) who is not a citizen of the United States. Wherever the terms "local employee," "Foreign Service local employee," or "FSL" appear in 3 FAM, their meaning is identical to Foreign Service national employee or FSN. These terms include third-country nationals (TCN's). (See section 927.1 for the definition of a "third-country national.")

b. "Head of overseas establishment" for the purposes of this subchapter means a principal officer as defined in section 102 of the Act; for example, a Peace Corps director, an AID mission director or AID representative, a head of a USIA establishment, or a ranking Department of Commerce officer in-country.

c. "Local Compensation Plan" means each post's official system of FSN position classification and pay, consisting of (a) the local salary schedule which includes salary rates, statements authorizing fringe benefits payments, premium pay rates, and other pertinent facets of FSN employee compensation; and (b) the local FSN position classification system as reflected in the position alignment list (Position Classification and Salary Conversion List).*

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(For State/AID/USIA/Commerce/Agriculture)

*d. "Position classification" is the system of grading FSN positions based upon the policies, procedures, and standards as outlined in the Inter-agency Handbook on Local Employee Position Classification (11-1-78), the basic principle of which is equal pay for substantially equal work at a post.

e. "Secretary" means the Secretary of State, except that (subject to section 201 of the Act) with reference to the exercise of functions under the Act with respect to any agency authorized by law to utilize the Foreign Service personnel system, such term means the head of that agency. (Section 201 of the Act provides that (a) under the direction of the President, the Secretary of State shall administer and direct the Service and shall coordinate its activities with the needs of the Department of State and other agencies; and (b) The Secretary of State alone among the heads of agencies utilizing the Foreign Service personnel system shall perform the functions expressly vested in the Secretary by the Act.)

911.4 Personnel Records

The official personnel records of FSN employees (non-Americans) are maintained at posts, and are the legal records of their employment. See section 090.*

912 through 919 (Unassigned)

920

FSN EMPLOYEE RECRUITMENT AND EMPLOYMENT

921 RECRUITMENT STANDARDS

(TL:PER-59 9-19-86)
(Uniform State/AID/USIA/Commerce/
Agriculture)

Heads of overseas establishments should establish joint uniform recruitment procedures. Qualifications required for individual positions should be determined on the basis of the desired qualifications noted in the pertinent Interagency Position Classification Standard (Appendix J of the Interagency Handbook on Local Employee Position Classification) for education, experience, language knowledge and abilities. See section 122.8 for procedures to follow when employing an American family member in an FSN position.

922 PROCESSING FOR
EMPLOYMENT

922.1 Application

a. General

Each applicant for employment should complete, or have completed for self, four copies (three if at a post where a regional security officer is assigned) of Form OF-174, Application for Employment in the Foreign Service of the United States. One copy is retained in the overseas establishment's employee personnel file; the original and two copies are given to the post security officer (or original and one copy to regional security officer) for use in the security and suitability investigation described in section 922.2.

The applicant may be requested to submit other papers or documents as required by the security officer.

b. USIA

Heads of USIA overseas establishments are responsible for:

(1) Ensuring that applicants for FSN positions submit complete sets of application forms to the appropriate administrative officer where requests for security investigations are initiated.

(2) Before an applicant is appointed, making certain that at least a temporary security approval for

employment has been received from the post or regional security officer (at resident post) (see MOA VIII-510).

(3) Taking the actions described above with respect to all non-U.S. citizen contractors requiring a security certification under USIA regulations (MOA VIII 420).

Embassy and consular administrative and fiscal personnel are responsible for:

(1) Making certain that no Foreign Service National is hired by USIA, or paid a salary, unless a post or regional security officer (at resident post) has granted a temporary security approval (good for 120 days) or a final security certification for employment or continued employment has been granted by the regional security officer (MOA VIII-510) and a copy filed in the individual's personnel folder.

(2) Taking the action described above with respect to all non-U.S. citizen contractors requiring a security certification under USIA regulations (MOA VIII 420).

922.2 Security and Suitability
Investigation

a. Policy

Heads of overseas establishments may appoint FSN employees only after:

(1) A detailed local security and suitability investigation has been conducted; and

(2) At least a temporary security certification, good for 120 days, has been issued by the appropriate security officer.

Employment beyond 120 days of persons hired with only a temporary security certification is contingent upon review of each case by the appropriate regional security headquarters and issuance of a final security certification by the regional security officer (RSO).

b. Procedures

(1) The post security officer (PSO):

(a) Reviews the information in Form OF-174, Application for Employment in the Foreign Service of the United States, to assure that it is sufficiently complete for conducting the required investigation.

(b) Holds a personal interview with the applicant.

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(c) Conducts and documents a complete security and suitability investigation covering all leads that can be developed locally. The investigation is not merely a check against local files.

(d) Issues a temporary security certification or recommends against employment of the applicant.

(e) Sends to the regional security headquarters two copies each of the local investigation report and the completed Form OF-174 with a memorandum requesting a review and security determination for each case.

Additional procedures and guides are provided in the Post Security Officer Handbook. The PSO also may request advice and assistance of the appropriate RSO, as necessary.

(2) The regional security officer (RSO):

(a) Reviews each case, and

(b) Issues a final security certification, or

(c) Notifies the PSO (or office requesting the certification, if at the RSO's post) that certification for continued employment cannot be granted.

Should a conflict arise between the chief of an overseas agency and the RSO concerning substance of interpretation of security matters, the issue should be forwarded to the Office of Security, Department of State, and to the headquarters of the applicable agency for resolution.

922.3 Medical Requirements and Facilities

a. Preemployment Medical Examinations

Heads of overseas establishments ensure that a candidate for appointment as a Foreign Service National (FSN) employee is examined prior to appointment to determine whether the candidate meets the minimum physical requirements of the position and is free from any contagious disease. The examination shall be conducted in accordance with these regulations and with joint regulations prescribed locally based upon the medical standards for employment prevailing among progressive local employers.

Whenever possible, the examination is conducted by the Department of State Medical Officer at posts where one is assigned, by medical officers of the U.S. Armed Forces, the U.S. Public Health Service, or other U.S. Government physicians. If such physicians are not available, a contract is made with a reputable local physician to pay a fixed fee at a rate based on those prevailing locally for such examinations. Exhibit 684.4-2c may be used for medical ex-

aminations by private physicians. Competitive bidding is not required; the standard prevailing fee for examination given locally to visa applicants is used as a guide.

The physical examination includes a chest X-ray, a serological test for syphilis, and urinalysis. Additional tests, such as a stool examination, should be given to candidates for any food-handling positions. The examining physician may use any report form that the physician customarily uses for these types of examinations.

The examining physician advises the head of the overseas establishment of findings, including a statement whether the examinee is free of contagious disease, so that appropriate action may be taken.

b. Subsequent Medical Examinations

A medical examination subsequent to appointment shall be required of FSN employees at any time the head of an overseas establishment judges it necessary to determine:

(1) Whether an employee has a contagious disease; if so, the employee shall be placed on appropriate leave until the condition is no longer contagious and the employee is able to return to work;

(2) Whether the employee continues to meet the minimum physical requirements of the position. (See section 972 if the employee is believed disabled for further service.)

c. Immunization and Health Unit Facilities

Subject to such limitations as may be prescribed locally, all immunizations authorized for U.S. citizen employees at an overseas establishment and all other health unit facilities at overseas establishments may be extended to FSN employees.

d. Other Benefits

Apart from employment examinations or work-incurred injuries or illnesses, FSN employees are not eligible for medical benefits under section 904 of the Foreign Service Act. (For work-incurred injury or illness, see section 972.)

922.4 Employment Conditions and Prohibitions

Each head of an overseas establishment is responsible for informing prospective FSN employees of the uniform State/AID/USIA/Commerce/Agriculture regulations in section 620 on employee responsibilities and conduct, applicable to FSN as well as U.S. citizen employees. For AID, see Handbook 24, *Chapter 2, Employee Responsibilities, control and*

Political Activity. Prospective employees also must be informed of the following additional conditions:

a. Host Government Laws and Regulations

(1) FSN personnel programs conform as closely as feasible with local law and customs, but must be based on and administered in accordance with U.S. laws and regulations.

(2) It should be emphasized to FSN employees that they are obligated to observe laws of the host government, including those concerning income and related tax obligations. Payment of such taxes is a matter between the employee and the host government. In the absence of a specific international agreement, the U.S. Government may not withhold foreign tax from an employee's salary.

(3) An employee may find it helpful to make an allotment of pay to a savings account upon which to draw to meet a tax obligation. (For State and USIA see 4 FAM 556; and for AID, see Handbook 26, Position Classification, Pay, and Allowances, regarding allotments of pay.)

b. Classified Information

An FSN employee is not authorized access to classified material or to material containing loyalty or security information, except in the limited circumstances specified in 5 FAM 946. (See 5 FAM 946 regarding limited access to administratively controlled information.)

c. U.S. Citizenship

An applicant who has U.S. citizenship may not be hired as an FSN employee. If it is determined that an FSN employee has U.S. citizenship, that employment must be terminated. (For State, see section 122.5; for USIA see MOA V-B 354; and for AID, see Handbook 25, Employment and Promotion, regarding the possibility of American staff appointments in such circumstances.) However, spouses and dependents of U.S. Government employees located at post may be employed in FSN positions (see 3 FAM 122.8).

d. Union Participation

Title VII of the Civil Service Reform Act of 1978 Public Law 95-454, and chapter 10 of the Foreign Service Act of 1980, are not applicable to FSN employees. No official recognition may be given to FSN unions, as such unions are not subject to the controls that exist in the relationship between a U.S. union and the Federal employee. If approached by an FSN union through the host government, the establishment may cooperate with the host government to

the extent of distributing union informational matter, but will make it clear to local authorities and FSN employees that it cannot officially recognize the union as a bargaining agent and that the establishment is not responsible for the content of the material, cannot participate actively in any membership drive or other activity of the union, and cannot encourage FSN employees to join the union. Any payment of union dues is on a voluntary basis, and a check-off of union dues is prohibited.

Post management is authorized to discuss conditions of employment with FSN employees or with representatives of an FSN employee association (see section 929).

e. Special Provisions Applicable to AID

(1) In addition to the prohibitions mentioned above, FSN employees may not be hired to perform work which involves policy formulation, representation or supervision of U.S. citizens. (Waivers will be considered to permit supervision of American family members. See 3 FAM 122.8-3e(7).)

(2) Notwithstanding the above, it is the policy of AID to encourage FSN employees to assume as much professional responsibility as they are capable of handling and, within the constraints outlined in section 922.4, to work in an atmosphere of full professional equality with U.S. citizen employees. For example, FSN employees may, under the supervision of a division chief or other responsible U.S. citizen employee, be designated as project managers or coordinators for specific projects within the FSN employee's area of competence. In such capacity, an FSN employee may conduct site inspections, review project scheduling and other, technical project elements with counterpart officials and conduct administrative review vouchers. Similar responsibilities may be assumed by FSN employees in other mission divisions including administrative, program office, controller, etc., subject to appropriate supervision by division chiefs or other U.S. direct-hire personnel. In carrying out these functions, FSN employees may not be placed in the position of making final decisions on policy matters, official representation of the U.S. Government (including signing of Implementation Letters) or supervision, on a regular basis, of U.S. citizen employees. They also may not be designated as contracting officers.

f. Prohibition Against Striking

In accordance with the requirements of 5 U.S.C. 3333, regulations require the completion upon entry on duty of an affidavit as to striking against the Federal Government (section 924.2a). Notwithstanding

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failure to affirm the employee's understanding of this prohibition, all foreign national employees are subject to the limitation of 5 U.S.C. 7311 that an employee may not participate in a strike against the U.S. Government. Such participation is grounds for immediate dismissal.

923 TYPES OF EMPLOYMENT

923.1 Direct-Hire Appointment

a. **Temporary** --an appointment limited to a period of 1 year or less.

b. **Limited** --an appointment with a specific time limitation of more than 1 year and less than 5 years.

c. **Indefinite** --an appointment with no specific time limitation and which does not permit contribution to the U.S. Civil Service Retirement and Disability System.

d. **Conditional** --a type of appointment formerly used to convey Civil Service Retirement (CSR) coverage until such authority was withdrawn in December 1983. (Discontinuance of this type of employment does not affect conditions of employment for those who currently have "Conditional" appointments.)

e. **Permanent** --a type of appointment formerly used to indicate participation in the Civil Service Retirement and Disability System, use of the term "Permanent" in relation to appointments has been discontinued. (Discontinuance of this term does not affect conditions of employment for those who currently have "Permanent" appointments.)

Appointments and personnel actions changing an employee's status from one category to another are documented on form SF-50 (see Exhibit 924.2c).

f. **Excepted** -- a term used to indicate that FSN service is not within the competitive GS system.

923.2 Contractual Employment

(See section 926.)

924 APPOINTMENT

924.1 General Policy.

FSN employees are appointed by the head of the overseas establishment after receipt of the requisite security and medical clearances, provided that such appointments are effected within current allotments and FSN personnel complement ceilings.

924.2 Forms To Be Completed

a. Appointment Affidavits

At time of appointment, an FSN employee is required to complete (in original only) SF-61, Appointment Affidavits, except section A, Oath of Office. Before the appointee signs SF-61, the signing officer (an officer in the Foreign Service authorized to execute this form) strikes out and initials section A. The duly executed form is filed in the employee's official personnel folder. No salary payments are made until the affidavits have been executed.

b. Declaration of Appointee

At time of appointment, an FSN employee completes and signs SF-61B, Declaration of Appointee, in accordance with the instructions on the form, in original only. The duly executed form is filed in the employee's official personnel folder.

c. Notification of Personnel Action

Form SF-50, Notification of Personnel Action, is executed upon appointment of each direct-hire FSN employee and is authorized by the head of the overseas establishment for that officer's designee. (SF-50 has replaced Form DS-1032, Notification of Personnel Action.)

Form SF-50 is also used to effect change(s) in the FSN employee's type of appointment or conditions of employment, and to effect separation from employment.

A copy of each SF-50 processed for an FSN employee must be retained permanently in the employee's official personnel folder. Copies are also distributed to the employee and the payroll office. (See also Exhibit 924.2c for information on completing Form SF-50 and the distribution of additional copies.)

Copies of SF-50's should be distributed for Commerce to the Office of Foreign Service Personnel.

d. Designation of Beneficiary

(1) Unpaid Compensation of Deceased Civilian Employee

Each FSN employee completes SF-1152, Designation of Beneficiary, in duplicate, if the employee wishes to designate a beneficiary other than one named in the order of usual precedence to receive all unpaid compensation in event of death in service, or if the employee wishes to change the order of precedence (for State, see section 221.7). The original is placed in the employee's personnel folder; the duplicate is retained by the employee.

(2) Under Civil Service Retirement (CSR)

Employees covered by CSR must complete Form SF-2808, Designation of Beneficiary, in duplicate, if they wish to designate a beneficiary other than one named in the order of usual precedence to receive any CSR lump-sum benefits, or if they wish to change the order of precedence (for State and USIA, see section 675, Appendix A; for AID, see Handbook 30, Separations and Disciplinary Actions.)

e. Individual Retirement Record

SF-2806, Individual Retirement Record, is required for employees under a conditional or permanent appointment.

At the time such appointment was made, the overseas establishment prepared SF-2806 in accordance with Exhibit 924.2e and forwarded it, with a copy of the SF-50, to the appropriate office indicated in Exhibit 924.2c for employees under the Civil Service Retirement System.

In addition to recording the appointment action under which CSR coverage began, the overseas establishment must record the effective date and nature of the original hiring action and subsequent actions affecting salary rates incident to any prior creditable service with the appointing agency even though the employee was not subject to CSR at the time. (Section 675, Appendix A, provides a definition of creditable Federal service. For AID, see Handbook 30, Separations and Disciplinary Actions.)

924.3 Appointment Salary Rate

An FSN employee is appointed at a local currency salary rate within the class to which that employee's position is allocated in the compensation plan, normally the minimum rate of the class.

An employee possessing qualifications and experience substantially above minimum requirements may be appointed at a higher rate of the appropriate class. Local employment practices and previous earnings of the employee are useful guides.

924.4 Orientation

All newly appointed FSN employees should be given assistance in adjusting to their employment and should be advised fully regarding the conditions of mission employment by means of a planned orientation program. This orientation briefing should be given as an integral part of the appointment process.

**925 ASSIGNMENTS, TRANSFERS,
AND DETAILS****925.1 Assignments and Transfers**

Section 502 of the Foreign Service Act provides that: "The Secretary (with the concurrence of the agency concerned) may assign a member of the Service to any position classified under section 501 in which that member is eligible to serve (other than as chief of mission or ambassador at large) and may assign a member from one such position to another such position as the needs of the Service may require." This authority is available to AID and USIA, Commerce, and Agriculture under authority cited in section 911.2-1, paragraph b. An FSN employee must be assigned to an established position within the personnel complement ceiling of the overseas establishment. Transfers may be effected in accordance with respective agency procedures.

For regulations governing the travel of FSN employees incident to transfer, see 6 FAM 100. (For AID, see Handbook 2, Travel and Transportation.)

925.2 Details**a. General Policy**

FSN employees may be detailed to (1) other jobs within the agency at the post or in the country, (2) other agencies at the post or within the country, and (3) other overseas locations within the same agency or to other agencies, to meet temporary needs for specialized skills, to alleviate emergency staffing problems, and to give and receive on-the-job training.

Such details are encouraged when the employee's temporary absence from the employee's regular position would not seriously affect operations. (AID FSN employees detailed to locations outside the country of employment are not considered as third-country nationals.)

For regulations governing the travel of FSN employees incident to detail, see 6 FAM 100. (For AID, see Handbook 2, Travel and Transportation.)

b. Effect on Ceiling Complements

Details of FSN employees have no effect on the FSN personnel ceiling of either the sending or receiving post. The employee continues to be charged to the overseas establishment to which officially assigned.

c. Approval of Details

The overseas establishments concerned may approve details of FSN employees from one overseas

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establishment to another to alleviate emergency staffing problems or utilize specialized skills, except that, for USIA, detail of FSN employees outside the geographic area of assignment requires approval of the Agency at Washington. (See section 963.5d for approval of details for training purposes.)

For Commerce, all details of FSN employees, including details for training purposes, must be approved by US+FCS/OFSP in Washington.

d. Arrangements for Details

Overseas establishments involved in working out arrangements for details normally should observe the following guidelines:

(1) The sending overseas establishment must assure itself that an individual proposed for temporary duty is acceptable to the receiving overseas establishment. If the detail is outside the host country, the employee must be acceptable to the receiving country.

(2) FSN employees selected for detail should be sufficiently expert in their specialties to be able to provide meaningful assistance to the receiving overseas establishment, or if receiving training, be able to benefit from, and pass on to their co-workers, the benefits of training received.

(3) Normally, a detail should not exceed 90 calendar days.

(4) The receiving overseas establishment pays from funds currently allotted, the travel and expenses incident to the travel, including per diem in lieu of subsistence, for details to alleviate staffing problems or utilize specialized skills. (See section 963.4c for funding of training details.) To the extent possible, foreign currency is to be used. For details to an overseas establishment in another country, the per diem rates should be specified by the receiving post, not to exceed rates provided in the Standardized Regulations (Government Civilians, Foreign Areas), so that the travel authorization prepared by the parent overseas establishment may reflect the applicable rates. For details within the country, the locally established rates, if different from those specified in the Standardized Regulations, are normally paid.

(5) The sending overseas establishment assists employees in obtaining needed passports and visas.

(6) The sending overseas establishment, in cooperation with the receiving overseas establishment, determines how the employee may be affected by customs, income, and other tax requirements, and labor and related laws of the two countries, includ-

ing, if required, the work permit at the temporary duty post.

(7) If the sending overseas establishment has a medical insurance plan, the employee to be detailed is made aware of any provisions in that plan which might provide lesser coverage for illness while the employee is away from post. The employee is also advised of other medical or hospitalization plans in which the employee may or should participate.

End Uniform State/AID/USIA/Commerce/Agriculture Regulations

926 EMPLOYMENT BY PERSONAL SERVICES CONTRACT OF FOREIGN NATIONALS (HOST OR THIRD COUNTRY)

(Uniform State/USIA/Commerce/Peace Corps/ DOD/Agriculture)

(For AID - See HB 14, AID Acquisition Regulations (AIDAR), Appendix J.)

926.1 Definition

A personal services contract (PSC) is one entered into by the U.S. Government with an individual for the performance only by that individual of personal services, thereby establishing an employer-employee relationship between the Government and the employee. Also see Federal Acquisition Regulation (FAR) section 37.101.

926.2 General Policy

a. Delegation of Authority

(See Section 926.3)

To the extent that authority to enter into personal services contracts has been delegated to Missions by the headquarters of the employing agency, personal services contracts may be executed without prior Washington approval, subject to the availability of funds.

For the Department of State, a specific delegation of authority from the Procurement Executive is required for each personal services contract or class of personal services contracts on a case-by-case basis.

For the U.S. Information Agency, each post must obtain the approval of the Agency's appropriate Area Office before entering into each such contract or class of contracts on a case-by-case basis. VOA overseas installations must obtain the approval of the appropriate VOA Office Head (VOA/EO, VOA/BR, or VOA/BX)

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before entering into each such contract or class of contracts on a case-by-case basis. (See Section 926.3c.)

b. Services Which May Be Performed Under PSC

Custodial, housekeeping, maintenance, transportation, and other commercial-type services requiring skilled or unskilled labor; also professional, sub-professional, and clerical services related to mission activities which do not involve the elements indicated in paragraph c below.

c. Services Which May Not Be Performed Under PSC

Services which involve discretionary exercise of government authority, policy formulation, program planning, representation, control of money, property, or other valuable resources, or supervision of direct hire employees of the U.S. Government.

d. Conditions of Employment

The terms of personal services contracts will conform to the conditions of employment for direct-hire FSN employees (excluding participation in the U.S. Civil Service Disability and Retirement System) insofar as possible. Individuals employed under PSC will be enrolled in the host government social security system and/or will be authorized retirement benefits in accordance with those provided for FSN employees who are not participants in CSR. They will qualify for special immigrant visa recommendation provided all criteria for same are met.

e. Compensation and Position Classification

Compensation, that is pay and benefits provided to PSC employees, will be determined by guidelines, policies and standards contained in the Local Employees Position Classification Handbook (LEPCH) and paid in accordance with the appropriate grade and step of the Local Compensation Plan. In addition to basic compensation, the Local Compensation Plan provides for premium pay, severance pay, bonus payments, workers' compensation, step increases, and other fringe benefits for which direct payment is made.

Each PSC position shall be classified in accordance with 3 FAM 932.8-2 on the basis of the duties assigned as described in form LEPCH-1 (or OF-298, Interagency Foreign Service National Employee Position Description), completed in accordance with LEPCH guidelines and format. The requirements of 3 FAM 932.9 will be met for PSC employees.

f. Other Terms of Contract

(1) *Personal services contracts may authorize the death gratuity payment provided for FSN employees by Section 413 of the Foreign Service Act, on the basis of guidance by the employing agency.*

(2) *Personal service contracts may not authorize the employee's participation in the Incentive Awards Program. Posts may establish with the approval of the respective agency headquarters a separate incentive awards program for personal services contractors only. The terms of eligibility and selection process for such PSC incentive awards would have to be included by reference and attachment in the personal services contract documents.*

(3) *Training may be authorized for an individual employed under PSC when it is to the advantage of the U.S. Government. Invitational travel to the United States and to other appropriate training sites, including temporary duty status for consultation and special orientation programs as required, is subject to the approval of the headquarters of the employing agency.*

g. Duration of Contract

The period of a contract may be up to five years, except in the case of USIA. The contract period for the USIA shall not exceed one year. A personal service contract may be used for securing an individual's services for certain work of a continuing nature (see Section 926.2b), as well as for temporary or intermittent services. Review by the post to confirm a continuing need for the employee's service will be made annually. No limit is established for the number of times a specific contract may be renewed when an annual determination of continuing need is made.

h. Transfers To and From PSC Status and FSN Appointment

(1) *Severance pay: in lieu of severance payments, severance liability will be transferred when an FSN employee is separated in order to be employed under a PSC, with a break in service of three working days or less, or when a PSC employee is appointed a FSN, with a break in service of three working days or less.*

If local law requires that all periods of continuous service with the same employer be compensated in one payment at time of separation and if the receiving state considers the commissary or recreation association, or organization which supplies services solely to the Embassy to be an integral part of the Mission (as will usually be the case), then liability for severance pay will be transferred from these entities when such service immediately precedes employment with

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the Embassy in a PSC or direct-hire status. Where a foreign national has served under purchase order immediately preceding employment in the Embassy in a PSC or direct-hire status and local law makes no distinction between contractual and direct-hire employment severance liability is assumed. Where possible, appropriate transfer of funds, including all accrued interest, to support such payments will be made at the time of transfer by the commissary or recreation association, or organization to the Mission.

When such transfer involves a different agency, the gaining agency accepts the responsibility for total severance payment at the time of eventual separation from the USG, except transfers involving military service components where Interagency funding is to be resolved on a case-by-case basis.

Service may not be broken solely to provide severance payment or any other monetary benefit.

(2) Annual/Sick leave: If the individual is under a U.S. style leave plan, sick/annual leave credits will be transferred when the individual is separated in order to be employed under a PSC without a break in service of more than three days, or when a PSC employee is appointed as FSN without a break in service of more than three days. When the break exceeds three calendar days, lump sum payment for unused annual leave is made in accordance with post practice; pro-rata repayment is required if reemployment (either direct-hire or PSC) occurs before end of period covered by annual leave payment. Reemployment within three years entitles employee to reinstatement of sick leave balance. If the individual is under a local leave plan, crediting will be in accordance with local practice, as reflected in the post's local leave plan approved in Washington.

If an FSN employee is under a U.S. style leave plan, only direct-hire employment may be counted for determining accrual rates. If the employee is under the post's local style leave plan, leave accrual rates shall be in accordance with locally prevailing practice. Leave accrual rates for PSC employees shall be based upon total documented service to the U.S. Government.

(3) Other payments: if credit for bonus or other benefits accumulates rather than being discharged through inclusion in biweekly salary payments, such credits will be handled in accordance with the principles of paragraph (1) above.

926.3 Agency-Specific Instructions

a. State

(1) Authority

No post may provide State funding for a personal services contract unless such contracting authority is specifically redelegated by FBO, FSI, RP, or approved by M/MO and specifically redelegated by the Procurement Executive, to whom such authority has been delegated by the Secretary.

(2) Management and Reporting Requirements

Management of PSC positions shall be in accordance with current instructions issued by the regional or functional bureau. For statistical reporting, see section 928.2.

(3) Administrative Procedures

(a) The Personnel Office shall establish appropriate personnel records for personal services contract employees. These records shall be maintained in accordance with regulations governing Official Personnel Files (see section 912).

(b) The General Services Officer (GSO) shall act as the Contracting Officer to enter into personal services contracts for the purposes described in section 926.2b. The GSO shall coordinate with the Personnel Officer in the contracting process to ensure conformity with post personnel policy.

(c) Personal services contracts shall be prepared in accordance with Exhibit 926.3 to the extent possible. Material deviations shall be made only with the prior concurrence of the Procurement Executive.

(4) Preemployment Procedures

Persons employed under personal services contracts shall be subject to the recruitment standards of section 921 and the processing for employment procedures of sections 922 and 924.

b. Agency for International Development

See AID Acquisition Regulation, (HB 14, AIDAR), Appendix J, which confirms AID policy to link the compensation and benefits of direct-hire and personal services contractors.

c. USIA

It is USIA policy that the services of foreign nationals overseas be obtained by personal services contract only where it is deemed to be in the best interests of the Government to utilize such a method.

where necessitated by special or unusual circumstances, and where it is impractical to obtain the required services by direct-hire employment or a non-personal services contract.

Contract records will be maintained by the overseas posts. The originals of such files will be furnished to Washington (Office of Contracts - MIK). To the extent practicable, personal services contracts shall be prepared in accordance with Exhibit 926.3. (Also see MOA IX-B and 3 FAM 928.1 and 928.2.)

Prior to approving requests for PSC's abroad, USIA Area Offices and the appropriate VOA Office Heads are responsible for ensuring:

(1) a contract is not being awarded for the performance of an inherently governmental function (see section 926.2c);

(2) the availability of funds or the identification of the action required to make funds available (e.g., termination of FSN employees, reprogramming of funds, etc.);

(3) the appropriate personnel office has been advised of the termination of an FSN in order to perform tasks under a PSC;

(4) any proposed compensation in excess of local FSN wage scales has been approved by the appropriate personnel office;

(5) appropriate security clearances have been obtained; and

(6) the clearances of the Office of Contracts (MIK) and the appropriate personnel office have been obtained.

d. Department of Commerce

The Department of Commerce is revising policy and procedures for employment by personal services contract of Foreign Service nationals.

e. Department of Agriculture

The Department of Agriculture does not have authority to use personal services contracts to obtain the services of foreign nationals outside the U.S.

f. Peace Corps

Section 10 of the Peace Corps Act, as amended, authorizes the agency to contract with individuals for personal services abroad, provided that no such persons shall be deemed an officer or employee or otherwise in the service or employment of the U. S. Government for any purpose. Guidelines for use of PSCs overseas have been articulated in a memorandum of February 18, 1986, from the Associate Director of Management to the Associate Director of International Operations. This guidance will be incorporated into the Peace Corps Manual as soon as possible.

926.4 Reemployed Annuitants

Compensation for a personal services contractor who is also receiving an annuity under the Civil Service Disability and Retirement System need not be reduced (as is required for annuitants in a direct-hire status) since contract service is not recognized as creditable for CSR purposes.

926.5 Nonpersonal Service Contracts

The regulations governing contracting for nonpersonal services are in 6 FAM 210. Compensation for services performed under a non-PSC is in accordance with locally prevailing practice and/or law.

Retired former employees receiving annuities under the Civil Service Disability and Retirement System are not required to have the amount of their annuities deducted from compensation received under nonpersonal services contracts.

Administrative support for nonpersonal services contracts is provided by the General Services Office or, if none, the Administrative Office of the Embassy.

End Uniform State/USIA/Commerce/Peace Corps/ DOD/Agriculture Regulations

927 THIRD-COUNTRY NATIONAL (TCN)

(Uniform State/AID/USIA/Commerce/ Agriculture)

927.1 Definition

A third-country national (TCN) is an individual (a) who is neither a citizen of the United States nor of the country to which assigned for duty, and (b) who, if employed, is eligible for return travel to the TCN's home country or country from which recruited at U.S. Government expense, (c) who is on a limited appointment for a specific period of time, and (d) who encumbers a direct-hire or personal service contract (PSC) FSN position covered under the local compensation plan. (For AID: TCN's employed under a PSC are subject to provisions of AID HB 14 (AIDAR), Appendix J.)

Such an employee normally is recruited from outside the host country and relocated from the point of recruitment to the host country. The return travel obligation assumed by the U.S. Government may have been the obligation of another employer in the area of assignment if the employee has been in substantially continuous employment which provided for

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the TCN's return to home country or country from which recruited.

The personnel action (SF-50) effecting employment must indicate that the employee is being hired as a TCN and that return travel will be provided by the U.S. Government unless this obligation is assumed by another employer at the time of the employee's termination. This personnel action constitutes the repatriation agreement and may be augmented with a completed "Conditions of Employment Agreement" (see Exhibit 927.3) or a contract for personal services abroad (Exhibit 926.3) as appropriate. Employing posts are responsible for complying with local employment requirements.

An applicant who is located in the country of intended assignment and who does not have a repatriation agreement with the applicant's most recent employer may not be hired as a TCN. However, the applicant may be hired under the same terms as an employee who is a citizen of the host country.

All persons hired as TCN's must be informed of the limited duration of their employment. As a result, TCN employees should not expect promotions unless hired at a level which is less than the level of the position or the position is reclassified upward due to a change in the level of duties.

927.2 Policy

The appointment of a TCN employee is effected only when:

- a. Qualified persons are not available in the host country;
- b. Limitation of time or other conditions prevent the training of persons in the host country for the job; and
- c. It is determined that program efficiency and policy objectives can be achieved only by using TCNs as a temporary substitute for available, eligible and qualified U.S. citizens and persons from the host country.

927.3 Recruitment

927.3-1 Sources

- a. The nearest foreign area having qualified candidates.
- b. Another U.S. Government establishment in a third country or in the host country.
- c. An international agency or any firm employing third-country nationals in the host country.

927.3-2 Procedures

a. The requesting post informs recruiting post of the following data:

- (1) Position title and duties, and salary range, along with qualifications, experience, education, language, and physical requirements for the position.
- (2) Desired starting date, proposed tour of duty, and normal workweek.
- (3) Leave and any other pertinent employment privileges or prohibitions.
- (4) Availability of housing and schooling for dependent children.
- (5) Other pertinent items as outlined in section 927.4.

b. The recruiting post interviews prospective candidates, requests acceptable candidates that complete Form OF-174, Application for Employment in the Foreign Service of the United States, makes a reference check, and prepares an evaluation of each qualified candidate. The applications and related evaluations then are forwarded to the requesting post for approval.

c. The requesting post reviews the material, selects a candidate, clears the candidate with the host government (if appropriate), and requests that recruiting post complete employment action, including a local security check.

d. The requesting post authorizes the recruiting post to effect SF-50 (formerly DS-1032), Notification of Personnel Action, or a JF-62, Foreign National Services Contracting Action, as appropriate, "Conditions of Employment Agreement," (see Exhibit 927.3) and a "Foreign National Personal Services Contract" and advises the recruiting post of the desired effective date of employment, the appropriation and allotment to which salary and travel expenses are chargeable, the extent of authority to issue travel advances and orders, and the type of appointment.

TCN employees generally should be given time-limited appointments.

e. *The recruiting post prepares a Form SF-50, Notification of Personnel Action, or a JF-62, Foreign National Personal Services Contracting Acting, as appropriate, a "Conditions of Employment Agreement," and a "Foreign National Personal Services Contract," based on the foregoing information. The "Remarks" section of the SF-50 or JF-62 should contain the following comments:*

- (1) "Appointed at (recruiting post) for assignment to (duty post)."

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(2) "Employment conditions and prohibitions in section 922.4 924 and 926 are applicable." (For AID, see 922.4 and HB 14, Appendix J.)

(3) Statement as to authorization of travel and transportation of effects to post of assignment and return to post from which recruited or to home country in accordance with section 927.1.

927.4 Visas, Work Permits, Import Privileges, Taxes, and Social Security

The post requesting the employment of a TCN should determine whether:

a. The host government requires a visa for the entry of the employee and dependents, if any, and a work permit for the employee;

b. Import privileges will be granted, where import duties must be paid, and the amounts required, so that the employee may be correctly informed;

c. Local tax laws will apply to the employee and, if so, the extent of the employee's responsibility;

d. Guaranty of safe conduct can be assured if international hostilities or internal revolt should endanger the employee's safety; and

e. Specific local requirements would affect shipment of household and personal effects upon repatriation.

927.5 TCN Compensation Policies

927.5-1 Definition of Classification and Compensation

As required by Section 408(a)(1) of the Foreign Service Act of 1980, compensation for TCN's shall be based on prevailing practices for corresponding types of positions in the locality as determined by the FSN Position Classification System. Locality for TCN compensation purposes is generally the locality of employment or, as otherwise determined under section 927.5-4, the locality from which recruited.

927.5-2 Authority for Classification and Compensation

All new local compensation plans, including those governing TCNs, and all revisions or amendments in existing plans are subject to approval by Washington headquarters. Missions must submit supporting salary data and worksheets of local salary surveys as outlined in section 932.5a.

927.5-3 Determining Classification

After documenting the determination in section 927.2(3) and before a post hires a TCN, the duties and responsibilities of the TCN's position must be classified in accordance with instructions contained in the Local Employee Position Classification Handbook (LEPCH).

927.5-4 Determining Salary Rates

The salaries of TCN's must be based on prevailing practice and paid in local currency unless an exception is granted in accordance with 4 FAM 573. The locality used for measuring the practices can vary since TCN's generally are recruited from outside the country in which employed. In order to follow prevailing practice, TCN salaries must be determined in the manner described below.

Each post must uniformly apply one of the following paragraphs (a, b, or c) of this section to all TCN's at post.

a. The employing post must use the salary rate listed on the local compensation plan (see section 932) for the appropriate grade level of the TCN's duties and responsibilities unless paragraph b or c below applies.

b. If evidence exists that there is a prevailing TCN practice in the country where the TCN is (to be) employed, post must obtain survey data on this practice and propose use of this data for review by Washington headquarters in the following circumstances.

(1) At the time of a full or salary change survey, the employing post or persons performing the survey must determine prevailing pay practices for TCN's who occupy types of positions in the host country corresponding to those (to be) occupied by TCN's employed by post or positions equivalent to the key positions listed in Exhibit 2.1-3 of the FSNCH. This determination must be made only among the firms used for regular survey purposes. The resulting data, if any, must be sent to PER/FSN for analysis and to State's regional bureau for approval prior to use and must be kept separate from the data used to establish the balance of the local compensation plan.

(2) In the absence of a full or salary change survey, the employing post must conduct its own survey on TCN practices among the firms used for regular survey purposes after obtaining guidance from PER/FSN regarding data needed for analysis and approval of TCN salary rates.

c. If there is no local prevailing TCN practice and use of the local salary schedule prevents post from being able to recruit or retain TCN's, then after obtaining approval of Washington headquarters agen-

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cies, post may use the salary rate listed on the local compensation plan in the country from which the TCN is (to be) recruited, or in the TCN's home country if more appropriate than the country from which recruited, for the appropriate grade level of the TCN's duties and responsibilities. Subject to paragraph d below post must either: (a) pay this rate in the local currency of the schedule used if legal under host country's law and adjust this rate when the schedule is adjusted in the country from which the TCN is recruited or in the TCN's home country whichever is used, or (b) after obtaining approval of Washington headquarters agencies fix this rate at the time of hire in local currency of the country of USG employment at current exchange rates subject to periodic reviews by post and Washington headquarters agencies, or (c) a combination of (a) and (b).

d. Any resulting TCN salary rates that differ from those of employees on the local compensation plan of the country wherein the TCN is employed must be annotated on that plan.

927.5-5 Determining Benefits

TCN benefits must be based on prevailing practice. Each post must uniformly apply the benefit provisions of the local compensation plan (see section 934) to all TCN's with the provision for exceptions as described below without duplicating benefits already received under local compensation plan. Any decisions may depend on local laws and whether the host country will provide duty-free entry of household and personal effects.

Fringe benefits for TCN's that differ from those of FSN employees of the host country must be annotated on the local compensation plan, and delineated in the text of the approved local compensation plan.

a. Optional Benefits

(1) Each post may determine which benefits vary in prevailing practice for TCN's using the procedures in section 927.5-4. If prevailing practice warrants, separate direct fringe benefits may vary by each individual or category or TCN but all such benefits are subject to the following considerations and limitations:

- budget
- local law
- benefit levels applicable to American personnel
- length of tour of duty - some benefits may not be appropriate for tours of one year or less.

(2) If no data exist using the procedure in section 927.5-4b and a post's category of TCN employee or conditions of employment do not match the category

or conditions in prevailing practice or for local nationals of the host country, Washington headquarters in exceptional circumstances may authorize an offset in salaries appropriate to the type of benefit.

(3) Generally, the automobiles of TCNs will not be shipped at U.S. Government expense. Exceptions to this rule may be approved at the post, except that for USIA, they must be approved by the Foreign Service Personnel Division (MIPF or VOAIP). (See 6 FAM 100 and 3 FAM 927.5-5b for regulations on travel and transportation of effects.)

b. Mandatory Benefits

These benefits will apply to all TCN's according to their tours of duty regardless of localities of employment.

(1) Tours of Duty in Excess of One Year

A TCN whose period of service is one year or more is entitled to the following travel privileges (in accordance with 6 FAM 160) on recruitment travel orders:

(a) *Travel:* Economy class air accommodations for direct travel from the country in which recruited to the country of assignment for TCN and dependents. If economy class is not available, the next least expensive class which is less than first class may be authorized. Fly America provisions apply in accordance with 6 FAM 134. Dependents may travel at Government expense to reside with the employee only if such travel is approved by the employing mission in the country where the TCN will be employed.

Dependents of a TCN, for purposes of travel to and from the country of assignment, include the spouse and those children (including adopted children and stepchildren) who are under the age of 21 and unmarried, or over age 20 and incapable of self-support.

(b) *Per Diem:* Per diem for actual direct-route air travel time for the TCN and dependents who reside with the employee, not to exceed that provided by Standardized Regulations (Government Civilian, Foreign Areas).

(c) *Shipping Allowances:* These allowances will be determined after post has decided whether government housing and/or furnishings will be provided. The following limits are provided as maximums. Post may authorize lower amounts in light of local circumstances.

The employee may ship, by air freight, household and personal effects not in excess of 250 pounds gross weight for the employee, 200 pounds for the first authorized dependent, 150 pounds for

the second, and 100 pounds for each additional authorized dependent.

A limited shipment of household effects may be authorized when the post provides basic furnishings. A limited shipment may not exceed 2500 pounds net weight for a TCN with authorized dependents, or 1500 pounds net weight for a TCN without dependents.

A full shipment of household effects may be authorized when the post provides no basic furnishings. A full shipment may not exceed 7500 pounds net weight for a TCN with authorized dependents, or 4500 pounds net weight for a TCN without dependents.

(2) Tours of Duty for One year or Less

A TCN whose period of service is less than one (1) year is entitled to the following travel privileges (in accordance with 6 FAM 160) on recruitment travel orders:

(a) *Travel: Economy class accommodations for direct air travel from the country in which recruited to the country of assignment for TCN only. If economy class is not available, the next least expensive class which is less than first class may be authorized. Fly American provisions apply, in accordance with 6 FAM 134.*

(b) *Per Diem: Per diem for actual direct-route air travel time for the TCN.*

(c) *Shipping Allowance (Personal Effects): In addition to the free baggage allowance provided by the carrier, transportation of personal effects not in excess of 400 pounds (net weight), 100 pounds (gross weight) of which may be shipped by air and the balance by air or surface carrier, whichever is most economical. When local circumstances warrant, the TCN may be authorized up to an additional 100 pounds (net weight).*

(d) *Household Furnishings and Automobiles: Household furnishings and automobiles are not shipped at U.S. Government expense.*

(3) Repatriation Travel

Upon termination of employment, repatriation travel of a TCN and eligible dependents will be provided to the home country or country from which recruited as determined by the post. A TCN must depart within 30 days after termination of employment; otherwise the TCN forfeits the repatriation travel benefit.

(4) Repatriation Allowances

The TCN will be authorized to ship from the host country the same amount of weight the TCN was authorized to bring into the country..

Each post may authorize travel from the host country for a TCN and/or authorized dependents, and return travel to the host country if appropriate, during the period of employment and only in the following cases: need for medical care not available in the host country, serious effect on physical or mental health if residence at post is continued, preparation and return of the remains of a TCN or authorized dependent, and emergency evacuation under the provisions of Chapter 600 Standardized Regulations (Government Civilians, Foreign Area).

927.6 Implementation

a. Posts may continue applying existing TCN compensation plans that are in compliance with appropriate regulations until the next full salary and classification survey at which time post must apply the provisions of this section 927.

b. Implementation shall be according to section 932.6 which among other policies guarantees no employee will suffer a decrease in salary due solely to implementation of a TCN compensation plan within the local compensation plan.

928 PERSONNEL REPORTING

928.1 Responsibilities

a. State and USIA

A monthly report on employment of non-U.S. citizens and temporary U.S. citizen resident personnel, covering all posts in the country, must be submitted to State as of the end of the month by the principal post. USIA reporting procedures are found in 928.2b. Reports are not required for Agriculture or Commerce.

b. AID

Each AID mission is responsible for reporting FSN employees paid from U.S. Government appropriated funds and from cooperating country trust funds on Form AID 3-227. (See Handbook 25, Employment and Promotion.)

928.2 Procedures

a. State

Monthly reports are submitted by cable no later than the third working day of each month. The reports are prepared on form FS-468 (Exhibit 928) to

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document post records. The cables repeating this information, addressed to State (regional bureaus), follow the form line-by-line.

Part I reports on direct-hire non-U.S. citizen employment, and Part II on temporary U.S. citizen resident staff. State employees under personal services contracts are reported as Part III of the reporting cable. PSC personnel are reported as full-time, part-time or intermittent, and all information required for direct-hire personnel is compiled and reported for PSC personnel.

Where intermittent employment has been a factor, the report should balance as follows: the previous month's accessions (line F) minus current month's separations (line G) should equal the current month's total of lines A through C. When reporting gross wages and salaries paid (line I) as well as lump sum payments (line J), use estimated amounts if actual figures are not available.

Entries for FBO personal service contract employees are footnoted as follows: "Includes (number) contract personnel at (dollar amount) per month."

Individuals engaged by nonpersonal services contract are not reported.

b. USIA

Monthly reports are to be submitted by cable no later than the third working day of each month. The reports are to identify those foreign nationals providing services under USIA PSC's, the effective date of the contracts, the expiration date of the contracts, the mission/post contract numbers, and the dollar amount of the contracts. USIS posts should address such reports to the appropriate Area Office, the Office of Contracts (MIK), and the Office of Personnel (MIPFN). VOA overseas Installations should forward such reports to the appropriate office head (VOA/EO, VOA/BR, or VOA/BX) and the Office of Contracts (MIK). Those forms used to report agency staffing are not to be used in meeting this reporting requirement.

929 EMPLOYEE-MANAGEMENT RELATIONS

a. General

The heads of overseas agencies are responsible for establishment and maintenance of:

(1) a grievance system whereby FSN employees may seek redress from real or perceived unjust treatment;

(2) open lines of communication between FSN employees and mission management.

b. FSN Grievance Procedure

FSN employee grievance procedures should be developed jointly by heads of overseas agencies in accordance with fair employment practices and conditions prevailing in the locality of employment. Authority for final decisions on FSN employee grievances is delegated to the head of agency at post. Guidelines for development of a post grievance procedure are contained in Section 12.5 of the Foreign Service National Personnel Administration Handbook (FSNPAH). If a suit is brought against the establishment in this connection, the appropriate headquarters agency should be advised immediately.

c. Open Communications

(1) To prevent misunderstandings and to foster cooperation, missions should establish open lines of communication with FSN employees. Communication may be achieved through such means as:

(a) regular dissemination of information via administrative notice;

(b) periodic meetings between Mission management officials and FSN employees;

(c) scheduled meetings between Mission management officials and representatives of an FSN employee association.

Guidance on the establishment and maintenance of open lines of communication with FSN employees is contained in Section 12.6 of the Foreign Service National Personnel Administration Handbook (FSNPAH).

(2) All conditions of FSN employment are suitable for discussion between mission officials and FSN employees, or their representatives.

d. Management Authority

These regulations, while providing authority for open discussions regarding conditions of employment between FSN employees and management officials, do not affect the U.S. Government's authority to establish FSN personnel policies governing position classification, compensation, contracting, hiring, termination, discipline, promotion, assignment, or any other condition of employment, as well as policy regarding, *inter alia*, the following:

(1) U.S. foreign policy or the goals of the mission;

(2) the mission's budget or organization;

(3) the size or composition of the mission's workforce

(4) administrative policies relating to classified security operations; requirements of U.S. law or regulations.

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e. Prohibitions

Check-off of association dues is prohibited.

Recognition of a union as the representative of FSN employees is prohibited (section 922.4d).

As Federal employees, foreign national direct-hire and personal service contract personnel may not

strike against the U.S. Government (section 922.4f).

As supervisors and management officials, American personnel may not participate in discussions with Mission representatives on behalf of the association or participate in the formulation of association policies or direction.

Form SF-50, Notification of Personnel Action

NOTIFICATION OF PERSONNEL ACTION											
1 Name (Last, First, Middle) ROE, RICHARD J.				2 ESN FNO L12345678		3 Position Sensitivity (SpL)		4 Date of Birth 01-22-50			
5 Veteran Preference 1-None 2-5 Pt 3-10 Pt Dual 4-10 Pt Comp 5-10 Pt Other 6-10 Pt/20% Comp				6 Serv. Comp. Date (Leave) 07-08-74		7 Tenure O		8 Ret. event 5 1-CS 3-FS 6-Other 2-FICA 4-None 8-CS Spc			
9 FEGLI A				10 FLSA E E-exempt N-None exempt		11 Sex M		12 Citizenship 8 1-US 2-Other		13 Emp. Level (SpL)	
14 Effective Date 09-18-83			15 Annuitant Indicator 9 1-Retired Ann-C 3-RETR 5-RETR & CS 2-RETO 4-RETO & CS 6-Not Applicable			16 Work Schedule F Full-time P-Part-time I-Intermittent		17 (Reserved for OPM Use)		17 (Reserved for OPM Use)	
18-A NOAC 702		18-B Nature of Action Promotion				19-A NOAC		19-B Nature of Action			
18-C Job Code ZLM		18-D Authority Public Law 96-465				19-C Job Code		19-D Authority			
19-E Job Code		19-F Authority				19-E Job Code		19-F Authority			
20 FROM Position Title and Number Budget Analyst N53307						27 To Position Title and Number Budget Analyst N53308					
21 Name and Location of Employing Office Budget and Management Office (A/BM) Administrative Section American Embassy						28 Name and Location of Employing Office Budget and Management Office (A/BM) Administrative Section American Embassy					
22 Pay Plan & Occupational Code FSN-405		23 Grade & Level 08		24 Step & Rate 03		25 Salary £ 10,529		26 Pay Basis p.a.		29 Pay Plan & Occupational Code FSN-405	
								30 Grade & Level 09		31 Step & Rate 01	
								32 Salary £ 11,163		33 Pay Basis p.a.	
34 Duty Station London, England						35 Position Occupied 2 1-Competitive 2-Exempt		36 SES General 3 SES General 4 SES Career Reserved		38 Appropriation Code (Optional) 1930113 3A-5232	
37 Remarks: <ol style="list-style-type: none"> 1. Richard James Roe 2. British 3. £ 0.666844 pounds sterling equals \$1 U.S. dollar £ 10,529 = \$ 15,789.30 £ 11,163 = \$ 16,740.05 4. Base £ 9,877 F.B. £ 1,286 Gross £ 11,163 5. N/A 6. N/A 											
38 Approval A Title of Approving Official Personnel Officer						39 FPM/IS Data B Date 9/7/83					
C Signature/Authentication of Approving Official <i>Mary C. Jones</i>						F. Ed. Level		G. Year Imp'd Award		H. Academic Degree	
40 Employing Department or Agency Department of State						J. Location Code 323201		I. Agency Code ST 00		K. BOM 0	
						M		O		P	
						N		Q		R	

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Guide for Processing Form SF-50: Definitions

The Definitions listed below are intended for use in completing the Notification of Personnel Action for FSN employees (SF-50). The definitions are not meant to cover all facets of FSN employment. For detailed information of instructions, the appropriate FAM regulation should be consulted.

Absence Without Leave (AWOL) – Absence without prior approval, a nonpay status resulting from a mission determination that it will not grant any type of leave (not even leave without pay) for a period of absence for which employee did not obtain advance authorization or for which a request for leave has been denied.

Appointment – Any personnel action which brings an individual onto the rolls (staff) of a mission. (Does not include contract employment.)

Authority – The law, executive order, regulation under which a personnel action is taken.

Authority Code – An identification for statistical and data processing purposes, of the authority under which a personnel action is taken.

Cancellation – The issuance of a Notification of Personnel Action which cancels a previous action in its entirety when that earlier action is determined to have been processed in error.

Change to Lower Grade – The change of an employee to a position classified at a lower grade level.

Competitive Service – All civilian positions in the U.S. Federal Government which are not specifically excepted from the Service laws by or under statute (such as the Foreign Service Act of 1980), by the President, or by OPM. All Foreign Service American and FSN employees are in the Excepted Service.

Conditional Appointment – A direct-hire appointment containing no definite time limitation which requires and indicates participation in the Civil Service Retirement System.

Appointment authority under this type of category was withdrawn in December 1983.

Continuance – The personnel action used to document that an employee has received waived of mandatory retirement under the post's separation-for-age plan, or the extension of previous waiver.

Conversion – The change of an employees from one type of appointment to another type of appointment in the same agency without a break in service.

Correction – The issuance of a Notification of Personnel Action to (1) change information on a previous action in which administrative or clerical error occurred; or (2) includes information that was omitted in error.

Creditable Service – Employment by the U.S. Government which meets requirements for a particular type of appointment to benefit. For example, service may be creditable for retirement under the Civil Service Retirement System, leave accrual, severance pay, etc.

Denial of Within-Grade Increase – The decision to withhold (not grant) a within-grade increase (also known as periodic step increase) to an employee because of a determination that the employee's performance is not at an acceptable level of competence.

Detail – A temporary assignment of an employee to a different position or location for a specified period, with the employee returning to regular duties at the end of the detail.

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Discharge - A separation action initiated by the mission based on unsatisfactory work performance.

Duty Station - The city and country or locality where the employee works.

Excepted Service - Positions outside the competitive service. Excepted service positions have been excepted from the requirements of the competitive service by law (such as F.S. Act of 1980), executive order, or OPM regulation. All Foreign Service American and FSN employees are in the excepted service.

Exception Grade - A temporary grade level for an FSN position or class of positions authorized in advance by Washington which may be either higher or lower than the grade level previously published in the the LEPCH for positions which require the same type and complexity of work.

Exception Rate - A temporary rate range approved in advance by Washington for an FSN position or class of positions which may be either higher or lower than the grade level previously published in the LEPCH for positions which require the same type and complexity of work.

Executive Order - A directive issued by the President of the United States.

FEGL - Federal Employee's Group Life Insurance (certain U.S. citizens only).

FEHBP - Federal Employee's Health Benefits Program (certain U.S. citizens only).

Furlough - Placement of an employee in a temporary nonpay status and nonduty status because of lack of work or funds, upon employee's entering the U.S. or foreign military service or for other nondisciplinary reasons.

Grade - A level of work responsibility and qualification requirements.

Grade Retention - The temporary retention of the former graded of a position by the incumbent when the circumstances of the position's downgrading meet the criteria set forth in section 954.2.

Indefinite Appointment - A direct-hire appointment containing no definite time limitation.

Intermittent Work Schedule - A work schedule which requires employee to work on an irregular basis for which there is not prearranged scheduled tour of duty.

Involuntary Separation - A separation against the will of an without the consent of the employee other than separation for cause. (See section 675 Appendix A, subchapter S-11.)

Leave Without Pay (LWP) - An absence from duty with pay (in sick leave status) granted at the employee's requests following the approval of a disability retirement application, or after application for optional retirement due to disability. This definition (and Nature of Action) is reserved for processing Form SF-50 and should not be confused with other authorized leave with pay for which Form SF-50 is not required.

Leave Without Pay (LWOP) - A temporary non-pay status and absence from a prescheduled tour of duty which may be granted at the employee's request.

Limited Appointment - A direct-hire appointment containing a maximum time limit.

Mass Transfer - The movement of an employee with the employee's position to a different agency when (1) a transfer of function or an organization change takes place and (2) there is no change in the employee's position, grade, or pay.

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Name Change - A change in employee's name resulting from marriage or court action (such as divorce or legal name change). Other written requests for a name change may be accepted by the mission provided (a) the laws of the host country do not expressly provide that name changes can be accomplished only by court action, (b) that mission has no reason to believe that name change is being requested by employee with the intention of fraud or deceit, and (c) the employee expects to continue to use the new name in all employment and employment related records.

Nature of Action (NOA) - The phrase which explains the action that is occurring.

Nature of Action Code (NOAC) - An identification, for statistical and data processing purposes, of the nature of action being taken.

Occupational Code - The numerical symbol which identifies the specific series within the occupational group for the employee's position as determined by the LEPCH.

OPM - The Office of Personnel Management

Part-Time Work Schedule - A schedule which requires an employee to work less than full-time but for a definite number of hours on a pre-arranged scheduled tour of duty as shown on the Notification of Personnel Action.

Pay Adjustment - Any increase or decrease in an employee's rate of basic pay when there is no change in the duties or responsibilities of the employee's position (for example, revision of local compensation plan, meritorious step increase).

Pay Basis - The term of time which serves as a basis for computing an employee's pay; for example, per annum, per month, etc.

Pay Plan - A compensation plan authorized by U.S. law which governs the pay an employee receives.

Periodic Step Increases - See Within Grade Increase.

Position Change - A move by an FSN who is entitled to grade retention, to another position at or below the retained grade during continuous service under the same mission's local compensation plan. A move to another position when a FSN is not entitled to grade retention is called either promotion, change to lower grade, or reassignment.

Position Title - The name of a position, such as "Secretary," or "Engineer", or "Personnel Specialist."

Promotion - The change of an employee to a position classified at a higher grade level.

Realignment - The movement of an employee and the employee's position when (1) a transfer of function or an organization change occurs, and (2) the employee stays in the same agency, and (3) there is no change in the employee's position, grade, or pay.

Reassignment - The change of an employee, while agency, from one position to another without promotion or change to a lower grade.

Removal - A separation action initiated by the mission where the employee is at fault, but work performance is not a factor. Reasons may include abandonment of position, U.S. national security interests, etc.

Resignation - Separation action initiated by employee because of desire to leave the organization.

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Resignation-ILIA - (in lieu of involuntary action) - Separation initiated by employee under circumstances which meet the definition of "involuntary separation" in section 675, Appendix A, subchapter S-11.

Retirement - Separation when an employee is eligible to obtain immediate retirement benefits. (See section 675, Appendix A for Civil Service Retirement regulations.)

Return to Duty (RTD) - Placement of an employee back in pay and duty status after absence for Furlough, Suspension, Leave Without Pay, or AWOL.

Service Computation Date (SCD) - The date, either actual or constructed, used to determine benefits which are based on how long the employee has been in U.S. Federal Service.

Step - One of the increments a basis pay authorized by pay plan within a specific grade of a position.

Suspension - Placement of an employee in a temporary nonpay status and non-duty status for disciplinary reasons or other reasons pending an inquiry. It includes placing an employee in a nonpay status without the employee's consent pending the approval by OPM of a disability retirement application filed by the agency.

Termination - Separation action initiated by the mission where the employee is not at fault.

Termination-Appt. in (Agency) - Action to terminate employee when employee moves from one agency to another without a break in service.

Termination-Disability - Separation action initiated by mission because of employee's mental or physical disability.

Termination-Expiration of Appointment - Separation action initiated by mission not-to-exceed date of a temporary appointment.

Termination-Involuntary - Separation action initiated when employee fails to return from military furlough.

Tour of Duty - The hours of a day (daily tour of duty) and the days of an administrative workweek (weekly tour of duty) that are scheduled in advance and during which an employee is required to perform work on a regularly recurring basis.

Transfer - A change of an employee, without a break in service of one full workday, from a position in one agency to a position in another agency. These actions are normally processed by the losing agency as "Termination-Appointment in (agency)" and as "Transfer" by the gaining agency.

U.S. Uniformed Services - U.S. Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration, and Public Health Service.

Veteran Preference - A U.S. citizen employee's entitlement to certain preferences in the competitive U.S. Federal Service based on active U.S. military service which terminated honorably.

Within Grade Increase (WGI) - Is an increase in employee's rate of basic pay by advancement from one step grade to the next after meeting requirements for length of service and performance. Also known as Periodic Step Increase.

Work Schedule - The time basis on which an employee is paid. A work schedule may be full-time, part-time, or intermittent.

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Guide For Processing Form SF-50: Completing the Form

ITEM #1: Enter full name by which employee is known or designated in capital letters in following order:

SURNAME, FIRST NAME OR INITIAL, MIDDLE NAME(S) OR INITIAL(S).

NOTE: If employee has no middle name or initial, enter "NMN." Titles such as

Mr., Mrs., Miss, Dr., etc. should not be used on SF-50. An employee's name should be shown consistently and identically on all U.S. Federal employment and pay records. Employee's full name is also shown in Item 37, "Remarks," including those part(s) of the name which are represented by initial(s) in Item 1. The reason is to differentiate between employees who use similar or identical names and/or initials and to record on the SF-50 all elements of the employee's name if the name contains more characters than a computerized record can accommodate in Item 1.

When documenting a name change, show employee's new name in Item 1. Show former name in Item 18B; for example, (780 Name Change from (Previous Name)).

ITEM #2: Enter initials "FNO" followed by employee's identification number, consisting of one letter and eight digits. "FNO" means Foreign Nation Overseas. Enter U.S. Social security Number if FSN has one. This number should be preceded by "SS."

ITEM #3: Make an entry.

ITEM #4: Enter month, day, and year in six numerals, for example, "09-15-60," for September 15, 1960.

ITEM #5: Enter "1" for all FSNs.

ITEM #6: Enter month, day and year in six numerals, for example, "10-02-65," for October 2, 1965.

ITEM #7: Enter "0" for all FSNs.

ITEM #8: Enter number shown in this item which indicates the retirement system to which deductions from the employee's pay are credited. Either "1," "4," "5," or "6" may be used for FSNs. (Where severance pay is the only retirement system, enter "4." For re-employed CSR annuitants, use "6.")

ITEM #9: Enter "A" (Ineligible) for all FSN's.

ITEM #10: Enter "E" for all FSN's

ITEM #11: Enter "F" for female or "M" for male.

ITEM #12: Enter "8" for all FSN's.

ITEM #13: Make no entry.

ITEM #14: Enter the month, day, and year on which the Nature of Action enters in force in six numerals, for example, "01-03-80" for January 3, 1980.

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- ITEM #15: Enter "9" for all FSNs except: Enter "1" if FSN is a reemployed CSR annuitant. (See section 975.)
- ITEM #16: Enter "F" for full-time, "P" for part-time, and "I" for intermittent. NOTE-In this context, Codes "G," "Q," and "J" may not be used for FSN's; "Seasonal," as used in this block, does not apply to FSN's.
- ITEM #17: Make no entry.
- ITEM #18A: Enter one appropriate Nature of Action Code.
- ITEM #18B: Enter one appropriate Nature of Action.
- ITEM #18C: Enter "ZLM" in all cases for FSN's.
- ITEM #18D: Enter "PL 96-465" in all cases.

NOTE. PL 96-465 is the Foreign Service Act of 1980. "PL 96-465" and "ZLM" are the only authority and the only authority code to be used for FSN's. Items 18C and 18D ("Authority" and "Authority Code") must be completed in all cases except when Nature of Action is "Death."

ITEM 18E and 18F: Make no entry

ITEMS #19A through 19D:

To be completed only when a second action with the same effective date is processed on the same SF-50. If more than one action is processed the NOA and NOAC should be placed in items 18 and 19 in the order in which they logically occur. For instance, if an FSN returns to duty from LWOP and is being reassigned on the same day, the NOA "Return to Duty" and NOAC 292 are put in Items 18A and B and NOA "Reassignment" and NOAC 721 are put in the Items 19A and B. Item 19C is "ZLM" in all cases and Item 19D is "PL 96-465" in all cases.

ITEMS #19E and 19F: Make no entry.

- ITEM #20: Enter present position title followed by present position number.
For posts under the worldwide FSN Position Classification System: Enter the position title stipulated in applicable standards of the LEPCH. The position title to be entered here is the title shown in Item 5A of the position description. Enter position number shown in Item 3 of the position description. Example: Voucher Examiner N3082.
For posts not under worldwide FSN Position Classification System: Enter position title and position number established by and used at post.

ITEM #21: Enter in full the name of unit (if applicable) and name of section or division to which FSN is currently assigned. In an appointment action which moves an FSN from another agency, enter the name of that agency. Enter geographic location of present employing office if it differs from entry in Block 34. Example: Office of Labor Attache Political Section.

ITEM #22: For posts under worldwide FSN Position Classification System: Enter pay plan and present occupational code, for example, FSN-0120 or FSN-1415.

For posts not under worldwide FSN Position Classification System: Enter "FSN" followed by the occupational code established by and used at post for employee's present position.

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ITEM #23: Enter grade of employee in tow digits, for example, "05" or "10."

ITEM #24: Enter the appropriate numerical step within the employee's grade in two digits, for example, "01" or "10."

ITEM #25: Enter annual salary in local currency as shown in local compensation plan. All elements of salary should be shown in Item 37, "Remarks," as listed in the local compensation plan.

ITEM #26: Enter "p.a." for per annum.

ITEM #27: Position title and number to which employee assigned.

Example: Assistant II (Shipping) DA-140.

Refer to 2nd and 3rd paragraphs of instructions under Item 20 for guidance concerning position title and number.

ITEM #28: Enter in full name of unit (if applicable) and name of section or division to which FSN is newly assigned. Enter geographic location of present employing office if it differs from entry in Block 34.

For instance, the position title and number example cited in Item 27, above, is located in Chittagong, Bangladesh. The subsequent entry in Item 28 in this example would read, Administrative Section, Dacca; Item 34 would read, Chittagong.

NOTE. Items 27 through 33 must be completed for all actions except separations which are not immediately followed by appointment in another USG agency without break-in-service, and when an employee is entering a period of nonpay status and return to pay status is anticipated.

ITEMS #29 through 33: Enter appropriate data which supersedes corresponding entries in Items 22 and 26. Ensure that salary is shown in local currency.

ITEM #34: Enter city and country or city and locality where FSN is employed.

ITEM #35: Enter numeral "@" in all cases.

ITEM #36: Enter appropriation and allotment codes supplied by funding office of employing agency. (See also 4 FAM Appendix A.)

ITEM #37: See Exhibit 924.2c, pp. 10-12, "Remarks Section of SF-50."

ITEM #39: Enter agency codes: Dept of Agriculture, AG OO; Commerce, CM OO; USIA, IB OO; AID, AM OO; Library of Congress, LC OO; Justice, DJ OO; Action, KG OO; Health and Human Services, HE OO; Treasury, TR OO.

Enter Location code in Block 39J (see 4 FAM Appendix A).
Make no entry in 39A, B, C, D, E, F, G, H, K, or N through Q.

ITEM #40: Enter full name of employing agency.

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Guide for Processing Form SF-50: List of Nature of Action and Nature of Action Codes

NOAC NOA

001 Cancellation

NOTE. Insert in items 18A & B. Insert NOAC and NOA of action being canceled items 19A & B.

002 Correction

NOTE. Insert in items 18A & B. Insert NOAC and NOA of action being corrected in items 19A & B.

130 Transfer

NOTE. See also NOAC 352 and NOAC 792.

132 Mass Transfer

292 RTD

NOTE. Definition - Return to Duty.

300 Retirement - Mandatory

NOTE. NOAC 300 through 304 are used regardless of the type of retirement benefits for which the FSN is eligible. See also NOAC 462 and NOAC 750.

301 Retirement - Disability

302 Retirement - Voluntary

304 Retirement - Involuntary

312 Resignation - ILIA

317 Resignation

330 Removal

350 Death

352 Termination - Appt. in (Agency)

NOTE. See also NOAC 130 and NOAC 792.

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NOAC NOA

353 Termination - MIL

354 Termination - Disability

355 Termination - Exp of Appt.

356 Termination - Involuntary

357 Termination

386 Discharge

400 Suspension NTE date

452 Suspension - Indefinite

NOTE. Use only pending outcome of legal or investigative proceedings.

460 LWOP NTE (date)

462 LWP NTE (date)

472 Furlough

473 Furlough - MIL

702 Promotion

713 Change to Lower Grade

721 Reassignment

730 Detail NTE (date)

731 Ext of detail NTE (date)

732 Termination of Detail

736 Grade Retention

740 Position Grade

750 Continuance NTE (date)

760 Ext of Appt. NTE (date)

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772 Ext of Furlough NTE (date)

773 Ext of LWOP NTE (date)

780 Name change from

781 Change in Work Schedule

782 Change in Hours

790 Realignment

792 Change in Duty Station

NOTE. Use only for permanent change in duty station.

800 Change in Data Element

NOTE. Use only to correct data on SF-50 when no other personnel action takes place. Use 002 Correction to correct typographical or administrative errors.

866 Term of Grade Retention

882 Change in SCD

888 Denial of Within Grade Inc.

893 Within Grade Inc.

NOTE. An Authorized form other than an SF-50 may be used.

894 Pay Adjustment

951 Exec Appt. NTE _____ (FSN Limited)

NOTE. For all FSN's during probationary period. (FSN may or may not be participant in local retirement system but may not contribute to CSR.)

952 Exc Appt. NTE _____ (FSN Temporary)

NOTE. For all FSN's who are appointed for 1 year or less. (FSN may or may not be participant in local retirement system but may not contribute to CSR.)

(Exc Appt)

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NOTE: Formerly used to convey eligibility for Civil Service Retirement (CSR) until authority with drawn in December 1983.

Appointment was without specific time limitation.

954 Conv. to FSN indefinite

(Exc Appt)

NOTE: For FSN's who successfully complete probationary period. Appointment is without specific time limitation. Also used for FSN's enrolled in CSR who transfer to local retirement system.

955 (Conv. to FSN Limited NTE (date))

(Exc Appt.)

NOTE. For FSN's who successfully complete probationary period. Appointment has time limitation of more than 1 year but less than 5 years. Appointment may be extended in increments of no more than 5 years each. FSN's do not contribute to CSR but may or may not participate in an other retirement system.

Guide For Processing Form SF-50: Remarks Section

The following is a compilation of statements to be used in in Item #37, "Remarks" of the SF-50. It is not all-inclusive and authorizing officers may add additional statements as required for post or other use:

To be included in Remarks section on all Notification of Personnel Actions:

1. Employee's Full Name
2. Citizenship(s) of Employee
3. Official Rate of Exchange on effective date of the action and U.S. dollar equivalent of salary shown in Item(s) 25 and 32. Provide name of host country monetary unit, for example, Mexican peso, French franc, Indian rupee, etc.
4. Elements of Salary (This data is available from the local compensation plan for example, base pay, fringe benefits, adjusted base pay, etc.)
5. Appointment actions must state whether new employee is holder of an Alien Registration Card, "Green Card." form I-551, indicating alien U.S. resident status
6. Work Schedule (Specify number of hours that constitute workweek if "F" for full-time in Item 16 represents more or less than 40 hours; specify the basic workweek, days and hours of duty, for part-time employees.)

Appointment and/or Conversions

For TCN's: See section 927

Mandatory for Appointments:

Appointment affidavit executed _____ (date) _____.

Use as applicable:

Probationary period successfully completed.

Employee's salary became subject to CSR deductions effective _____ (date) _____.

Salary in Item _____ reflects Exception Rate for employee's grade level in accordance with authority contained in mission's local compensation plan effective _____.

Exception Grade authorized by (cite Washington message number and date).

Tour of Duty will be:

Correction

Mandatory:

Item # _____ is corrected to read:

Use when Applicable:

Also corrects same Item on all previous personnel actions from _____ (date) _____ to _____ (date) _____.

Return to Duty

Use when applicable:

Changes SCD from _____ (date) _____ to _____ (date) _____ (see NOAC 882 for use in Item 19A and B).

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Nonpay time not previously recorded in calendary year (year) totaled (number) hours.

Eligibility date for WGI adjusted. New estimated eligibility date is _____.

Separations (includes retirement resignation, termination, removal, discharge, death)

Mandatory:

Forwarding address or Last Known Address.

Balance of unused annual leave as of date of separation is (number) hours. (For Record Purposes Only)

Balance of unused sick leave as of date of separation is (number) hours. (For Record Purposes Only)

Use when applicable:

Lump-sum payment to cover (number) hours of unused annual leave ending (date) is: (Give total amount of payment in local currency and U.S. dollar equivalent.)

Severance Pay: Payment of (insert total amount) covering period from (date) authorized. U. S. dollar equivalent of total payment \$_____.

Not entitled to severance pay because _____.

Not entitled to lump-sum payment for unused annual leave because _____.

Advance notice of (mandatory retirement or other separation) was given to employee on (date).

(Insert employee's name) has reached the age and length of service required for retirement in (insert name of post and county) in accordance with mandatory separation age established by this mission's "Separation for Age" policy document.

Employee abandoned position by failing to report for duty beginning _____.

Resigned after receiving written notice on (date) of mission's decision to (discharge, remove, suspend, terminate, abolish position, etc.).

Separated during probationary period.

Separated because employee did not satisfactorily complete probationary period.

Employee did not return from military furlough.
Reason:

Furlough, Suspension, LWOP, Detail

Mandatory:

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Reason:

Use when applicable:

Employee granted furlough (non-pay status) for temporary (call-up or mandatory) duty with armed forces of (name of country) through _____ (date) .

Grade Retention

Mandatory for Placing an FSN Employee in Grade Retention Status

Position (number) has been downgraded to FSN (grade). The employee is entitled to retain FSN (grade) through (date) under section 954.2-2 (paragraph a, b, or c, as appropriate).

Continuance

Mandatory for Removing an FSN Employee from Grade Retention Status

Grade Retention entitlement terminated.

Mandatory:

Continuance approved by: (give name, title and agency of approving official and date) Copy of approval document attached.

Denial of Within Grade Increase

Within grade increase to step (number) is denied because your work is not at an acceptable level of competence. You remain at FSN (grade), step (number).

Changes and/or Adjustments other than Correction

Use when applicable:

Tour of Duty will be:

Intermittent employment totaled (number) hours in pay status from _____ (date) to _____ (date) .

Change in SCD form _____ (date) for the following reason:

Reason:

Salary in Item _____ reflects Exception Rate for employee's grade level in accordance with authority contained in mission's local compensation plan effective _____ (date) .

Exception Rate entitlement terminated.

Exception Grade entitlement terminated.

Employee is entitled to annual salary of _____ by virtue of save rate status provided in section 932.6a(5)

Pay Adjustment to implement Revised Compensation Plan.

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Guide For Processing Form SF-50: Distribution

All Agencies:

- Copy #1 - Employee's Copy
 - Copy #2 - Forward to regional payrolling office with additional copies as required by regional payrolling office.
 - Copy #3 - Employee's Official Personnel File (OPF) for permanent retention.
 - Copy #4 - This copy of the SF-50 which separates FSN is forwarded with other completed forms to the headquarters agency in accordance with established procedures. Copy #4 should not be sent directly to OPM when not required for separation, may be used as an extra copy.
 - Copy #5 - For use by post as chronological record or as an extra copy.
- NOTE.** Additional copies may be made locally for distribution to a constituent post, head quarters agencies, the Regional Security officer (see Special Requirements below) and Department of State Bureau Executive Offices in accordance with procedures established for a location.

Special Requirements

- Department of Commerce:** One copy of each Form SF-50 processed for an FSN employed by the Foreign Commercial Service, whether or not the FSN participates in CSR, is forwarded via air pouch to: Office of Personnel Administration (FSC/OPA, Foreign Commercial Service, Mail Drop 3110, Department of Commerce, Washington, D.C.
- Department of Agriculture:** One copy of each Form SF-50 processed for an FSN employed by USDA whether or not the FSN participates in CSR, is forwarded via air pouch to: Personnel Division, FAS U.S. Department of Agriculture, 14th and Independence Ave, S.W., Washington, D.C.
- Peace Corps:** One copy of each Form SF-50 processed for an FSN employed by Peace Corps whether or not FSN participates in CSR, is forwarded via air pouch to: Staff Payroll, Peace Corps, Washington, D.C.
- State, AID, USIA:** For FSNs who currently or formerly contributed to CSR only: One copy of those forms, SF-50, documenting the FSN's beginning or terminating participation in CSR, entering or returning from a non-pay status, changing or correcting the employee's name, DOB, SCD, or employee identification number, is sent via air pouch to headquarters agency as follows:
- State: M/COMP/FO/RA, Department of State
Washington, D.C.
 - USIA: Foreign National Personnel Staff, M/PFN
Washington, D.C.
 - AID: Office of Financial Management
Employee Service Division (FM/ESD)
Agency for International Development, Washington, D.C.
- Regional Security Officer:** One copy the Form SF-50 processed upon appointment, change in name, disciplinary and separation actions for each FSN regardless of agency or retirement plan.

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U.S. DEPARTMENT OF STATE

**CONTRACT WITH A FOREIGN NATIONAL FOR
PERSONAL SERVICES**

CONTRACT FOR	CONTRACT NO. ESTIMATED CONTRACT AMOUNT
PROJECT NO. PROGRAM OFFICE	EFFECTIVE DATE
PROJECT OFFICER	ESTIMATED COMPLETION DATE
ADMINISTERED BY	ACCOUNTING APPROPRIATION DATA APPROPRIATION NO. ALLOTMENT NO.
CONTRACTING OFFICE NAME AND ADDRESS	CONTRACTOR (NAME) STREET ADDRESS CITY STATE ZIP CODE
PAYING OFFICE	

MAIL INVOICES TO: *(original and three copies)*

The United States of America, hereinafter called the Government, represented by the Contracting Officer executing this Contract and the Contractor agree that the Contractor shall perform all the services set forth in the attached Schedule for the consideration stated therein. The rights and obligations of the parties to this Contract shall be subject to and governed by the Schedule and the General Provisions. To the extent of any inconsistency between the Schedule or the General Provisions and any specifications or other provisions which are made a part of this Contract, by reference or other wise, the Schedule and General Provisions shall control. To the extent of any inconsistency between the Schedule and the General Provisions, the Schedule shall control.

SIGNATURE OF CONTRACTOR	UNITED STATES OF AMERICA DEPARTMENT OF STATE BY <i>(Signature of Contracting Officer)</i>
TYPED OR PRINTED NAME	TYPED OR PRINTED NAME
DATE	DATE

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FOREIGN NATIONAL PERSONAL SERVICES CONTRACT

**BETWEEN _____ AND
(Name of Contractor)**

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

1. This contract is made and entered into the _____ day of 19__ between _____ whose address is _____ and whose Embassy I.D. card number is _____, hereinafter called the "Contractor" and the Government of the United States of America, hereinafter called "the Government" acting by _____, _____, American Embassy, _____, on behalf of the Government.

The legal authority to contract for personal services of the Contractor is contained in State Telegram No. _____ dated _____. (Attachment A)

2. The Contractor agrees to perform the duties described in the attached form OF-298, Interagency FSN Employee Position Description. (Attachment B)

3. For the contracted services, the Contractor will receive the salary established for grade FSN _____, step _____ in the Local Compensation Plan dated _____. (Attachment C)

All provisions for overtime pay, holiday pay, fringe benefit payments, bonuses, workers compensation, step increases, and other salary payments of the Local Compensation Plan will apply to contract payments to the Contractor.

Payments to the Contractor will automatically be changed in accordance with the procedures and policies of 3 FAM 930 whenever a new or revised Local Compensation Plan affecting the contractor's grade or step is implemented by the Government, with the same effective date as for direct hire FSN employees.

For purposes of periodic adjustments of salary and leave, the Contractor's service computation date is _____. For purposes of severance pay, the Contractor's service computation date is _____.

4. Conditions of employment which apply to the Contractor are described in 3 FAM 620, 3 FAM 922.4, 924, Section 413 of the Foreign Service Act of 1980, the Mission's FSN Handbook, Attachment D, etc.

5. The Government's liability for payment under Section 413 of the Foreign Service Act of 1980, described in Section 3 of the contract, is subject to the availability of appropriated funds at the time a claim arising thereunder is made. Nothing in this contract shall be construed as implying that the Congress will, at a later date, appropriate funds sufficient to meet any deficiencies.

6. The contract may be terminated by either party in writing within thirty (30) days notice, or by the Government without notice upon the Contractor's failure to perform the duties assigned in accordance with item 2.

7. Damage to, or loss of, Government property when it is due to the Contractor's negligence may result in the Contractor being held liable for repair or replacement thereof at the option of the Government.

8. All disputes between the Contractor and the Government arising out of this contract shall be decided by the Administrative Officer or, in the absence thereof, the designee of the Administrative Officer, provided that the Contractor shall have the right to appeal in writing within thirty (30) days of receipt of notice of any such decision to the Ambassador of the United States in _____.

9. No part of this contract is assignable by the Contractor to a third party.

10. If the local law or decree requires that one or both parties to this contract register it with designated authorities to ensure compliance with such law or decree, the entire burden for such registration will rest upon the Contractor.

11. Any local or other taxes that may be assessed against this contract shall be payable by the Contractor without recourse to the Government for the amount thereof.

12. This contract shall extend from _____ through _____, unless terminated earlier under clause 5 above. This contract may be renewed or extended on the basis of mutual agreement of the Contractor and the Government.

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13. Pursuant to the requirements of the Anti-Deficiency Act, 31 U.S.C. 1341, all obligations of the Government under this contract, other than for salary and related benefits for the current fiscal year, are hereby made subject to the availability of funds appropriated by the U.S. Congress to make such payments.

14. Federal Acquisition Regulation 52.252-2 Clauses Incorporated by Reference--This Contract incorporated the following clauses from the Federal Acquisition Regulation by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make the full text of these clauses available:

FAR Source Title and Date

- 52.203-1 Officials Not to Benefit (April 1984)
- 52.203-3 Gratuities (April 1984)
- 52.203-5 Covenant Against Contingent Fees (April 1984)
- 52.215-1 Examination of Records by Comptroller General (April 1984)
- 52.233-1 Disputes (April 1984)

Done at the American Embassy: in _____, _____, this ____ day of _____, 19__.

Accepted:

_____ Contractor

_____ Contracting Officer

Funds Available:

_____ Certifying Officer

Attachments:

- A. Authority: (State _____ dated _____.)
- B. OF-298, Position Description.
- C. Local Compensation Plan dated _____.
- D. Explanation of Conditions of Employment.

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EXPLANATION OF CONDITIONS OF EMPLOYMENT FOR PSC EMPLOYEES

Information regarding the following policies (and any others which may be peculiar to the post) must be described in the FSN Handbook or in separate attachment (D) to the contract.

1. Status of employee as affected by local laws
 2. Effect on employment of invalid security clearance
 3. Probationary period
 4. Responsibilities and conduct, including prohibitions against -
 - requesting and accepting gifts or favors
 - engaging in business
 - use of USG property
 - misuse of information
 - indebtedness
 - gambling, betting and lotteries
 - making recommendations for employment of others
 - wearing uniforms
 - political activity
 - general conduct prejudicial to the USG
 5. Assigned duties and position classification system
 6. Compensation policy -
 - explanation of salary components (beneficiary forms)
 - allowances & bonuses
 - premium pay (O/T, holiday (U.S. & local), Sunday pay, night differential, compensatory time off in lieu of
 - retirement contributions (beneficiary forms)
 - health insurance
 - severance pay
 - separation notice period
 - periodic salary adjustments (provided in lieu of WGI or through revision of Local Compensation Plan)
 - ineligibility for MSI
 - paydays
 7. Health program -
 - pre-employment physical
 - emergency or other use of health room facilities
 - participation in local health plan
 - medical counseling
 8. Attendance and leave (both U.S.-based and local plans)
 - work schedules/lunch hour/coffee break/tardiness
 - holidays
 - annual/sick leave accrual and use (advance of)
 - procedures for applying for leave
 - LWOP & AWOL
 - maternity, excused & other leave
-

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9. Work related accidents
 10. Performance evaluation and the PSC awards program
 11. Grievance procedures
 12. Disciplinary actions
 13. Separation (resignation, retirement, disciplinary, authorized separation payments, retirement benefits)
 14. Changes in personal status (including PRA)
 15. Personal record of employment
 16. Official travel
 17. Training
-

UNIFORM STATE/AID/USIA REGULATIONS
CONDITIONS OF EMPLOYMENT AGREEMENT FOR THIRD-
COUNTRY NATIONALS

MEMORANDUM TO: _____

The (Headquarters agency) has offered you an appointment as a _____ with the _____ (post) at a salary of _____ per annum. Your regular work schedule will be _____ hours a week and you will receive such overtime, holiday, and night differential pay as you are entitled to under the compensation plan for third-country nationals at _____ (post). You will be entitled to the same annual and sick leave privileges as those granted to local employees of _____ (post). If you accept our offer of employment--

1. The term of your appointment will be for _____ years, subject to extension for additional periods, when mutually agreed. Your continued employment under this initial appointment (as well as any extensions thereof) will be dependent on the availability of funds, the post's determination of continuing need for your services, and your satisfactory performance and conduct.
2. Your appointment is subject to satisfactory completion of security and suitability investigations.
3. You (and your dependents) 1/ will be entitled to travel, per diem, and transportation of personal and household effects from the place of your residence at time of employment to your post of assignment. If you complete the tour of duty specified in the "Notification of Personnel Action," or if you are separated by the _____ (overseas establishment) prior to completion of the agreed tour of duty for reasons beyond your control, you (and your dependents) 1/ will be entitled to return travel to your residence at the time of your employment.
4. If you so choose, you may draw an advance travel allowance of \$ _____ prior to departure from the post of recruitment which is accountable and refundable by you to _____ (post).
5. It is understood that you will comply with the regulations and conditions of employment established at the _____ (post) and the local laws and regulations of the host country.

Your signature in the place provided below will signify that you have read, understood, and agreed to this agreement.

For the Principal Officer (or Head of Agency)

(Post)

(Signature)

(Title)

(Employee's Signature)

(Date)

(Date)

1/ Omit for employees hired for 1 year or less.

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FOREIGN SERVICE NATIONALS (FSN) COMPENSATION

931 GENERAL

(TL:PER-26 4-11-85)
(Effective date: 3-1-85)
(Uniform State/AID/USIA/Commerce/
Agriculture)

931.1 Authority

Section 408(a)(1) of the Act states, in part, that "The Secretary shall establish compensation (including position classification) plans for foreign national employees of the Service. . . . To the extent consistent with the public interest, each compensation plan shall be based upon prevailing wage rates and compensation practices (including participation in local social security plans) for corresponding types of positions in the locality of employment. . . . Any compensation plan established under this section may include provision for leaves of absence with pay for foreign national employees in accordance with prevailing law and employment practices in the locality of employment without regard to any limitation contained in Section 6310 of Title 5, United States Code."

Section 408(b) of the Act provides that "For the purpose of performing functions abroad, any agency or other Government establishment (including any establishment in the legislative or judicial branch) may administer employment programs for its employees who are foreign nationals or are family members of Government employees assigned abroad, in accordance with applicable provisions of this Act."

Section 408(c) of the Act states that "The Secretary of State may prescribe regulations governing the establishment and administration of local compensation plans under this section by all agencies and other Government establishments."

931.2 Policy

a. The Secretary's designees as named hereinafter shall ensure the regulations and procedures promulgated herein and in separate Department of State issuances afford fair and equitable treatment to Foreign Service national employees of all agen-

cies covered under these regulations and procedures and that all such regulations and procedures shall be established only after full consultation with the headquarters of such agencies. Using agencies shall adhere to regulations issued by the Department. Excluded from coverage herein are employees under the command of a United States area military commander. (See Exhibit 931.2 for Department of Defense units to which these compensation regulations apply.)

b. Any agency which has cause to object to a policy, regulation, or procedure being developed by the Department shall have the right to present the case to the Interagency Foreign Service National Policy Coordinating Committee for resolution.

c. Compensation plans for foreign national employees shall be based upon prevailing wage rates and compensation practices except where all of the following circumstances are present: (1) a unique and temporary economic crisis when prevailing wage rates and compensation practices are essentially unmeasurable; and (2) as a result of the crisis, U.S. Government operations are significantly impaired. In these limited situations, the Secretary, on the recommendation of the Interagency Foreign National Personnel Policy Coordinating Committee, may authorize temporary supplemental adjustments to a post's local compensation plan in order to provide minimum essentials under the public interest authority of Section 408(a)(1) of the Act. All exceptions must be reviewed by the Committee at least once every 6 months.

931.3 Delegation of Authority

931.3-1 Overseas Establishments

The ranking officer of State, AID, USIA, Agriculture, and Commerce, and other involved agencies' overseas establishments in each country is responsible for the day-to-day administration of the local compensation plans prescribed by the Secretary of State for all posts under that ranking officer's jurisdiction within the framework of these regulations and related State issuances; for requesting surveys when conditions warrant; for participating in local surveys; for reviewing completed surveys; for sign-

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ing proposed revised local compensation plans; and for adhering strictly to provisions of the plan in compensating FSN employees when the plan has been approved by Washington. In addition, chiefs of missions are delegated the authority to adjust salaries under certain severe economic conditions as described in section 3.4 of the Foreign Service National Employee Compensation Handbook (FSNCH). Also, chiefs of missions may establish exception rates as described in FSNCH section 4.

931.3-2 State Regional Bureaus

(TL:PER-541 11-18-82)
(Uniform State/AID/USIA/Commercial
Agriculture)

State regional bureaus shall coordinate the response to proposals for revised or amended local salary schedules excluding direct fringe benefit payments (see section 931.3-3) and position classification systems and determinations (see section 932.7) with designated official(s) of the using agencies.

The Executive Director of each regional bureau of State is responsible for coordinating the review and approval of all proposed revised or amended local salary schedules as defined in the preceding paragraph for posts under its own jurisdiction. The Executive Director shall obtain the approval of DGP/PER and the headquarters of other using agencies.

The Executive Director may delay approval of a proposed revised or amended compensation plan for a period not to exceed 60 days because of lack of funds of one of the participating agencies.

After expiration of the specified delay period, the Executive Director may authorize the agencies which have the necessary funds to install the revised or amended plan.

931.3-3 Bureau of Personnel

The Department of State Bureau of Personnel (M/DGP) shall develop and recommend policies and procedures relating to, and monitor the administration of, local compensation plans of foreign service posts and foreign service related overseas establishments, within the framework of section 408 of the Act, and with specific responsibility for reviewing, approving, and authorizing implementation of all fringe benefit plans and any revisions thereto, subject to appropriate agency and regional bureau concurrence. It shall review local salary surveys and proposed revised local salary schedules, at the request of the regional bureau Executive Director, and

also provide advice and guidance to overseas posts and headquarters agencies on interpretations of law and regulations governing FSN compensation and other elements of FSN personnel management.

931.4 Headquarters of AID, USIA, Commerce, Agriculture and Other Using Agencies

The headquarters head of AID, USIA, Commerce, Agriculture, and other using agencies shall designate official(s) who will work with State regional bureaus and Bureau of Personnel in the review and clearance, as deemed necessary, of revised or amended local compensation plans for posts at which they have FSN employees and for securing budgetary clearances of proposed local compensation plans for their agencies.

In fulfilling their basic responsibility for insuring the effectiveness and adequacy of FSN personnel programs for posts under their jurisdiction, the official(s) designated to represent a using agency may request supporting salary data and worksheets of any or all proposed revised and amended local compensation plans.

931.5 Existence of Two Compensation Systems

Missions where the worldwide FSN position classification system has been implemented will use the procedures contained in the 1979 Interagency Handbook on Foreign Service National Employee Compensation (FSNCH). Where the worldwide FSN position classification system has not yet been implemented, missions will continue to use the 1973 Interagency Handbook on Local Employee Compensation (LECH).

931.6 Conducting Local Salary Surveys

A post shall conduct and complete a local salary survey in accordance with provisions of the 1979 FSNCH or 1973 LECH before making plans to revise its local compensation plan, except as provided in section 932.3b. An appropriate U.S. official (or officials) shall direct and fully participate in all phases of the survey, although FSN employees may participate also as permitted by section 1.9 of the FSNCH or section 1.8 of the LECH.

932 COMPENSATION PLANS

932.1 General Purpose

A local compensation plan forms the legal basis for all compensation payments to FSN employees. All salary payments to FSN employees, such as basic rate, direct fringe benefit payments, and premium compensation, and U.S. Government contributions to host government social insurance or private insurance plans, shall be specifically authorized in the joint local compensation plan. (See Exhibit 2.4-7 of the Interagency Handbook on FSN Compensation (FSNCH) or Exhibit 2.5-1(a) and 2.5-1(b) in the Handbook on Local Employee Compensation (LECH) for format and content of local compensation plans.)

932.2 Initial Plans

A local compensation plan should be developed and installed at a new overseas establishment before FSN employees are hired. If a plan cannot be developed before the overseas establishment is opened, a compensation plan already in effect at a nearby overseas establishment may be used pending completion of the initial local salary survey (see section 1.7 of the FSNCH or LECH).

932.3 Revised Plans

Revisions of existing joint local compensation plans are normally based on surveys conducted by the State overseas establishment in an area. Revisions may become necessary:

a. When public and private enterprises in an area provide general salary adjustments to their employees. In order to effect similar adjustments where the worldwide classification system has been implemented, surveys will be done in accordance with the FSNCH. Missions where the worldwide classification system has not yet been installed will normally conduct full salary surveys or spot check review in accordance with the LECH.

b. When the host government promulgates a decree adjusting the salary rates paid employees of all or most public and private enterprises in an area. No basic salary survey, salary change survey, or spot check review survey is generally needed to implement the adjustments ordered by host government decree. The provisions of the decree, for example, whether it affects all categories or only specific categories of employees, or whether the increase varies from category to category, indicate the extent to

which the joint local compensation plan may be revised.

c. In order to establish an additional grade level or levels within the established grade structure to accommodate a new position or positions in a plan, missions operating under the FSNCH should have established and maintained salary rates for all grade levels. In the event these rates do not exist at a post, the post may conduct a separate survey using the preselected key positions for the additional grade level(s). Preselected key positions may be changed only with prior approval from the Department of State's Office of Foreign Service National Personnel (PER/FSN) in consultation with other headquarters agencies.

d. For missions operating under the LECH (in order to add a new position or category of positions within the framework of a current local compensation plan or to establish an additional grade level or levels to accommodate a new position or positions in a plan): If the new position is in a category of work not previously covered in the plan, a survey of salaries for comparable positions or comparable levels of positions is made in local public and private enterprises. The results of the survey will provide a basis for determining whether the new position may be accommodated within the existing local compensation plan or if a new class level is required.

e. In order to reflect changes in any other authorized payments or to incorporate new types of payments; for example, premium pay rates, bonus payments, and contributions to host government or private insurance plans. Such action requires a survey of prevailing pay practices throughout the area to determine the consistency of the proposal with such practices as listed in section 931.2.

932.4 Development Procedures

All new or revised local compensation plans are developed by the mission for all posts under its administrative jurisdiction in accordance with the provisions of the FSNCH and LECH except as provided in section 932.2. In unusual circumstances, alternative procedures for developing a local compensation plan may be used subject to prior approval of their use by PER/FSN. Requests for such approvals should be submitted to State PER/FSN for review and coordination with other affected agencies. Information copies should also be forwarded to the headquarters offices of other concerned agencies.

A post receiving payroll services from a regional center or fiscal-servicing post shall seek the

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advice of its servicing center or post regarding any proposed new pay plans prior to adoption of the new plan, so that administrative difficulties may be minimized.

932.5 Approval and Installation Procedures--Headquarters Agencies

(TL:PER-26 4-11-85)
(Effective date: 3-1-85)
(Uniform State/AID/USIA/Commercial Agriculture)

a. Approval and Funding

All new local compensation plans and all revisions or amendments in existing plans are subject to approval by Washington headquarters. Individual regional bureau instructions on the subject will govern the extent to which Washington review of supporting documentation is required.

In areas where submission by missions of supporting salary data and worksheets of local salary surveys is required, the submission should be sent to the appropriate regional bureau executive office in State and it should include the following documentation:

- (1) A list of the organizations surveyed, their assigned code designations, and the type of business conducted;
- (2) A list of key local positions surveyed (only missions using the LECH);
- (3) A Position and Salary Data Collection Sheet for each organization surveyed (see Exhibit 2.2-3 of the FSNCH or LECH);
- (4) A Fringe Benefit Data Collection Sheet for each organization surveyed (see Exhibit 2.2-4 pp. 1-2 of the FSNCH or Exhibit 2.2-6 of the LECH);
- (5) A worksheet showing the computation of gross adjustment factor(s) for each organization surveyed (see Exhibit 2.3-6 of the FSNCH or LECH);
- (6) Worksheets for Development of Average Rates for Key Positions (see Exhibit 2.3-9 of the FSNCH or LECH);
- (7) Worksheets for Development of Salary Ranges for each grade. (See Exhibit 2.3-12 of the FSNCH or Exhibit 2.4-1 of the LECH);
- (8) Missions operating under the worldwide classification system should submit a copy of the proposed revised local compensation plan (see Exhibit 2.4-7 (pp. 1-3) of the FSNCH);

Missions not yet under the worldwide FSN classification system should submit a copy of the proposed revised local compensation plan including new position alignment list (see Exhibit 2.5-1(a) (p. 1) or Exhibit 2.5-1(b) of LECH);

(9) A copy of the current local compensation plan, including a position alignment list;

(10) An estimate of increased costs of implementation for the remainder of the current fiscal year by agency and the amounts thereof which can be absorbed within current allotments; and

(11) A general explanation in the covering message of the proposed salary increases, any problem areas encountered in developing the proposed revised local salary schedule, including comments on third country national (TCN) issues, and their solutions and other comments, as appropriate.

When the procedure outlined in Part 3 of either the FSNCH or the LECH is used as the basis for a salary schedule revision, sufficient information and data must be submitted to enable the Department to evaluate the proposal effectively.

b. Normal Installation

Upon approval by agency headquarters, plans may be installed as of:

- (1) The beginning of the pay period coincident with or next, following the date on which PER/FSN receives a complete set of salary survey data that is the basis for the increase to the FSN pay plan; or
- (2) The beginning of a subsequent pay period at the discretion of field agencies.

Normally, requests for salary increases based on spot-check salary revisions should not be submitted more than once every 3 months, nor if resulting increases are less than 4 percent, unless based on host government action. Exceptions to these limits require written approval in advance of the request from officials designated in section 931.3-2. This does not restrict requests for salary increases of less than 4 percent when based on full-scale or annual salary change surveys.

Installation dates will be coordinated among headquarters agencies to insure simultaneous installation to the maximum extent possible. If an agency needs additional funds to cover the increased costs of installations, all agencies should withhold implementation for a period of up to 60 days. Thereby, the agency lacking funds may have time to secure the necessary allotment increase from its headquarters office. After the 60-day waiting period, if the affected agency has not received the increased funding authorization, all other agencies may proceed

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with installation of the plan, provided the Ambassador approves implementation by some agencies and not by others. Once the agency lacking funds secures the necessary increase in allotment, installation must be prospective, except as provided in section 932.5c. There is no authority to permit installation of the plan retroactively to the date all other agencies installed the plan. If the Ambassador does not approve implementation by some agencies and not others, on its eventual implementation the plan must be effective prospectively, except as provided in section 932.5c.

c. Retroactive Implementation

Retroactive implementation occurs when a salary adjustment is made effective on a date preceding the pay period in which an adjustment is approved.

(1) A new or revised local compensation plan may be implemented retroactively only if such adjustment would be consistent with the public interest and is a result of:

(a) A host government issuance or anticipated issuance (irrespective of whether either is or will be legally binding) which has retroactively affected the compensation of the employees of most local enterprises surveyed as the basis for establishing local compensation plans; or

(b) Salary survey data that clearly documents a majority (51 percent) of surveyed employers retroactively adjusted their employees' pay; that is, the employer adjusted pay effective on a date before the date the employer announced the adjustment.

(2) Following approval, a new or revised local compensation plan may be implemented retroactively:

(a) At the beginning of a pay period when the median date of measured increases coincides with the beginning of that pay period; or

(b) At the beginning of the pay period immediately following that median date; or

(c) On the effective date of a host government decree affecting most or all public and private employers.

(3) Exceptions to paragraphs (2)(b) and (2)(c) above will be considered only when the regional pay-rolling center confirms that identifiable administrative cost-savings would result from implementation at the beginning of the pay period during which the median date or decree effective date occurs.

(4) "Median date" is defined as the middle date in the sequence of increase dates. The median date may become the average of the two middle dates

when the sequence contains an even number of dates. Increase dates for all surveyed companies must be reported.

For those surveyed companies which report two or more increase dates:

(a) If the increase affects all employees, an averaging method will be used to determine the median date; or

(b) If the increase affects only limited numbers of employees, the final increase date reported by that company will be considered the median date.

(5) All data submissions should include the following information:

(a) The employer identification codes from the latest full survey, or, in the case of a host government issuance, a translated and dated copy of the issuance;

(b) The percentage or fixed amount of the increase;

(c) The effective dates of all implemented employer increases since the previous survey; and

(d) Whether the increase affected all or only certain categories of employees in each company along with an explanation of the difference for each category of employee.

(6) All approved retroactive increases will be applied to local compensation plan annual basic rates only. Retroactivity will not apply to fringe benefits, severance payments, lump-sum payments, premium compensation, or any other compensatory considerations unless data are available indicating it is prevailing practice to do so.

(7) Retroactive salary adjustment will be implemented only for those FSN employees who were on post rolls when Washington approval was granted, and who were on post rolls as of the retroactive adjustment date. The salary of any FSN employees who entered on duty in the interim period (between retroactive effective date and approval date) will be affected only back to the dates of their entry on duty. The salary of an FSN employee no longer employed by the post on the date approval is granted will not be affected by the retroactive change.

d. Distribution of Copies

After installation of a new or revised local compensation plan, the mission assures that copies of the plan, prepared in accordance with Exhibit 2.4-7 of the FSNCH or Exhibit 2.5-1(a) or Exhibit 2.5-2(a) in the LECH are distributed as follows:

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(1) One copy to the appropriate regional bureau in the Department.

(2) One copy to PER/FSN in the Department.

(3) Three copies (or more if requested) to each overseas establishment signing the plan for field use and submission to respective agency headquarters. AID establishments submit one copy to the Position Management and Classification Division, M/PM/PMC. USIA establishments submit one copy to the Foreign National Personnel Staff (M/PFN). Commerce establishments submit one copy to the Foreign Commercial Service (ITA/FCS/OPA); Agriculture establishments submit one copy to USDA/ FAS/PD.

(4) Three copies to constituent post, if appropriate.

(5) Additional copies for internal post use; for example, personnel office, budget and fiscal office, employee information, etc., if necessary.

932.6 Implementing Revised Compensation Plans

a. Determining Adjustments

Revisions in the local compensation plan are to be applied before any personnel actions that affect individual salaries, such as promotions or step increases, which are effective on the same date as the plan revisions. When a joint local compensation plan is revised, adjustments in individual salaries and/or classes or positions are worked out in general conformance with the following principles:

(1) No employee should suffer a decrease in salary due solely to the installation of a new or revised local compensation plan, except in the event of a general downward revision of the joint schedule as a consequence of a substantial decrease in prevailing salary rates.

(2) Normally, no change in an employee's grade level designation or step is justified except (a) on implementation at the post of the worldwide FSN position classification system (see sections 932.6a(3) and (5) for the appropriate pay setting rules); (b) as a result of a subsequent audit by Washington (changes in an employee's grade or step as a result of subsequent audits are handled according to the rules of the current system that apply to that personnel action which is the basis for the change); and (c) for missions operating under the LECH (see sections 932.6a(4) and (5)).

(3) The implementation of the worldwide FSN position classification system at a mission may result in the upgrading and downgrading of positions.

(a) When a position is upgraded, the employee's present salary is increased by the average percentage or fixed amount increase being granted at the new grade level. The employee's increased rate is converted tentatively to the nearest rate in the new grade level of the revised salary schedule. Before a final placement is made a comparison is made between the tentative determination at the new grade and the salary the employee would be earning at the old grade and step had the position not been upgraded. If the new salary for the employee's old grade and step is higher than the tentative determination, this higher rate is used in establishing the appropriate step at the new grade.

(b) When the worldwide FSN position classification system is applied at a post for the first time and a position is downgraded, the employee is automatically granted grade retention (GR) in accordance with section 954.2.

(4) For missions where the worldwide FSN position classification system has not yet been implemented and the LECH is used, it may be necessary to realign positions as a result of local salary survey findings.

(a) When the position realignment is upward, the employee's present salary is normally increased by the average percentage or fixed amount increase being granted in the proper higher class level. The employee's increased rate is converted to the nearest rate in the proper grade level of the revised local salary schedule.

(b) When the position realignment is downward, the employee's present salary is normally increased by one-half of the average percentage or fixed amount increase in the proper lower grade level. The employee's increased rate is converted to the nearest rate in the proper lower grade level of the revised local salary schedule. If the rate thus increased exceeds the maximum rate of the proper lower level of the revised local salary schedule, the employee's rate is designated as a "saved rate." Saved rate cases are noted under the "Remarks" section of the local salary schedule as shown in Exhibit 2.5-1(a) of the LEC Handbook. In downward position realignment cases, the increases being granted at the appropriate lower grade level may be large. In such cases, the appropriate regional bureau, in consultation with other agencies, may specify an amount or percent of increase for saved rate cases which is less than one-half of the average increase granted at the appropriate lower grade

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level. In all downward realignment cases, the incumbent and the incumbent's position are placed at the appropriate lower level.

(5) Once an employee becomes a saved pay case as outlined above, the employee is normally granted, at the time of subsequent salary increases, one-half of the average percentage or fixed amount increase at the employee's proper grade level. If after increasing the employee's saved rate, the increased rate falls within the new salary range for the employee's position, the employee's increased rate is converted to the rate which most nearly equates the average increase granted to other employees at that grade level. If the employee's increased rate exceeds the maximum rate of the proper level of the employee's position, the employee continues as a saved pay case at the newly adjusted rate.

(6) In the case of host government decrees which affect the salaries of most or all private and public enterprises, the full amount of the average salary increase granted at the saved rate employee's grade level may be authorized.

(7) The general principles set forth in paragraphs (2) through (5) above also generally apply in cases requiring the realignment of positions based on contraction or expansion of the salary schedule and the transfer of employees from another salary schedule.

b. Saved Rate Retention Period

(1) An employee at a saved rate retains saved rate status until:

(a) The salary range of the employee's grade is increased to the extent that one or more step rates exceed the saved rate, at which time the employee normally is advanced to a step rate which most nearly equals the salary increases granted other employees at the same level.

(b) Promoted to a position in a grade with a higher step rate.

(c) Separated from the overseas establishment.

(2) A saved rate is removed from the local salary schedule at the time it is no longer payable to the incumbent. Saved rates are not step rates on the plan and employees may not be advanced to them. The "TO" block of SF-50, Notification of Personnel Action, of an employee being placed in saved rate status, should reflect the employee's new grade level designation. The step and salary should be shown as the maximum step rate of the new grade level to which the employee is assigned, followed by the notation "See Remarks." The "Remarks" section should contain the following notation: "Em-

ployee is entitled to annual salary of _____ by virtue of saved rate status as provided in section 932.6a(5)."

c. Processing Adjustments

Pay adjustments to implement a revised compensation plan may be processed by completing one of two forms: (1) a separate Form SF-50, Notification of Personnel Action, for each affected employee, or (2) a "Mass Pay Adjustment Action" covering all employees affected. The options are explained below:

(1) Use of Form SF-50

Use this option when grade change is involved. An SF-50 is prepared for each affected employee. The Nature of Action Code is "894" and the Nature of Action is "Pay Adjustment." In item 37 "Remarks" insert "Pay Adjustment to Implement Revised Compensation Plan."

(2) Use of Mass Pay Adjustment Action

A "Mass Pay Adjustment Action" (see Exhibit 932.6) showing all of the information required on form SF-50 is prepared covering all employees. If more employees are affected than can be listed on one page, all general information is repeated on each page of the Mass Action so that each page may stand alone when separated from the other pages. Distribution is the same as that prescribed for SF-50's in Exhibit 924.2c. However, only the page of the list showing the employee's name, and not the entire Mass Action, is placed in each employee's personnel folder at the post. A disadvantage in the use of Mass Action is that it is not suitable for distribution to employees since it shows all salary rates. The employee copy of the biweekly earnings and leave statement serves to inform employees of their new salary rates.

d. Effect on Periodic Step Increases

Pay increases resulting from salary adjustments in a revised local compensation plan normally should not affect the waiting period for the award of PSI's. However, when a significant change has occurred in the salary structure, such as a change in the number of grades or step rates, or in the length of the waiting period, it may be desirable to provide that the waiting period for the next PSI for some or all employees begins on the effective date of such a revised compensation plan. If a new waiting period for such an increase is established, a statement to that effect is included in the "Remarks" section of the personnel action form or other instrument effecting the salary adjustment to the new schedule. When an employee is required to begin a new wait-

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ing period upon the installation of a revised compensation plan, that fact, in addition to these listed in section 932.6, is taken into consideration when adjusting the employee's salary to the new plan.

932.7 Foreign Service National (FSN) Position Classification

(TL:PER-541 11-18-82)
(Uniform State/AID/USIA/Commercial
Agriculture)

932.7-1 Authority

Section 408 of the Act states:

"(a) (1) The Secretary shall establish compensation (including position classification) plans for foreign national employees of the Service, and for United States citizens employed in the Service abroad who are family members of Government employees. To the extent consistent with the public interest, each compensation plan shall be based upon prevailing wage rates and compensation practices (including participation in local social security plans) for corresponding types of positions in the locality of employment. . .

"(b) For the purpose of performing functions abroad, any agency or other Government establishment (including any establishment in the legislative or judicial branch) may administer employment programs for its employees who are foreign nationals, . . . in accordance with applicable provisions of this Act.

"(c) The Secretary of State may prescribe regulations governing the establishment and administration of local compensation plans under this section by all agencies and other Government establishments."

932.7-2 Delegation of Authority

The Secretary of State has charged the Director, Office of Foreign Service National Personnel (PER/FSN) with responsibility for the development of joint interagency rules, regulations, standards, and guidelines governing FSN employee position classification, for the implementation of the FSN employee position classification system, and for monitoring and administering the system worldwide through evaluation and inspection procedures, in consultation with other agencies.

932.7-3 Policy

Consistent with sections 408 and 501 of the Act, the Department of State in consultation with other

agencies will develop and administer an equitable position classification system for all United States Government agencies using joint local compensation plans in the employment of FSN's in their foreign service related activities abroad.

In the interest of uniform and consistent application of this policy, these agencies shall:

a. Use the position classification system set forth in the Interagency Handbook on Local Employee Position Classification (LEPCH) and subsequent modification thereof;

b. Observe any classification procedural guidance which may be issued by the Office of Foreign Service National Personnel, Department of State (PER/FSN) in consultation with other agencies and the regional bureaus; and

c. Promote interagency cooperation in this system and requisite adherence to the LEPCH and any augmenting procedural guidance, in the interest of the development, implementation, and maintenance of an interagency FSN position classification system which promotes equality, stability, and integrity in the area of FSN employee compensation.

932.8 Procedures

932.8-1 Initial Application of the Interagency Handbook on Local Employee Position Classification (LEPCH)

The initial application of the interagency FSN position classification system contained in the LEPCH requires the utilization by missions of procedures and practices which are frequently of a one-time nature and are intended to bridge the transition to a new, permanent world-wide system of position classification for FSN positions.

The following procedures describe the steps required of mission and headquarters elements in making the initial installation of the LEPCH system:

a. Procedures Required of Mission Prior to Survey

At least 2 months prior to the initial position classification survey under the LEPCH guidelines, each mission will:

(1) Formally certify as accurate each position description by placing the initials or signatures of the incumbent(s), the supervisor, and the American administrative/personnel officer or Principal Officer on the face sheet of the position description, following the statement: "Certified for Survey."

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(2) Revise each position description which is inaccurate and/or incomplete, noting on the face sheet "Revised for Presurvey Certification." Each revised position description will be signed by the incumbent(s), the supervisor, and the American administrative/personnel officer as appropriate.

(3) Submit a list of all certified position descriptions by position number, title, grade, and name(s) of incumbent(s) following the statement: "The following position descriptions have been reviewed and are hereby certified as accurate and complete." The list will be signed by the American administrative/personnel officer or principal Officer, as appropriate, and submitted to the Department, attention of PER/FSN no later than 2 months prior to the scheduled date of initiation of the position classification survey at the mission, with copies to headquarters agencies and the regional bureau.

(4) Place a freeze upon the reclassification of positions, the promotion of FSN employees, and reassignment of FSN employees, effective the date such classification certification list is forwarded to the Department. Requests for specific exceptions to this requirement should be submitted for approval to PER/FSN and headquarters agencies with a copy to the regional bureau.

b. Conduct of Survey

The initial application of the interagency position classification system (LEPCH) will, normally, be accomplished by a professional survey team designated by PER/FSN and the Regional Bureau responsible for the concerned mission in consultation with other agencies. The conduct of the survey will be based upon the standards contained in the Interagency Local Employee Position Classification Handbook as well as the Interagency Handbook on Foreign Service National Employee Compensation since the classification survey will normally be carried out in conjunction with a salary survey to update the mission's salary schedule. Usually, the position classification review will be made by the team prior to their conduct of the salary survey. The survey team will desk-audit a minimum of 15 percent of the total number of foreign service national positions of all agencies. The precise percentage will be determined after a review of the mission's needs and full consultation with mission officials by the survey team. The percentage of desk-audits will be much higher at missions where the position descriptions are substantially inadequate, where position descriptions are copies or are substantially copies of standards in the LEPCH, and where there are manage-

ment disagreements regarding the work of specific FSN positions. Each position recommended for downgrading shall be desk audited.

The classification determination for each position at the mission will be supported by a position classification analysis and evaluation worksheet prepared by the survey team (See Appendix H-1 and H-2 of LEPCH). The evaluation worksheet will provide management with information regarding the team's decision on position title, series, and grade level for each FSN position at the Mission.

c. Grade Retention

Under the initial implementation of LEPCH standards at a mission, a policy of grade retention is applied under rules specified in section 954.2.

d. Supervisory FSN Position Classification Appeals Procedure

The adoption of a new classification system may result in some appeals against the initial grade level determinations required during the implementation of the new system. During this implementation phase, supervisors' classification appeals on behalf of FSN employees may be made only within the first 30 days following implementation of the system; an employee-initiated appeal procedure is provided for in the normal administration of the LEPCH system 1-year subsequent to implementation (section 932.8-2c). These supervisory appeals will be made through the post's Interagency FSN Position Classification Appeals Panel to the Washington Interagency FSN Position Classification Review Board. Upon completion of an initial classification survey, a mission may determine the need to prepare supervisory appeals to higher authority against individual classification decisions of the survey team. The basis for such a supervisory appeal will be evaluated by an Interagency FSN Position Classification Appeals Review Panel which the mission should establish to ascertain which supervisory appeals are worthy of consideration by the Department and associated headquarters agencies through the Washington Interagency FSN Position Classification Appeals Review Board. Procedures to be followed within a mission in preparing supervisory appeals of classification decisions to the Interagency Review Board are:

(1) The position description of the position being appealed should bear in the upper left hand corner (a) the title, series, and grade recommended by the survey team, and (b) the title, series, and grade recommended by the mission under its appeal.

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(2) Each position description should be signed by the employee, the supervisor, and the personnel officer.

(3) Duties and responsibilities which are considered to be major factors in support of the classification appeal should be underlined in the position description.

(4) In each case which involves the assignment of duties and responsibilities not found in the position at the time of the team survey, such new duties and responsibilities should be identified by an asterisk before and after such duties and responsibilities in the position description.

(5) Each appeal case position description should be accompanied by a completed analysis and evaluation worksheet (See Appendix H-2A and H-2B of the Interagency Handbook on Local Employee Position Classification). Each worksheet will be signed by the supervisor, the Administrative or personnel officer or other American staff responsible for position classification, and the chairman of the appeals panel and will take into consideration any points raised in the survey team's evaluation with which the mission does not agree.

(6) Any information deemed important to the case (for example, organization charts, workload statistics, or program data) may be submitted as attachment(s) to the Analysis and Evaluation Worksheet.

(7) Five copies of each position description, the survey team Analysis and Evaluation Worksheet, the post appeals panel's Analysis and Evaluation Worksheet, and any additional information should be submitted by the mission to PER/FSN for distribution to headquarters agencies and the regional bureau and for use by the Washington Interagency FSN Position Classification Appeals Review Board.

e. Organization and Functions of the Mission Interagency Supervisory Appeals Review Panel

Upon completion of the initial position classification survey by a survey team, the mission should establish an interagency review panel (a) to determine jointly (within the 30 day period following completion of the survey) which supervisory appeals are worthy of consideration by the Washington Interagency FSN Position Classification Appeals Review Board, and (b) to assure that appeal cases are fully and accurately prepared. During this phase of the implementation of the FSN position classification system, supervisors may appeal on behalf of their FSN employees, and all such supervisory appeals

must be submitted initially to, and be processed by, the Mission's Interagency FSN Position Classification Appeals Review Panel, through the Administrative Officer, Personnel Officer, or other officer charged with post personnel management. Specifically:

(1) No appeal originated and supported only by an FSN employee acting on the FSN employee's own initiative may be considered.

(2) Appeals must be considered by the panel and forwarded to the Washington Interagency FSN Position Classification Appeals Review Board within 30 days of completion of the survey in the manner outlined in paragraph d(7) above.

The functioning of each such panel should normally provide for the following:

(3) The Administrative/Personnel Officer should review all supervisory appeals cases prior to the panel's review, to assure that cases are complete and accurate. That officer will reach a preliminary opinion whether each appeal has merit from the standpoint of the principles, practices, and standards of the system.

(4) The Administrative/Personnel Officer should always attend Interagency Appeals Panel meetings (a) to respond to queries based on documents presented for panel review in each case, (b) to provide assistance in the interpretation and application of FSN position classification standards, and (c) to present that officer's advisory classification opinions.

(5) The composition of the Panel should include representatives from associated agencies at the mission. Such representation should include, at the least, representatives from agencies having a major presence at the mission.

(6) Any appeal case involving an agency which is not normally represented on the Panel should be reviewed only by a panel especially constituted to include a voting member from that agency.

(7) The panel will have responsibilities for position classification as to the merits of all supervisory appeals cases, whether or not the Administrative/Personnel Officer has initially decided for or against the appeal.

If the head of an agency at post disagrees with the panel, that official may submit the appeal with the reasons for disagreeing to the Washington Interagency FSN Position Classification Appeals Board c/o (PER/FSN) with copies to the headquarters agency and the regional bureau for action. (The Washington Board regulations in section 932.8-2d apply also to the initial implementation phase.)

**f. One-Year Moratorium Post Authority for
Reclassification of Positions**

Upon implementation of survey results, a 1-year waiting period will be established during which position reclassification actions will not normally be authorized. It is possible that exceptional circumstances, e.g., the need to reorganize sections and restructure positions because of a reduction-in-force ordered by Washington, may necessitate the reclassification of certain FSN positions at an earlier date. In such circumstances the mission is required to advise the Department (PER/FSN) (with copies to the appropriate regional bureau and to other concerned headquarters agency offices) and provide full details, justification, copies of job descriptions of newly-developed positions, and specific recommendations as to grade level for Washington evaluation and decision.

**932.8-2 Subsequent Administration of
the Interagency Position
Classification System (LEPCH)**

After a Washington team has installed the LEPCH system for the classification of FSN positions at a mission, and the 1-year moratorium on the mission's classification authority has been completed, the guiding rules for the mission's administration of the new system, including employee position classification appeals are:

a. Post Administration

The mission's chief administrative officer will administer the post's FSN position classification system on behalf of the chief of mission. At the larger posts, the actual day-to-day administration of the system will be the responsibility of the personnel officer.

b. Position Classification

Each mission is delegated authority to reclassify existing positions and to classify new positions under the precepts and standards of the LEPCH, and under any augmenting instructions, procedures, and regulations, except those positions which fall into one of the following categories:

- (1) Those positions in series for which no classification standards exist in the LEPCH.
- (2) Those positions on which the post's FSN classification appeals panel cannot achieve general agreement. (Post appeals panels are discussed in Chapter V, Section F of the LEPCH.)

Positions noted in (1) and (2) are sent to the Washington Appeals Board for decision. If an affected agency at post does not accept the classification

findings of the post Appeals Panel, the head of that agency's overseas establishment may submit the specific case to the agency in Washington with copies to PER/FSN and the regional bureau for review by the Washington FSN Classification Appeals Board. Documentation relevant to the appeal should be sent to the Department of State (PER/FSN), the appropriate State regional bureau, and the appropriate agency headquarters. The appeals documentation must include an Analysis and Evaluation Worksheet prepared on the position under appeal. (Appendix H of the LEPCH is a copy of the A & E Worksheet.)

**c. Post FSN Employee Position Classification
Appeals Mechanism**

Immediately following the end of the 1-year moratorium on post classification authority, the FSN employee and/or supervisors has the right of appeal against position classification decisions affecting the employee's position. An effective and equitable FSN Position Classification System therefore requires a permanent appeals mechanism at field level. This mechanism, known as the Interagency FSN Position Classification Appeals Panel (IFPCAP), should include representatives from associated agencies at post, including at least membership from agencies having a major presence at post. A case for an agency which is not normally represented on the board should be reviewed by a board specially constituted to include a voting member from such agency. Such board shall have responsibility for position classification appeals from actions of the Personnel Officer if not acceptable to the individual(s) making the appeal. In other words, the IFPCAP should not take the place of nor usurp the responsibility of the Administrative/Personnel Officer for classifying FSN positions at post. The procedure for classifying FSN positions therefore should be:

(1) Requests for the classification of new positions and the reclassification of existing positions shall be made to the Administrative/Personnel Officer (A/PO) who conducts desk audits, supervisory reviews, and other research into the merits of such requests, and who approves official classifications based on the principles and standards of the system. The background of and basis for each action should be documented.

(2) If the A/PO finds against the grade level requested for a position, the FSN employee or supervisor may appeal to the post IFPCAP through the post A/PO. The appeal shall be forwarded by the A/PO to the appeals panel, accompanied by the posi-

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tion description(s), all background materials which supported the A/PO's initial classification decision, all materials submitted by the employee or supervisor making the appeal, and any additional information now considered also important to the appeal, including work samples.

(3) The appeals panel shall review all documentation in the case, including the A/PO's analysis, the employee case materials, the position description(s), and any additional supporting evidence, reaching a decision as to the proper title, series, and grade of the position. The actions should be documented and signed by the panel chairperson.

(4) In conducting appeals hearings, the IFPCAP should insure that:

(a) The A/PO attends all appeals panel meetings to answer questions based on documents presented for panel review in each case, and to provide "expert" assistance in the matter of the interpretation and application of FSN position classification standards.

(b) The actions of the post appeals panel do not ignore or distort the audit findings and classification decisions of survey teams and the Washington level appeals board, findings and actions of the post A/PO, and the FSN position classification system's published principles, procedures, and standards. Any decisions reached by the interagency panel cannot disregard previous actions taken at these levels in the system nor the requirements of the FSN Position Classification System as covered in the LEPCH and augmenting instructions, procedures, and regulations.

(5) Classification actions of the post A/PO and the post IFPCAP are subject to periodic post-audit review by State and all other headquarters agencies.

d. Organization and Functions of the Washington Interagency Foreign Service National Position Classification Appeals Board (IPCAB)

(1) The purpose of the Washington IPCAB is to review the following types of FSN appeals cases referred to the Department of State and the headquarters of other U.S. Government agencies by the management of U.S. foreign missions:

(a) All supervisory appeals resulting from the initial implementation of the worldwide FSN classification system;

(b) Any position reclassification action recommended by the Post Appeals Panel during the first year following implementation of this system and

during the second and subsequent years following implementation of this system;

(c) Classification of any position which is not covered by an existing position standard;

(d) Any classification appeal for which general agreement cannot be achieved by the mission's classification appeals panel; and

(e) Classification decisions of a mission's FSN classification appeals panel which are not acceptable to the head of the affected agency at the mission.

May review other types of FSN classification matters as directed by the Interagency FSN Personnel Policy Coordinating Committee.

(2) Membership of the IPCAB shall include one voting member from each of the following agencies:

Commerce	State
Defense	AID
Peace Corps	USIA
Foreign Agricultural Service	

In addition, ad hoc voting membership is accorded any other U.S. Government agency when an appeal for an FSN of that agency is being reviewed.

(3) The chairperson responsibility will rotate every 3 months among the agencies listed above in the order listed starting with Commerce.

The chairperson shall schedule cases for board review, coordinate requirements for background data with PER/FSN and provide documentation on Board recommendations to the appropriate agency with a copy to PER/FSN.

(4) Procedures for the IPCAB are as follows:

PER/FSN will provide the board chairperson with all documentation regarding each appeal. The board chairperson may for all appeals, except the supervisory appeals resulting from a survey team's initial installation of the worldwide FSN classification system, distribute the appeal documentation and attempt to achieve agreement of all the members over the telephone. If agreement is achieved by this method, the board chairperson will provide the board recommendation in writing to the appropriate agency and PER/FSN. If agreement cannot be achieved or the chairperson decides that the telephone solicitation approach is not appropriate, the chairperson will schedule a meeting of the board to review the appeal. In either event, it is the responsibility of the board chairperson to assure that a recommendation is made not later than 15 days after receipt of the appeal documentation.

If a meeting is required all members are encouraged to attend; however, a board meeting attended by the affected agency(s) and all agencies employing 1,000 or more FSN's is qualified to render a recommendation. The board chairperson must be present at every board meeting. Any agency which elects not to attend a given board meeting is precluded from voting on any appeal cases reviewed at that meeting. Board recommendations will be made on the basis of a majority vote. The chairperson will promptly provide in writing the recommendation of the board regarding each appeal received.

In addition to the chairperson and members of the board, representatives of the Executive Director's office of the appropriate State Department bureau and appropriate members of the management of other agencies may attend each meeting.

(5) The board meeting will take place in an appropriate location at the chairperson's agency.

(6) The Agency Headquarters will prepare and clear with PER/FSN and the other appropriate offices the official notice of the decision and transmit it to its Overseas Agency Head. PER/FSN with appropriate clearances will prepare and transmit notification of the decision to the post Administrative/Personnel Officer.

(7) In the event a member agency cannot accept the recommendation of the Interagency FSN Position Classification Appeals Board, it may submit this recommendation to the official listed below and request that official's approval to overrule the Appeal Board's recommendation:

Agency	Approving Official
Commerce	Under Secretary for International Trade Administration
Defense	Assistant Secretary for Manpower, Reserve Affairs and Logistics
Foreign Agriculture Service	Administrator, Foreign Agricultural Service
Peace Corps	Deputy Director, Peace Corps
State	Under Secretary for Management
AID	Deputy Administrator, AID

USIA

Associate Director for Management

For agencies which are not members of the Appeals Board, the approving official will be the appropriate Under Secretary, or equivalent level official.

The request to overrule the Appeals Board's recommendation will contain:

- All documentation submitted to the Appeals Board,
- The written recommendation of the Appeals Board, and
- The written rationale for the request to overrule the Board's decision.

A copy of the request will be sent to all members of the Interagency FSN Position Classification Appeals Board at the time it is sent to the designated agency official. The agency official reviewing this request will submit the decision in writing with copies to all members of the Appeals Board. The Agency Headquarters will prepare and clear with PER/FSN and the other appropriate offices the official notice of the decision and transmit it to its Overseas Agency Head. PER/FSN with appropriate clearances will prepare and transmit notification of the decision to the post Administrative/Personnel Officer.

(8) Additions to or deletions from membership on this board or changes in procedures may be made with the agreement of two-thirds of the member agencies.

932.9 Reporting Requirements Under the LEPCH System

Each mission is required to submit a quarterly FSN promotion report to Washington (PER/FSN with copies to the appropriate regional bureau and other concerned agency headquarters offices). The first of these reports is due the first calendar quarter following the system implementation phase. This first report will reflect all upgradings resulting from system implementation and any promotions which result from filling FSN positions which were classified by the implementation survey team but which subsequently became vacant.

For each promotion made during the quarter, the report should list the previous and new titles, series, grades, and position numbers of the position and the agency of the employee concerned. The reports are due on January 1, and the beginning of each quarter thereafter.

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933 FSN SALARY PAYMENTS

(TL:PER-26 4-11-85)
(Effective date: 3-1-85)
(Uniform State/AIDIUSIA/Commercel
Agriculture)

933.1 General Purpose

Salary payments begin on the effective date of appointment and continue, unless the employee is placed in a nonpay status, through the effective date of separation. FSN employees are normally paid on a biweekly basis in the currency of the country in which the overseas establishment is located, except as provided in 4 FAM 573.

933.2 Maximum Salary

The maximum annual FSN salary is limited to the rate for GS-18. Furthermore, interagency policy has established that the maximum annual salary for FSN employees will be \$100 less than the GS-18 rate and that biweekly salary shall not exceed an amount that if paid for the entire year would exceed this annual limitation.

The maximum annual pay limitation applies only to that portion of the adjusted basic rate from which Civil Service Retirement contributions are withheld for that post, whether or not the employee in question is under CSR. In other words, an FSN's adjusted basic rate may exceed the maximum pay limitation only by that portion of pay not considered "basic pay" for purposes of withholding CSR contributions.

934 DIRECT FRINGE BENEFIT PAYMENTS

(TL:PER-67 5-22-87)
(Uniform State/AIDIUSIA/Commercel
Agriculture)

934.1 Policy

Where feasible and consistent with sections 931.2 and 934.4b, fringe benefits which are customarily provided employees in the post locality should be provided FSN employees directly. Overseas establishments should review periodically the benefit plans customarily provided by local employers to determine those benefits which could be provided FSN employees directly. Monetary payments may be provided FSN employees in lieu of prevailing "bene-

fits in kind" which are precluded by lack of legal authority or by policy determination.

In instances where it is not feasible to grant a prevailing fringe benefit directly, the cost or value of the benefit should be monetized and included in employees' pay in accordance with section 2.3-4 of the FSNCH or LECH.

All direct fringe benefits to FSN employees require prior Washington approval (see section 934.4a and b, and interagency memorandum in Exhibit 931.3).

For instructions on direct post participation in host government social insurance systems and private insurance plans for FSN's, see sections 971.2 and 971.3, respectively.

934.2 General Procedures

The chief of mission or the chief of mission's designee should assure that requirements of section 931.2 are met before that mission proposes adoption of a plan for direct payment of a fringe benefit to FSN's (see section 971 for employee insurance). Once those criteria are met, the chief of mission or designee, together with heads of other agencies or their designees, should:

a. Review pertinent host country laws, regulations, ordinances, and prevailing practice governing the benefit being considered.

b. Determine desirability of adopting the benefit payment, based, among other considerations, on the answers to the following questions:

(1) Would adoption unduly increase administrative workload or agency costs or raise any serious operational difficulties? If workload increases, would more personnel be needed?

(2) What would be the general reaction of FSN employees to the change?

(3) If a large Department of Defense (DOD) installation whose compensation practices are based on surveys of locally prevailing customs, rather than on bargaining, is present in the post locality, what are DOD practices with respect to the benefit plan and what are its views on the mission's proposed adoption of the benefit plan? (Uniformity of DOD and mission fringe benefits is a desirable objective, whenever feasible.)

934.3 Development of Plans

934.3-1 General Policy

a. If a mission determines that separate payment of a fringe benefit is desirable and feasible, it should develop, jointly with other U.S. Government agencies in the area, a plan for direct payment of the

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benefit incorporating detailed rules for administering the plan.

b. Rules governing the administration of compensation plans are coordinated between all agencies at all posts within a country. Such rules adhere to these regulations, and conflicts are adjudicated by the chief of mission.

c. The amount of payments and circumstances under which employees become eligible for payments, as prescribed in the plan, should conform to local law or custom unless there are compelling reasons to the contrary, including the contravention of U.S. law. Where such compelling reasons exist, benefit plans may be developed which provide less than those prescribed under local law or custom but in no case may they exceed benefits under local law or custom, as this is prohibited by section 408 of the Foreign Service Act of 1980.

934.3-2 Bonus Payment

The sample bonus payment plan (see Exhibit 934.3-2) may be used as a guide in preparing a bonus payment plan. The guide should be modified to conform to local pay practices in a given country. Also see FSNCH section 2.4-3c or LECH section 2.3-4d, for evaluation of bonuses.

934.3-3 Severance Pay

a. Policy

A severance pay plan should prescribe appropriate rules for administering the plan in strict compliance with local law and/or custom. If local law and custom differ, a full explanation of the differences should be given in the submission of a plan for approval as outlined in section 934.4. If there are compelling reasons for deviation from prevailing practice, benefit plans may be developed which prescribe less than those prescribed under local law or custom, but in no case may they exceed such law or custom, since no legal authority exists for such payments. The rules should cover employee eligibility, creditable service, amount of payment, notice period required for separation, and specific circumstances of separation under which payment is or is not granted, as well as other provisions applicable to prevailing practice in a given country.

b. Creditable Service

All periods of continuous service performed as a direct-hire FSN employee are creditable. True non-personal service provided under commercial contract with an independent contractor licensed to do business in the host country who provides services to

other local organizations as well as the U.S. Mission is not creditable. However, if local law requires that all periods of continuous service with the same employer be compensated in one payment at the time of separation and if the receiving state considers an in-house organization which supplies services solely to the Embassy (e.g. recreation/commissary association) to be an integral part of the Mission, the liability for severance pay will be transferred from that entity when such so-called nonpersonal services immediately precede employment with the Mission in a PSC or direct-hire status. An employee must be on the rolls in either psc or direct-hire status on or after the effective date of the plan in order for prior continuous service to be creditable. Service for which severance payment as already been made is not creditable, and deposit may not be made to buy back such credit.

Periods of employment under a personal services contract which are not recognized as creditable by the Office of Personnel Management in computation of an annuity under the Civil Service Retirement (CSR) System may be credited to an employee and appropriate severance payment made at the time of separation, even when such separation results in an immediate or deferred CSR annuity. Personal services contract periods must be fully documented, and the separation document (e.g. SF-50 or JF-62) must certify that severance payment was not previously made.

c. Transfers Between Agencies

Severance pay will not be paid to an employee transferring between civilian U.S. Government agencies anywhere without a break in service. Instead, at the time of final separation from such employment, severance payments will be made by the agency with which employed at time of separation and at the rate in effect in the current plan. This procedure should be fully understood by both the gaining and losing agency at the time of transfer. For transfer involving military components, the interagency funding for such transfers is to be resolved on a case-by-case basis.

d. Severance Pay With Immediate Annuity

Severance pay plans may not authorize severance payment to an employee eligible for an immediate or deferred Civil Service Retirement (CSR) annuity or other pension to which the U. S. Government has contributed, unless it can be justified as fully compatible with the types and levels of prevailing local benefit plans; in the case of deferred annuity, if paid, severance compensation may not exceed an amount corresponding to salary from date of separation to

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date of deferred annuity eligibility based on rates in effect at the time of separation. (See section 934.4c.) Severance payments to employees separating on immediate or deferred Civil Service Retirement annuities, to cover personal service contract periods not recognized as creditable by the Office of Personnel Management in annuity computations under the Civil Service Retirement System, may be authorized in accordance with section 934.3-3b.

As CSR is never local practice, justification of severance pay will require a comparison of CSR benefits with a combination of normal host country retirement benefits and severance payments as required by local law and prevailing practice. Normally, approval will be granted only if host country retirement benefits together with severance payments are greater than CSR benefits.

No new or revised severance pay plan will receive headquarters approval if it is not in accord with the above provisions. Existing plans which are not in accord and have not received explicit documented Washington approval must be revised to reflect the above provisions and submitted for Washington approval no later than December 20, 1987. Whether or not the plan is amended by December 20, 1987, these regulations will apply as though the plan were so amended. Where previously approved plans providing severance payments to employees retiring with immediate or deferred CSR annuities have been superseded by plans which do not include such provisions, or have not been revised in accordance with the above provisions by December 20, 1987, entitlements previously earned shall be frozen for retention and documented by personnel action (e.g. SF-50, JF-62) prepared as of the termination of the plan which made provision therefor or December 19, 1987, whichever is earlier, stated in local currency amounts based on the employee's salary on that date. These frozen severance pay amounts may be paid to the employees at the time of retirement provided that the eligibility requirements of the severance plan in effect the time of separation are met in all other respects.

e. Preparation of Severance Plans

In the preparation of severance pay plans, posts should follow the sample plan included as Exhibit 934.3-3, amending, deleting, or adding pertinent sections as necessary to conform to provisions of local law or custom. Posts are required to include one of the two alternative paragraphs in section 5 of the Exhibit on Refund of Payment and the section on

Transfers (section 6 of the Exhibit) in their severance plans.

f. Documenting Severance Payment

Posts should document any payment for severance by entering in the "Remarks" section of the SF-50 or JF-62 documenting separation, the dates of service for which the payment is being made, and the total amount of the payment.

934.4 Submission of Plans for Approval

a. Submission of Proposed New Plan

Missions should submit plans for direct payment of fringe benefits to the Department (PER/FSN) for interagency approval prior to installation. Submit with the plan the following:

- (1) Full description of the benefit, including translation of pertinent law, regulations, or ordinances upon which payment is based;
- (2) Joint interagency recommendation for and concurrences in adoption of the benefit;
- (3) Estimates by agency of the per annum increase in costs or in personnel requirements, if any, which implementation will necessitate;
- (4) Estimate by agency of the percentage of increased costs, if any, which can be met from each Agency's current allotment;
- (5) Statement whether the local compensation plan now includes an adjustment for the benefit and, if so, how much;
- (6) Explanation and justification of any discrepancy between the mission's proposed plan and local law or custom, and
- (7) An explanation of any legal, political, or other problems that might arise through installation of the plan.

b. Submission of Proposed Revision of Existing Benefit Plan

Proposed revisions of existing direct fringe benefit plans should be submitted to the Department (PER/FSN with copies to other affected headquarters agencies) for approval prior to implementation. Submit the following supporting documentation:

- (1) A copy of the current benefit plan;
- (2) A copy of the proposed benefit plan;
- (3) An explanation of the change and the need therefor; for example, to conform to new law or survey results;
- (4) Documentation supporting change; for example, copy of law or detailed survey results; and

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(5) Estimate of increased annual cost by agency and amounts which can be absorbed within current allotments.

c. Submission of Justification for Severance

Plans With Immediate Annuity

Missions should submit justification for plans which authorize severance payment for foreign national employees eligible for an immediate annuity to the Department (PER/FSN) for interagency approval. The justification should be based on data developed by the last full salary survey. Severance plans from posts which contain justified provision for payment of severance and immediate annuity from a retirement system to which the U.S. Government has contributed will receive interagency approval for installation, and will be reviewed during subsequent full-scale salary surveys. The justification should include specific information on the following:

- (1) The various age and length of service provisions of the host government systems for retirement eligibility, both for men and women.
- (2) A complete explanation of the benefits payable, that is, annuities/ lump-sum payments and the benefits provided (for example, health and medical coverage after retirement).
- (3) The supplemental retirement benefits, if any, provided by local employers through company plans or private insurers, and their costs.
- (4) The amount of severance payments provided to employees eligible for host government and/or private employer retirement benefits.
- (5) Copies (with English translation) of all pertinent laws and implementing rules and regulations governing retirement and severance pay benefits.

934.5 Review of Direct Fringe Benefit Plans

934.5-1 Review of Proposals for New or Revised Plans

The Department (PER/FSN) in consultation with the appropriate regional bureau, together with other headquarters agencies, will review all proposals for new or revised fringe benefit plans and notify missions of the decision.

934.5-2 Audit of Existing Plans

Existing fringe benefit plans are audited periodically by headquarters agencies to insure adherence to provisions of local law and/or custom. Where the audit shows that the benefit plan varies from local law and/or custom, a revised plan reflecting the

more appropriate level of benefits or benefit provision is developed by PER/FSN in consultation with the appropriate regional bureau and other headquarters agencies for installation by the mission.

934.6 Installation of Plans

a. A direct fringe benefit payment plan approved in accordance with section 934.5 may be installed as of the effective date authorized by the Department and other affected agencies or on a later date as determined by heads of overseas establishments. For new direct fringe benefit plans, the "Remarks" section of the joint local compensation plan should be amended to include an authorizing statement similar to the following: "Severance payments are authorized to eligible employees in accordance with prescribed regulations on file at the mission."

b. The mission assures that distribution of the amended or revised compensation plan is made according to section 932.5d. In addition, one copy of the rules governing benefit payments is submitted to the Department (PER/FSN) and one copy to the appropriate Departmental regional bureau, one copy to USIA: M/PN, one copy to AID: M/PM/PMC, one copy to Commerce: (ITA/FCS/OPA), one copy to Agriculture: (USDA/FAS/PD), and one copy to Peace Corps: (Personnel Operations).

c. If an adjustment is included in the joint local salary schedule for the value of the benefit to be adopted as a direct fringe benefit payment (see section 2.3-4 of the FSNCH or LECH,) the adjustment normally should be withdrawn as of the date the direct plan is installed or not later than the effective date of the next revision of the joint local salary schedule.

934.7 Administration of Plans

a. A direct fringe benefit payment plan is administered in accordance with rules approved by headquarters agencies and the mission, and by pertinent payroll or other regulations. For example, severance payments should be payrolled in the same manner as other lump-sum payments and should be appropriately recorded on the employee's individual pay record.

b. Civil Service retirement deductions will not be made from severance payments nor from those bonus payments which are paid apart from and in addition to basic salary.

c. Employees should be informed of where a copy of the approved regulations governing the benefit plan and of where procedures for appealing direct fringe benefit payment decisions may be examined.

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Should questions arise as to the adequacy of the benefit received in relation to local law and custom, overseas establishments may advise employees that, although the rules governing the direct benefit plan severance payments conform to local law or custom to the maximum extent practicable, the U.S. Government may only make payments authorized by U.S. law (see section 922.4a(1)).

d. Grievances concerning direct fringe benefit payments should be handled in accordance with FSN employee grievance procedures established under section 929.

935 PREMIUM COMPENSATION

935.1 General

Premium compensation for FSN's consists of overtime, local holidays, and night-differential pay. Premium pay rates are based on prevailing pay rates and practices in the locality. Where the payment of such compensation is not customary in the locality, FSN's are expected to perform such work without additional compensation.

Premium pay is computed on an employee's basic salary rate which excludes all salary supplements, such as direct fringe benefit payments and fringe benefit adjustments (see section 2.3-4 of the FSNCH or LECH), unless local law and/or well-established local custom supports computation of premium pay on another salary component. The "Remarks" section of all local salary schedules should contain a statement to the effect that premium pay is computed on basic rates of pay or other appropriate salary component. If the format shown in Exhibit 2.4-7 of the FSNCH is used, the "Remarks" section of the schedule should indicate the approximate percentage of the gross rates shown in the schedule which constitute basic pay.

Work requiring payment of premium compensation should be authorized in advance and may not be ordered unless funds are available therefor. Premium payments not specifically provided for on a joint compensation plan are subject to disallowance by the General Accounting Office.

935.2 Overtime

a. Overtime work is all work performed other than during an employee's regular basic working hours (basic workweek). Overtime pay rates are normally stated on the compensation plan in terms of a basic hourly rate such as time and one-half, time and one-quarter, or straight time per hour. If there is no

provision on the plan for overtime payments, no payments may be made. Overtime work for FSN's is authorized or approved only as an emergency measure to avoid serious backlogging of regular work or to meet some temporary crisis. It should be kept to a minimum except when necessary to protect life or Government property.

b. When overtime work appears to be of a continuing nature, the workload and the workweek are reviewed to determine how to eliminate or reduce the overtime. Normally, an overseas establishment attempts to redistribute workloads or, failing this, extends various employees' basic workweeks to encompass those hours repeatedly worked. (See section 941.2b.)

c. In many foreign areas, work on Sunday or on another day observed as the Sabbath is compensated for at the same rate as overtime worked on other days. However, in some areas, a higher rate of compensation is paid for work on Sunday or other Sabbath days. In such cases, the local compensation plan may show two rates for overtime work.

d. Compensatory time off may be granted to FSN employees in lieu of overtime compensation if it is the local practice. The rate of accrual and other procedures should relate to those prevailing locally.

935.3 Night Differential

a. Night-pay differential is a premium paid for work regularly scheduled at night, during the hours specified or designated in accordance with local law or custom. In most areas, night differential payments are not customary because additional pay, if any, for regular work at night is reflected in the prevailing pay rates for the type of work involved; for example, night guard.

b. Overseas establishments usually need a night differential rate only if they have a number of FSN employees performing the same job on a shift basis. Overseas establishments are cautioned that if there is no provision on the local compensation plan for night differential pay, no additional compensation may be paid. Night differential pay rates are normally stated on a local compensation plan in terms of an additional percentage of basic compensation and show the hours during which such differential is payable; for example, "10 percent per hour in addition to basic compensation for regularly scheduled work between 6:00 p.m. and 6:00 a.m." This type of payment should not be confused with overtime work performed at night. Overtime work is work irregularly performed outside a basic workday while

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night-pay differential is premium pay for work performed within a basic workday.

935.4 Holiday

a. Holiday pay for FSN employees is premium compensation paid in addition to basic compensation for work ordered to be performed during basic working hours on local holidays designated in accordance with 2 FAM 111.2. Work during basic working hours on U.S. holidays that are not also local holidays does not entitle an FSN employee to regular holiday pay, but entitles them to straight time per hour worked in addition to basic pay. Work performed during other than basic working hours is overtime work and is treated accordingly even though it is performed on local or U.S. holidays. Holiday pay rates are stated on a local compensation plan. Normally, these rates are shown in the plan as the amount payable in addition to basic compensation; for example, "straight time per hour in addition to basic compensation." Overseas establishments are cautioned that if there is no provision for local holiday pay in their compensation plan, no additional compensation may be paid.

b. An FSN employee excused from work during basic working hours on a designated local holiday is paid for such time at the employee's regular hourly rate without charge to leave.

936 FURNISHING NAMES AND SALARY DATA AT REQUEST OF HOST GOVERNMENT

a. Names and Addresses

If requested by the host government, the names and addresses of FSN employees may be furnished when the ranking officers in a country deem it desirable or advantageous to cooperate for administrative or political reasons.

b. Salary Rates for Tax Purposes

Although the U.S. Government as a sovereign nation is not required to supply information to host governments on the salary rates of its local employees, there is no law precluding such action.

If ranking officers in a country deem it appropriate when requested by the host government to report the salaries of FSN employees, the post may do so, provided it is believed that the FSN's will be accorded equitable tax treatment as compared with that received by their counterparts in private or other local employment. It must be considered that the rates paid FSN's frequently contain, in part, monetary compensation in lieu of nontaxable fringe benefits granted by other local employers. Accordingly, if income tax is levied against the total amount of local salaries, employees may be liable for income tax on a portion of their salary rates which would not be taxable if they were not employed by the U.S. Government. Therefore, if a decision is made to report FSN employee salaries, it is necessary to examine the salary data on which the local salary schedule is based to assure that the compensation for nontaxable fringe benefits is not reported as salary for income tax purposes. This may require appropriate explanation to the host government and to the employees.

937 WITHHOLDING TAXES

A post should not assume any obligation or responsibility to withhold taxes levied by the host government, except in case of an international agreement for this purpose between the U.S. Government and the host government. One basic consideration involved in handling requests to withhold taxes is that neither the host government nor the FSN's should be given the mistaken impression that the U.S. Government wishes to preclude or discourage the FSN employees of its establishments from complying with the laws of their countries.

938 and 939 (Unassigned)

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EXHIBIT 931.2

Memorandum of Agreement

SUBJECT: Agreement Concerning Joint Compensation Plans for Local Employees of the Department of State--United States Information Agency--Agency for International Development--Certain Designated Units of the Department of Defense--and the Foreign Agricultural Service and Other Designated Units of the Department of Agriculture.

PURPOSE

The purpose of this agreement is to establish new interagency working relationships governing the development, installation, and use of jointly-approved local employee compensation plans at posts abroad, and to reaffirm certain past policies in these matters.

POLICY

The signatory agencies to this memorandum agree that joint local compensation plans shall be used and joint compensation practices shall be followed in the remuneration of their direct-hire non-U.S. citizen employees, including third country nationals, at posts where two or more of these agencies employ local personnel. In the case of the Department of Defense, this agreement applies only to local employees of the military attache' offices, military assistance and advisory groups, and the units designated in Appendix A. Where personal services contracts are authorized by an agency for the employment of local personnel, the salaries and benefits provided therein shall be related to the rates (which may include offsets for fringe benefits) in a post's local compensation plan. (In the case of USIA and USDA/FAS, personal service contracts must have Washington Headquarters Agency approval prior to execution; for FAS Cooperators' non-U.S. citizen employees, see Title II, FASR, Chapter 4.)

The statutory authority and the basic policy relating to the development of local compensation plans is contained in section 444 of the Foreign Service Act of 1946, as amended. (P.L. 86-723; 22 U.S.C. 889; 74 Stat. 832;). The regulations and procedures which govern this activity are set forth in 3 FAM 910-970 and in the Interagency Handbook on Local Employee Compensation and pertinent signatory agency regulations.

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Memorandum of Agreement (Continued)

PROCEDURES AND RESPONSIBILITIESI. Responsibilities of Foreign Service Missions

The officer in charge of administrative operations of the Foreign Service at each mission or principal post directly under the supervision of the Department of State shall:

- a. Conduct local salary surveys or participate with DoD salary survey teams when available, evaluate the survey findings, and develop proposed revised local compensation plans for Foreign Service posts in the officer's country of assignment; give special consideration in selection of key positions in the survey to specific needs of other agencies--for example, positions requiring special or unique qualifications, working conditions, etc; include all position titles of other agencies in list of authorized position titles;
 - b. Explain local salary survey findings to using agencies at post and provide necessary copies of the approved local compensation plan to using agencies at post and to agencies' headquarters;
 - c. Advise and assist all agency representatives in developing position descriptions, in establishing suitable titles, in classifying positions in conformance with the approved list of position titles, and in establishing the qualifications requirements for the positions. Positions involving duties and responsibilities common to all agencies, for example, Secretary, Clerk-Typist, Chauffeur, etc., shall be placed in the same class level;
 - d. Advise on classification of positions of an agency subject to the approval of the ranking officer of the agency, when the post administrative support agreement provides for this service;
 - e. Review local compensation plan annually and at any other time when there is evidence of the plan's inadequacy;
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Memorandum of Agreement (Continued)

f. Based on results of a local salary survey or on review of adequacy of a local compensation plan, develop and submit to Washington for approval the following types of modification of the plan:

- (1) Revisions in salary rates;
- (2) Changes in the basic structure (for example, adding a new class level or increasing the number of step rates in a class);
- (3) Changes in premium pay rates;
- (4) Adoption of new direct fringe benefit payment plans and substantive amendment of approved direct fringe benefit plans, including host government social security plans and health plans;
- * (5) Any amendment to the list of authorized position titles; and
- (6) Any other amendment which results in the increased expenditure of funds;*

- * g.* Sign all proposed revised local compensation plans as evidence of the officer's formal and official concurrence therewith; and
- * h.* Forward copies of proposed revised local compensation plans, cost data, and an explanation of proposals to the Department for approval in accordance with 3 FAM 932.5-d. Upon request, submit salary survey data and worksheets.

II. Responsibilities of Other Agency or Department

Representatives at Post

Each head of a USIA overseas establishment, Executive Agent (Army, Navy, or Air Attache', as appropriate), Agricultural Attache' or other designated representative of the Department of Agriculture, and Director of an AID Mission, or USAID Representative or Liaison officer, or their designated representatives, shall:

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Memorandum of Agreement (Continued)

- a. Classify local positions even though provision for this service is a part of the administrative support agreement at the post. (The position classification action includes determination of the proper class and position title as well as the qualification requirements for the position.);
- b. In the preliminary stage of local salary surveys, participate in the selection of key positions and organizations to be surveyed;
- c. Participate in the salary survey by providing technical guidance on position requirements and/or by providing staff support in the survey effort;
- d. Review the completed survey to assure that salaries for comparable positions and accompanying fringe benefits have been properly evaluated and that the resulting local compensation plan is equitable;
- e. Adhere strictly to provisions of the local compensation plan in compensating local employees;
- f. Request the mission to conduct a survey of specific positions or all positions if local conditions appear to warrant a review of the local compensation plan; and
- g. Sign all proposed revised local compensation plans as evidence of that agency's formal and official concurrence therewith.

When a consensus on local personnel classification or pay practices cannot be reached at a post, the head of an overseas establishment may submit a request, with full justification and supporting data, for the establishment of special salary rates, a separate salary schedule, or classification of individual positions for headquarters agency review, advice, or decision. Such submissions should be sent to the appropriate headquarters office, Washington, with copies marked for the attention of the appropriate regional bureau and the Bureau of Personnel, Department of State. The post will be advised of the decision reached at the Washington level.

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Memorandum of Agreement (Continued)

III. Responsibilities of State and Other Agencies in Washington

Officers in State and other agencies in Washington as designated in 3 FAM 931.3 and in other pertinent agency regulations shall have the authority to:

- a. Request and review local salary survey data and worksheets in support of post's proposed revised local compensation plans as deemed necessary to insure the adequacy of the proposals;
- b. Approve all proposed revised local compensation plans subject to review of salary survey data and worksheets, as necessary, and budgetary clearances;
- c. Inspect overseas operations as deemed necessary to insure effectiveness and efficiency of post's local personnel programs; and
- d. Approve direct fringe benefit payment plans and health and social security plans in accordance with existing regulations.

IV. Delays in Implementation

Where one or more of the agencies find it impossible to implement the local compensation plan because of inadequate funds, all agencies shall postpone putting the plan into effect to afford the affected agencies a reasonable opportunity to seek the necessary funds. If, after 60 days, funds are not forthcoming, other agencies may install the revised or amended plan.

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Memorandum of Agreement (Continued)

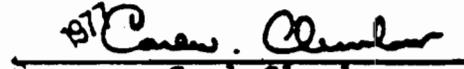
This agreement supersedes the interagency agreement on the same subject signed during the period April thru June 1975.

For the Secretary of State:

For the Secretary of Defense



Thomas J. Ranson
Director, Office of
Employee Services

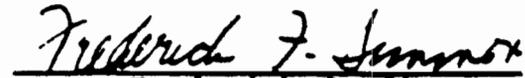


Carl Clewlow
Deputy Assistant Secretary
Civilian Personnel Policy

For the Secretary of Agriculture:

For the Agency for International
Development:

JUN 29 1977 
Patricia P. Madison
Director of Personnel Division
(FAS)


Frederick F. Simmons
Director of Personnel
Manpower

For the Director
United States Information Agency:


Angie Garcia
Acting Assistant Director, USIA,
for Personnel and Training

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UNIFORM STATE/AID/USIA REGULATIONS

APPENDIX A

DEPARTMENT OF DEFENSE UNITS DESIGNATED TO APPLY
STATE-DEFENSE AGREEMENT ON LOCAL SALARY ADMINISTRATION

All U.S. Defense Attaché Offices

All Military Assistance Advisory Groups (MAAG's)

Brussels, Belgium

European Office of Aeronautical Research

Cairo, Arab Republic of Egypt

U.S. Naval Medical Research Unit No. 3

Republic of Zaire

U.S. Military Mission

Hong Kong, B. B.C.C.

U.S. Navy Purchasing Branch

India

U.S. Defense Representative

Liberia

U.S. Military Mission

Lisbon, Portugal

U.S. Navy Shipbuilding Liaison Office

Madrid, Spain

U.S. Navy Shipbuilding Liaison Office

Mali

U.S. Military Mission

Rangoon, Burma

Military Equipment Delivery Team

Saudi Arabia

U.S. Military Training Mission

Vientiane, Laos

Resident Officer in Charge of Construction

Wellington, New Zealand

U.S. Naval Support Force
Antarctica, Christchurch

MASS PAY ADJUSTMENT ACTION

(Legal Authority: Section 408 of the Foreign Service Act of 1980)

POST: _____
Shared (or Program)

Effective Date: _____

Pursuant to the local compensation plan revision effective on the above date, the following changes are hereby effected:

<u>Employee</u>	<u>DOB</u>	<u>FROM</u>		<u>LOCAL CURRENCY</u>		<u>LOCAL CURRENCY</u>		<u>US\$ Equiv.</u>
		<u>Position Title</u>	<u>FSN Class/Step</u>	<u>Annual Adjusted Basic Salary</u>	<u>Position Title</u>	<u>FSN Class/Step</u>	<u>Annual Adjusted Basic Salary</u>	
John Smith	1-9-30	Chauffeur	3/6	5,845	Chauffeur	3/1	6,110	5,605
Cecelia Doe*	6-4-50	Clerk-Typist	3/7	4,281	Clerk-Typist	3/2	4,442	4,075
Sue Brown	8-17-44	Secretary	5/5	6,566	Secretary	5/2	7,636	7,000
Bill Jones*	3-8-25	Visa Specialist	10/5	12,548	Visa Specialist	10/1	13,040	11,963

(Etc.)

Appropriation and Allotment: 1970113 - 5520

Rate of exchange on effective date: 1.09 (local currency) equals \$1.00 U.S.

*Employees subject to Civil Service retirement coverage.

Arnold Robinson
Administrative Officer

Mass Pay Adjustment Action

EXHIBIT 932.6

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EXHIBIT 934.3-2

Sample Bonus Payment Plan Statement¹

A Christmas bonus is payable to employees each year as of the end of the last payroll period prior to December 25. Each employee on the rolls as of the date the bonus is payable will receive 1/26th of the total bonus payment for the employee's salary rate for each full biweekly pay period the employee has been in pay status during that "bonus" year. A person separated prior to the date the bonus is payable will receive 1/26th of the total bonus payment for the salary rate for each full biweekly pay period the employee was in pay status during the "bonus" year.² The amount of the bonus payment is computed on the basis of the employee's basic salary rate in effect at the time the bonus is payable or on date employee is separated, as appropriate.

Periods of LWOP shall be deducted from the service credit used to calculate the bonus. The total bonus will be reduced each time the employee has accumulated a full workweek in LWOP status during the bonus year.³ For example, an employee on a 48-hour workweek will have the total bonus reduced by 1/2 pay period credit when total LWOP reaches 48 hours.

In 19__ only, the maximum bonus payment is limited to (11/26) of the full bonus payment.⁴

¹ Either attach statement to local compensation plan or place statement in personnel office files at the post. Note under "Remarks" section of compensation plan that a bonus is payable.

² This should be part of the post's bonus plan only if it is local practice. In many places it is not customary to pay Christmas bonuses to employees not on the payroll at Christmas time.

³ This provision may be modified only to conform to prevailing practice in the locality.

⁴ This sentence to be used only the first year in which a bonus plan is installed. The fraction indicates the number of pay periods remaining from date of installation to date of first payment.

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EXHIBIT 934.3-3

SAMPLE SEVERANCE PAY PLAN

(TL:PER-70 7-7-87)

(Uniform State/AID/USIA/CommercialAgriculture)

Use the following sample severance pay plan as a guide only after carefully evaluating the applicability of each provision to local law/practice. Portions of the sample plan may be modified to conform to local law and well-established practice. For example, if under local law or custom, severance payments are not made to survivors upon an employee's death, section 3 of the sample should be amended to show "death" as an excluded category. For each proposed modification of the sample plan, submit full justification in accordance with section 934.4.

Sample Severance Pay Plan for FSN/PSC Employees

Under the authority contained in 3 FAM 934.1 and consistent with prevailing employment practices in (locale), severance payments will be authorized as of (date) to eligible foreign national employees of all U. S. Government (USG) agencies following the Mission's joint local compensation plan upon their final separation from U.S. Government service subject to the following rules:

1. Applicability

This plan is applicable to direct-hire employees under "Indefinite", "Limited", "Conditional" and "Permanent" appointments, and to personal services contract employees.

Excluded from coverage are employees under "Temporary" appointments; nonpersonal service contract personnel and their employees, supplied by independent contractor licenses to do business in the host country who provides services to other local organizations as well as the U.S. Mission; employees of USAID institutional contractors; and domestic servants at official residences. (See Creditable Service for possible crediting of direct-hire "Temporary" employment toward severance pay.) Persons separated prior to the effective date of this plan, regardless of type of employment, are not entitled to severance pay for this prior service.

2. Amount of Payment

Eligible employees are entitled to (insert prevailing provisions of payment including rate of accrual, maximum limitation, and pro rata formula for part-time employees and for partial years of creditable service).

Severance payments will be computed on the basis of the employee's basic salary as shown or noted on the Mission's local salary schedule. Basic rates are rates which exclude all fringe benefit adjustment amounts payable to foreign national employees.

3. Eligibility Requirements

(This section, particularly, should be modified in accordance with local law and custom.)

All employees paid under the terms of the joint local compensation plan and whose employment with the USG is terminated are eligible for severance payment, except:

- a. Those who are separated for cause;
- b. Those who voluntarily leave the Service;
- c. Those who are separated and are eligible for an immediate Civil Service retirement annuity; 1/
- d. Those who are separated and are eligible for a deferred Civil Service retirement annuity; 1/

1/ Employees eligible for CSR annuity may receive payment:

(1) If otherwise eligible for severance at the time of separation, for periods of employment under personal services contract before January 1983 not included in CSR annuity calculations and for which severance payment has not previously been made.

(2) (insert if severance previously authorized) If otherwise eligible for severance at the time of separation, for entitlements earned under previous plans and frozen as of (date).

(3) (insert if justified as compatible with local law/prevailing practice) In the case of deferred annuity, limited to an amount corresponding to salary from date of separation to date of deferred annuity eligibility based on rates in effect at the time of separation.

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SAMPLE SEVERANCE PAY PLAN (CONTINUED)

- e. Those who are separated from "full-time" appointments and reemployed, without a break in service, under "part-time" appointments and vice versa; and
- f. Those who are separated from "Temporary" appointments.

4. Creditable Service

The following criteria govern the determination of creditable U.S. Government service:

- a. All documented **continuous** service with U.S. Government (USG) agencies, that is, service without a break of more than three calendar days, for which payment has not been received.
- b. Employment under a "Temporary" appointment that is converted to an "Indefinite", "Limited", "Conditional" or "Permanent" appointment without a break in service of more than three calendar days.
- c. Service performed under a personal services contract. Eligible employees are not granted severance pay at the expiration of their contracts if (1) the contract is to be renewed, or (2) the employee transfers to a direct-hire appointment without a break in service of more than three calendar days.
- d. (insert if applicable under local law/prevaling practice) Indirect employment or so-called non-personal services with an in-house entity providing services exclusively to the Mission and considered by the Government of (country) to be an integral part of the Mission, when payment has not been received, such service immediately precedes personal services contract or direct-hire appointment without a break of more than three calendar days, and is recognized by (country) law to be continuous service with the USG.
- e. (Periods of leave without pay which are to be deducted from creditable service.)

5. Refund of Payment ^{2/}

Persons who have received severance pay from the USG and are reemployed by the USG shall not be permitted to refund any portion of the payment. Eligibility toward new severance pay entitlements shall begin as of the date of reemployment.

(NOTE --The following language should be used as an alternative to the above in areas where local law or custom requires severance payment upon voluntary resignation and imposes a maximum accrual of benefits.)

An employee who is separated and granted severance pay by any U.S. Government agency and who is subsequently reemployed is required to refund any portion of the severance pay which exceeds the salary the employee would have received had that employee remained on the payroll. Only the period of service which the refund covers is creditable toward future severance pay entitlements.

The foregoing rules do not apply to reemployment after a break in service of more than 2 calendar weeks in a country other than the one in which severance payment was made. No refunds are required in such instances, and prior service credit is not counted toward severance pay accruals at the post of reemployment.

6. Transfers ^{2/}**a. Between USG Agencies Within a Country**

Severance payments are not authorized to employees who are transferred between civilian USG agencies within a country. Transfers are considered a change in employment from one USG agency to another without a break in service of 3 calendar days or more. Service credit towards severance pay which has been earned through employment with the losing agency is transferred to the gaining agency. The gaining agency will assume all obligations for the payment of severance pay for prior creditable periods of service with any USG agency, if the employee is entitled to severance pay on final separation. For transfers involving military service components, interagency funding is to be resolved on a case-by-case basis.

^{2/} This section, as written, is required in all plans.

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SAMPLE SEVERANCE PAY PLAN (CONTINUED)

b. Between or Within USG Agencies in Different Countries

The rules in paragraph 6a apply. Under these circumstances, service credit toward severance pay earned under the terms of the losing post's plan would be transferred to the gaining post. Any severance payments to such employees are made on the terms of the severance pay plan in effect at the gaining post.

7. Appeals

If disputes arise involving severance settlements, the employee has the right of appeal to the Ambassador or designee. The decision of the Ambassador or designee shall be final. Rules governing grievance appeals are on file at the Mission personnel office.

8. Agreed to By:

_____	_____	_____
Embassy	AID	USIS
_____	_____	_____
USDOC	USDA/FAS	Defense Attache'

Other		

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FSN EMPLOYEE ATTENDANCE AND LEAVE

941 ESTABLISHMENT OF WORKWEEKS

(TL:PER-389 11-18-74)
(Uniform State/AID/USIA)

941.1 General Policy

Basic workweeks are prescribed by and coordinated among the heads of overseas establishments.

941.2 Full-Time Employees

a. Basic Workweek

The regular basic workweek for a full-time FSN employee consists of not less than 40 hours of work, exclusive of lunch periods, within the calendar week, Sunday through Saturday. For example, chauffeurs may be required to work 60 hours per week in an area, while statistical clerks in the same area may ordinarily work 32 hours. In such cases, a workweek of 60 hours could be established for chauffeurs employed by the overseas establishment whereas statistical clerks would be required to work at least 40 hours per week, that is, the minimum workweek, if employed on a full-time basis.

Irregular, full-time basic workweeks (workweeks where more than the regular number of hours are worked or where the daily work schedule differs from the regular schedule) may be established for any local position of the overseas establishment or to conform more closely to local employment practices.

b. Changes in Basic Workweek

(1) An employee's basic workweek may be amended from week to week, if necessary, to the efficient operation of the overseas establishment.

(2) Any change in workweek affecting only the days of work and not the total number of hours worked per week is recorded by a memorandum prescribing the new workdays. One copy is given the employee, and one filed in the employee's personnel folder.

(3) Any change in workweek affecting the total number of hours worked per week by an employee is recorded on a Form SF-50, Notification of Personnel Action. This is necessary so that a change in the total number of hours worked per week can be accompanied by a commensurate change in salary. For example, if a chauffeur's basic workweek is increased from 40 to 48 hours, the chauffeur would be entitled to a 20 percent increase in basic salary. In such cases, two classes could be established in the compensation plan, one for chauffeurs working 40 hours, and another, 20 percent higher, for chauffeurs working 48 hours.

941.3 Part-Time Employees

a. Basic Workweek

Workweeks consisting of less than 40 hours may be established but are considered as part-time employment. The basic workweek for a part-time employee is established at the time of appointment and recorded on a Form SF-50, Notification of Personnel Action, by indicating under "Remarks" the days of the week and the hours of the day that the employee is on duty.

WAE or intermittent employment, that is, employment on an irregular or occasional basis, where hours or days of work are not normally based on a prearranged schedule and which is compensated for only on the basis of time "when actually employed." is normally considered part-time work. As a matter of policy, such work should consist of less than 40 hours per week.

b. Changes in Basic Workweek

Any change in the basic workweek of a part-time employee is made according to the guidelines set forth in section 941.2b.

942 TIME AND ATTENDANCE REPORTS

Time and attendance records for State and USIA FSN employees are maintained on Forms OF-1135 or OF-1136, Time and Attendance Report. (See 4 FAM 530; and for AID see Handbook 27, Attendance and Leave; or, if under a mechanized system, on the form designed for this purpose.) AID overseas establishments use Form AID 7-314, Time and Attendance Report, or, if under a mechanized system, the form designed for this purpose.

End Uniform State/AID/USIA Regulations.

943 ANNUAL AND SICK LEAVE

(TL:PER-541 11-18-82)
(Uniform State/AID/USIA/Commerce/Agriculture)

943.1 Authority

Section 408 of the Foreign Service Act of 1980, provides inter alia that "Any compensation plan established under this section may include provision for leaves of absence with pay for foreign national employees in accordance with prevailing law and employment practices in the locality of employment without regard to any limitation contained in section 6310 of title 5, United States Code." This means that annual and sick leave and other leave of absence with pay for Foreign Service National employees may be in accord with prevailing law and employment practices in the locality of employment notwithstanding statutory limitations contained in title 5 of the United States Code.

943.2 Policy

a. The heads of overseas establishments are responsible for adopting joint interagency leave practices within a country or locality.

b. Overseas establishments must adopt locally prevailing leave benefits in lieu of any benefits patterned after the provisions of the Annual and Sick Leave Act of 1951 (5 U.S.C. 6301 - 6311) in a country in which the host government provides sick pay benefits to FSN employees who participate in its social insurance system. All features of the locally prevailing leave system must be adopted for FSN employees who are enrolled in the host government social insurance system, to the total exclusion of any benefits patterned after the U.S. leave system.

c. In a country or locality where conditions in (b) above do not exist, overseas establishments may jointly adopt uniform leave practices in accordance with locally prevailing practice and local law.

d. Overseas establishments may not combine one or several features of the U.S. leave system together with features of the locally prevailing leave system into a post leave plan.

e. Mission management must notify each FSN employee of details of the new leave plan as soon as feasible after Washington headquarters approval has been received. Considering such factors as local law, prevailing practice and, if feasible, each FSN employee's written preference, Mission management will determine within 60 days after implementation whether each FSN employee will be covered by the post's existing leave plan or the new plan. After the conclusion of the 60-day period, an FSN employee normally may not be transferred from one plan to another. All FSN's employed subsequent to the date of implementation will be covered by the new leave plan.

943.3 Policy Implementation

(TL:PER-21 4-3-85)

(Uniform State/AID/USIA/Commerce/Agriculture)

a. Where the overseas establishment adopts a host government social insurance system which provides sick pay benefits:

(1) FSN's are enrolled in host government system for all benefits.

FSN participants in the post's new leave plan receive all and only the benefits required by local leave law and/or locally prevailing practice.

As of the date of enrollment in the host government system, such employees are granted the sick pay benefits of the host government plan and supplemental sick pay benefits, vacation, military, maternity, and such other leave as is based on local law and/or prevailing practices.

(2) FSN's are enrolled in the host government system for all benefits other than pension.

Whether or not enrolled in CSR, such employees are granted leave with pay in accordance with subsection a(1) above.

(3) FSN's not participating in the host government system for any benefits.

Such employees may continue to be granted leave with pay in conformance with locally prevailing practice to the extent that such practices do not exceed the amounts provided

U.S. citizen employees under the provisions of the Annual and Sick Leave Act of 1951 (5 U.S.C. 6301 - 6311) (see also 3 FAM 420 and 430), or they may be granted leave in accordance with the plan developed by the post under section 943.4.

b. Where an overseas establishment is unable to enroll FSN's under the host government social insurance system which provides sick pay benefits:

Such employees normally will continue to be granted leave with pay in conformance with locally prevailing practice to the extent that such practices do not exceed the amounts provided U.S. citizen employees under the provisions of the Annual and Sick Leave Act of 1951 (5 U.S.C. 6301 - 6311) (See also 3 FAM 420 and 430).

c. Where an overseas establishment participates in a host government social insurance system which provides no sick pay benefits and in all other situations where the locally prevailing retirement system (that is, provident fund, severance pay, private insurance, etc.) provides no sick pay benefits:

The overseas establishment normally will develop a leave plan based on local law and on locally prevailing leave practices for all FSN's in accordance with the general guidelines set forth in subsection a. above and section 943.4 below.

d. Leave balances accrued under a post plan based upon locally prevailing practice and established under the authority of Section 408(a)(1) of the Foreign Service Act of 1980 are treated as follows:

(1) Sick leave accumulated under a locally prevailing leave plan is not creditable for computing CSR benefits.

(2) Lump-sum payment (see section 943.6) for annual leave at time of separation may be made to the extent such payment is the locally prevailing practice, has been approved by Washington, and is specifically authorized in the mission's published leave plan.

(3) Upon reemployment, recredit of leave may be made only in accordance with locally prevailing practice insofar as it is approved by Washington and is reflected in the post's published leave plan.

e. Leave balances accrued under a post plan patterned on the U.S. leave system (see sections 430 and 440) are to be treated as follows:

(1) Annual leave will be retained and may be used, with mission approval, to supplement leave earned under the new plan, with a corresponding reduction of the balance.

The annual leave balance will be reduced permanently if used to supplement leave under the new plan; the balance may not be restored by transfer or credit of leave earned under the new leave plan.

Lump-sum payment for annual leave (see section 943.6) accrued under the post's leave plan patterned on the U.S. leave plan may be made at the time of separation up to the limit established for FSN employees in that plan.

(2) Sick leave balances may be retained and may be used as sick leave, if such retention does not result in sick leave benefits in excess of locally prevailing practice, under special circumstances described below. In these circumstances, the post may recommend for Department approval a formula for retention of some or all of the accrued sick leave balance.

(a) When the new leave plan authorizes a carryover of sick leave from one year to the next, or

(b) When the new leave plan provides for all employees enrolling in the plan to start with a zero sick leave balance, with a subsequent leave earning rate and accumulation based on length of service or some other factor.

(3) To the extent permitted by OPM regulations at time of retirement, sick leave may remain to the employee's credit to be used in the computation of an immediate CSR annuity if the employee is contributing to the CSR system at the time of separation and if the employee is entitled to an immediate CSR annuity. Under this provision, the entire sick leave balance may be retained without regard to any formula approved by the Department as provided for in section 943.3e(2), even though only that portion identified by the formula may be used by the employee for sick leave purposes.

943.4 Preparation, Submission, and Approval of a Locally Prevailing Leave Plan

(TL:PER-541 11-18-82)

(Uniform State/AID/USIA/Commerce/Agriculture)

a. When an overseas establishment is considering adoption of the locally prevailing leave system, the chief of mission should direct an interagency review at post of local leave practices, clearly identifying those required by local law. All the organizations included in the last fullscale salary and benefits survey should be included in the study of prevailing leave practices.

b. After conducting the interagency review, if a mission concludes that adoption of the locally prevailing leave system is feasible, a draft plan should be prepared and submitted to the Department, Office of Foreign Service National Personnel (PER/FSN), with a copy to the appropriate regional bureau and the headquarters office of each agency represented at post. When developing the leave plan, mission should consider all facets of leave administration, including but not limited to, refunds of lump-sum payments, indebtedness for unearned leave, accrual rate and maximum accumulation of leave, establishment of a leave year, compensatory time, differences in leave benefits for various categories of employees, restoration of forfeited annual leave, etc.

c. Enclose with each copy of the draft plan (1) translated copies of all pertinent host government laws and any regulations or ordinances based on those laws, (2) a summation of locally prevailing leave practices and details of leave practices of each of the surveyed organizations, (3) special procedures the mission plans to implement, such as initiating a separate system of leave accounting for FSN employees to be covered by the new leave system, and (4) any comments, problems and questions which are to be resolved prior to implementation of the new leave system.

d. Washington approval is required prior to implementation of a locally prevailing leave plan. Copies of the plan and attached materials should be submitted in accordance with (b) above. The Department (PER/FSN) will coordinate the review of the proposed plan and related material and advise the mission of Washington's decision.

943.5 Accrual Provisions of the Annual and Sick Leave Act of 1951: (5 U.S.C. 6301-6311)

a. Accrual of annual leave for employees with basic 40-hour workweek: (See section 430).

b. Accrual of annual leave by employees with workweek other than 40 hours. The accrual rate shall be increased or decreased in proportion to the number of hours in excess of or less than 40 in a basic workweek. If the total leave earned in a leave year annually is not evenly divisible by 26, the number of hours remaining are credited in the last pay period of the year.

(1) More Than 40 Hours

An example of the accrual rate by employees working a 72-hour workweek is shown below:

Annual Leave		
Years of Service	First 25 Pay Periods Each Year	Last Pay Pay Period in Year
Up to 3	7 Hours	12 Hours
3 to 15	11 Hours	13 Hours
15 and over	14 Hours	24 Hours

(2) Less Than 40 Hours

An employee for whom there has been established in advance a regular tour of duty of less than 40 hours during each administrative workweek and who meets the requirements to accrue leave (see section 943.5d), earns annual leave as follows:

(a) An employee with less than 3 years of service earns 1 hour of annual leave for each 20 hours in a pay status.

(b) An employee with 3 but less than 15 years of service earns 1 hour of annual leave for each 13 hours in a pay status.

(c) An employee with 15 years or more of service earns 1 hour of annual leave for each 10 hours in a pay status.

c. Sick Leave

(1) For employees with a basic 40-hour workweek (see section 440).

(2) For employees with a workweek of more than 40 hours, sick leave accrues on the same basis as annual leave in the "up to 3 years" category. In the example above, showing annual leave accruals for employees with a 72-hour workweek, sick leave accrues for all employees, regardless of length of service, at the rate of 7 hours for the first 25 pay periods each year and 12 hours for the last pay period.

(3) For employees with a workweek of less than 40 hours, sick leave accrues, regardless of length of service, at the rate of 1 hour for each 20 hours in a pay status.

d. Crediting of Part-Time Accruals

To accrue leave, a part-time employee (section 421.3g) must serve under an established tour of duty for each of the two administrative workweeks in each biweekly pay period. No credit of leave accrual is given for fractional parts of biweekly pay periods either when an employee enters on duty

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or separates. A part-time employee who completes a full bi-weekly pay period may carry over from one pay period to the next those hours of service in a pay status which do not equal the number necessary for a minimum leave credit (1 hour) until sufficient service is rendered to earn 1 hour's credit. If the employee changes to full-time status and has insufficient credit to earn the minimum of 1 hour, the fractional hours of service are lost.

e. Charging Leave

Leave used is charged based on the same proportion as earned. For example, while an employee with a 40-hour workweek is charged 40 hours for a week's absence, an employee with a 72-hour workweek is charged 72 hours for a week's absence.

f. Adjustment of Leave Balance Upon Change in Full-Time Employee's Workweek

Annual and sick leave balances are adjusted proportionately when the number of hours in a full-time employee's (that is, 40 hours or more) workweek is changed. The formula for converting an employee's leave balance follows:

Multiply the number of hours in employee's current leave balance by the number of hours in the new workweek. Divide the product by the number of hours in employee's current workweek. The quotient is the employee's new leave balance.

This rule applies to decreases as well as increases in the number of hours in a full-time employee's workweek.

Under the Annual and Sick Leave Act of 1951, a full-time employee works no less than 40 hours in each administrative workweek and a part-time employee works less than 40 hours in each administrative workweek. Leave balances are not adjusted for employees whose workweek changes from full- to part-time or vice versa nor for part-time employees whose workweek is changed. (Workweeks of part-time employees and all changes in workweeks must be documented by a Notification of Personnel Action.)

g. Adjustment of Leave Ceiling Upon Change In Full-Time Employee's Workweek

The formula for converting an employee's maximum accumulation leave ceiling is identical to the formula for converting leave balances cited in (f) above.

943.6 Lump-Sum Annual Leave Payments

a. FSN employees covered by the post's leave plan established in accordance with section 943.4 may receive compensation for unused leave in accordance with the published provisions of that plan. In the absence of a provision in the post's leave plan for lump-sum annual leave payment upon separation, no such payment shall be made.

b. The remarks section of the Notification of Personnel Action which documents any separation of an FSN employee should specify:

(1) The number of hours of unused annual and unused sick leave accrued by the FSN employee at the time of separation;

(2) The total number of hours for which a lump-sum payment is authorized, if applicable; and

(3) The annual salary rate (in local currency with U.S. dollar equivalent) paid at the time of separation.

c. Post should recover any money (including value of property) which an FSN employee owes to the U.S. Government at the time of separation. Such sums may be deducted from employee's final salary payment. See also 3 FAM 400 and 3 FAM 675 (Appendix A).

944 HOLIDAYS

944.1 U.S. Holidays

FSN employees may be excused from work on the U.S. holidays listed in section 414.1 and on any other Federal holiday established by statute or Executive order which falls within the employee's basic workweek. Such absence is without loss of basic pay and without charge to leave. In addition, an FSN employee who is required to work on a U.S. holiday which is not also a local holiday is entitled to straight time per hour worked in addition to basic pay. This is not to be confused with holiday pay, the rate of which is specified in the local compensation plan, and which is paid to FSN employees only for work on local holidays.

944.2 Local Holidays

FSN employees are entitled to be excused from work on local holidays designated in 2 FAM 111.2. FSN employees required to work on such days in order to perform essential services may be granted holiday pay in accordance with section 935.4 at the rate prescribed in the local compensation plan. Absence on designated local holidays falling within a period of leave is not chargeable to leave nor does it result in loss of pay. If the local holiday falls on a nonworkday, prevailing practice in the foreign area should be followed as to release of employees on another day in lieu of the holiday.

945 EXCUSED ABSENCES

Excused absence is an administratively authorized or approved absence from duty and does not result in a charge to leave of any kind or a loss of basic salary. The heads of overseas establishments may establish uniform rules for granting excused absences provided the granting of such leave is the general practice locally. The rules including the maximum permissible period should conform to those prevailing locally. Examples of excused absences authorized under U.S. law for U.S. citizen employees are found in section 465.

946 LEAVE WITHOUT PAY

Leave without pay is a temporary nonpay status and an absence from a prescheduled tour of duty which may be granted upon employee's request. Uniform rules on granting LWOP should be developed by overseas establishments as a part of the leave plan for that country or locality. The rules should identify officials designated to approve such requests for LWOP.

All LWOP must be recorded since computation of creditable service upon retirement and within grade increases, for example, may be affected by certain periods of LWOP.

947 ABSENCE WITHOUT LEAVE (AWOL)

Section 472 also applies to FSN employees.

948 LEAVE RECORDS

See 4 FAM 520 and 530. For AID missions which payroll their own FSN employees, see the AID Timekeepers Manual.

949 (Unassigned)

950

FSN EMPLOYEE PROMOTIONS, ***WITHIN-GRADE INCREASES, AND DOWNGRADINGS***

951 GENERAL POLICY

*(TL:PER-25 4-10-85)
(Uniform State/AID/USIA/Commerce/Agriculture)*

All grade-to-grade promotions and meritorious and longev-
ity step-increases are subject to the availability of funds.
Within-grade increases are mandatory provided performance
standards are met, and the head of each overseas establish-
ment will provide for them in allocating funds.

952 GRADE PROMOTIONS

952.1 Definition

"Grade Promotion" means a promotion from one grade
level to a higher grade level.

952.2 General Policy

a. The heads of overseas establishments are responsible
for maintaining a uniform promotion policy consistent with
sound personnel practices.

b. Basic emphasis is on promotion from within. Outside
recruitment is recommended only when acceptable qualified
candidates are not available within the workforce.

c. A promoted employee is entitled to receive *adjusted
basic salary at the lowest step of the new grade which ex-
ceeds present adjusted basic salary by the equivalent of two
step-increases at the grade from which promoted, effective
March 18, 1984.*

952.3 Authorizing Promotions

a. The head of each overseas establishment may autho-
rize promotions to the next higher grade.

b. In exceptional cases, State regional bureaus; the Posi-
tion Management and Classification Division (M/PM/PMC)
for AID; *the Foreign Service National Personnel Division
(M/PFN) for USIA; the Foreign Commercial Service's Office
of Foreign Service Personnel (FCS/OFSP) for Commerce;
the Foreign Agricultural Service's Personnel Division for Agri-
culture; and the Personnel Division (M/PM/I) for Peace Corps*
may grant promotions of more than one grade, upon receipt
of written justification.

952.4 Eligibility Criteria

An FSN employee who is qualified to perform the duties
and responsibilities of a position allocated to a higher grade
is normally eligible for promotion when (a) a position in a
higher grade becomes vacant, (b) a new position is estab-
lished for which a higher grade is justified, or (c) the position
occupied by the employee is reclassified to a higher grade.

952.5 Waiting Period

a. Normally, the minimum waiting period which an FSN
employee serves in a grade before becoming eligible for pro-
motion to a higher grade is 52 consecutive weeks.

b. Deviation from the normal waiting period is authorized
for promotions from training level positions established be-
low the lowest level (entry level) position in position classi-
fication standards for that occupation series. Usually one or
two "trainee" positions at one or two grade levels lower than
the entry level position are established under such circum-
stances. Such positions will be part of a planned, on-the-job
training program of not less than 26 weeks designed for the
incumbent of the "trainee" position. The employee may be
promoted to the next level "trainee" position or to the entry
level position, as appropriate, after serving a minimum of 26
weeks in the "trainee" position, one grade lower. The incum-
bent's performance must be rated satisfactory by an official
performance evaluation process and the training program
must be completed. If promotion is to the next level "trainee"
position, an additional 26 weeks waiting period is required
before promotion to the entry level position, and promotion
will follow only after the incumbent's performance is rated
satisfactory and final training is fully completed. No more
than two such promotions will be authorized for an employ-
ee. (NOTE:--For more detailed instructions for developing
"trainee" positions, see the Local Employee Position Classi-
fication Handbook (LEPCH).)

953 STEP-INCREASES

953.1 Within-Grade Increases

953.1-1 General Policy

a. *Within-grade increases (WGI)* are the salary incre-
ments in each of the grades of an occupational series in the
FSN employee position classification system. The step in-
creases are designed for the purpose of financially rewarding
employees for satisfactory performance and length of ser-
vice.

b. The heads of overseas establishments are responsible
for developing uniform criteria and performance standards
governing and granting of *within-grade increases*.

953.1-2 Eligibility

a. *All FSN employees, except those serving under tem-
porary appointments, may be granted a "one-step" WGI*
upon fulfillment of the requirements established jointly by the
overseas establishments. Service under a temporary ap-
pointment may be credited towards eligibility for *WGI* at the
overseas establishment's discretion if the employee's ap-
pointment is converted from temporary to indefinite, condi-
tional, or permanent without a break in service and without
an increase in pay. Service with other overseas establish-

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ments may be credited towards eligibility for employees transferring between establishments.

b. *WGI's* should be withheld if an employee's performance fails to meet the standards established by the overseas establishment. If in the judgment of the head of the overseas establishment the employee later meets the standards, the employee given a *WGI* effective as of the beginning of the pay period following the date the determination is made. The employee is required to serve another full qualifying period, as prescribed on the joint local compensation plan, before being eligible for a subsequent *WGI*. The prescribed waiting period for a *WGI* is extended by 2 workweeks for each full pay period an employee is in a leave-without-pay status during the waiting period.

953.1-3 Waiting Periods

a. 52 Consecutive Weeks

The minimum waiting period for a *WGI* is 52 consecutive weeks. A post's *WGI's* may vary in terms of length of waiting period from at least 52 consecutive weeks if in accord with local practices or if considered administratively desirable.

b. More Than 52 Consecutive Weeks

A waiting period of more than 52 weeks may be established for each step in the salary schedule, if in accordance with local practice or considered in the interest of the U.S. Government.

953.2 Meritorious Step-Increases

The heads of overseas establishments may grant meritorious step-increases provided the granting of such increases is the general practice locally. In areas where it is the practice, the heads of overseas establishments are responsible for developing uniform rules governing the granting of such increases. As a matter of general policy, however, no employee will be eligible for more than one such additional increase within any 52-week period. Such increases do not have any effect on the waiting period for *within-grade* increases discussed in section 953.1.

954 DOWNGRADINGS

954.1 Definition

"Downgrading" means a reduction in the grade of an FSN employee as a result of the downward reclassification of the FSN's position. Downgradings may occur as a result of the implementation of the new FSN position classification system, application of new or revised position classification standards, classification audit, voluntary transfer to a lower grade position, reorganization, reduction-in-force, or changes in a position's responsibilities, possibly resulting from unsatisfactory performance.

954.2 FSN Employee Grade Retention Following Position Downgrading

954.2-1 Policy

a. Grade retention is a procedure by which the incumbent of a downgraded position is entitled, under circumstances described in section 954.2-2, to retain temporarily the former pay grade of the position. It is designed to maintain tempo-

rarily an employee's previous pay entitlements, and to provide a reasonable period during which the post and the employee can attempt to alleviate the personal effects of the downgrading action. For example, during the grade retention period it may be possible to reorganize work assignments sufficiently to justify upgrading the employee's position to its former level, to promote the employee to a vacant higher level position for which qualified, the employee may reach voluntary retirement age, etc.

b. Grade retention procedures apply only at those posts where the worldwide FSN Position Classification System is in effect.

c. During the grade retention period, an FSN employee in grade retention status will receive the full amount of any general wage increases and any within-grade increases otherwise due, unless the employee is already in a "saved pay" status. "Saved pay" cases are entitled to pay increases as set forth in sections 932.6a(5) and (6).

d. Grade retention entitlements are not transferable in the case of an FSN employee who voluntarily transfers to a position graded lower than the one incumbered. For example, if an employee with a retained grade of FSN-9, who incumbers an FSN-7 position, voluntarily accepts reassignment to an FSN-6 position, then that employee must be removed from grade retention status and the saved pay provisions of section 954.4 applied. If the same employee is involuntarily reassigned to an FSN-6 position, then the grade retention provisions remain in effect.

e. Upon expiration of the grade retention period, the employee is downgraded to the grade of the position incumbered and, for salary purposes, is entitled to saved pay (see section 954.4).

954.2-2 Grade Retention Criteria

FSN employees are entitled to grade retention in the following circumstances only:

a. Implementation Phase of the Worldwide FSN Position Classification System

An FSN employee whose position is determined to be overclassified as a result of the new worldwide FSN Position Classification System's implementation at a post is subject to downgrading to the appropriate lower grade by procedures set forth in section 954.4. Before the downgrading action, an FSN is entitled to an automatic grade retention period of 52 biweekly pay periods from the effective date of the local compensation plan initially implementing the new classification system. In exceptional circumstances, the automatic grade retention period may be extended by an additional 26 biweekly pay periods.

Requests for the additional 26 pay periods of grade retention must be submitted to the appropriate regional bureau's executive office with copies to the headquarters of all agencies represented at a post, not less than 30 days before the end of the automatic 52 pay periods of grade retention. Such requests shall follow the criteria specified by the responsible regional bureau and must include the concurrence of all agencies at post. If the request is approved, the extended grade retention period will apply to all eligible FSN employees of all agencies at post. In no case shall the grade retention period granted under this criterion exceed 78 biweekly pay periods from the initial date of implementation.

b. Application of New or Revised FSN Position Classification Standards

FSN employees whose positions are downgraded as a result of the application of new or revised FSN position classification standards are subject to downgrading to the appropriate lower grade under the provisions of section 954.4. Before the downgrading action, employees are entitled to a maximum grade retention period of 78 biweekly pay periods from the date the standards are issued. The actual length of the grade retention period for an FSN employee under this criterion will be determined by the date a new or revised standard is applied to a position. In no case shall the grade retention period justified by this section extend beyond 78 biweekly pay periods from the date a new or revised standard is effective.

c. End-of-Service

(1) FSN employees who are within 2 years of a post's mandatory retirement age, incumbering positions which are downgraded for reasons other than a or b above, are entitled to a maximum grade retention period of 52 biweekly pay periods. The actual grade retention period is determined from the effective date an employee's position is downgraded until the date the employee is required to be separated by the post's published separation-for-age plan. This applies only to those posts which have a mandatory retirement age established by a published separation-for-age plan as described in section 974.2-3 and 974.3.

(2) Employees granted grade retention under this criterion who, for whatever reason, are not retired at the mandatory age must be immediately removed from grade retention status and downgraded to the appropriate lower level per section 954.4.

954.2-3 Procedures

Posts must process Form SF-50, a Notification of Personnel Action, to place eligible employees in or remove them from grade retention status. Instructions for completing the SF-50 are found in Exhibit 924.2c. Specifically, Blocks 18-A and 18-B of the SF-50 will, as appropriate, indicate NOAC-736 Grade Retention or NOAC 866-Termination of Grade Retention. Items 20 through 26 should be completed, as appropriate.

Items 27 through 33 should be completed even though the information may be the same as that contained in Items 20 through 26. or placing an employee in grade retention status, Item 37, "Remarks," must contain the following statement, "Position (number) has been downgraded to FSN (grade). The employee is entitled to retain FSN (grade) through (date) under section 954.2-2 (paragraph a, b, or c as appropriate)." For removing an employee from grade retention status, Item 37 must state, "Grade retention entitlement terminated."

954.2-4 Reporting Requirements

Each post under the worldwide position classification system is required to submit an annual grade retention report to Washington (PER/FSN with copies to the appropriate regional bureau and other concerned agency headquarters offices). The report should list, by agency (1) the name of each employee in grade retention status; (2) the criterion used, that is, initial implementation, new or revised standards, or

mandatory retirement; (3) the retained grade; (4) the classification of the incumbered position (title, series/occupation code, and grade); (5) the date placed in grade retention status; and (6) the termination date. The reports are due June 1 of each year. Negative reports are required.

954.3 FSN Employee Downgradings Not Associated with Grade Retention

Except for those circumstances which meet the criteria for grade retention status, FSN employees incumbering positions downgraded for any reason are entitled to the saved pay provisions of section 954.4b.

a. Reorganization, Reduction-in-Force, or Classification Audit

An FSN employee may be downgraded as a result of a reorganization, reduction-in-force, or classification audit which lowers the incumbered position's grade. An employee is downgraded to the new lower grade as of the effective date of the position's downgrading or the date an employee is reassigned to a lower graded position. This normally coincides with the beginning of a pay period.

b. Unsatisfactory Job Performance

(1) Employees may be downgraded for unsatisfactory job performance which occurs over a reasonably continuous period resulting from medical causes; lack of knowledge, skills, or abilities; or other nondisciplinary reasons. In such instances, employees may be downgraded by reassignment to lower level positions for which they are qualified or by removing higher level responsibilities from positions which they are unable to perform satisfactorily and thus, downgrade the positions. In some cases, employees may be ill-suited for the type of work they are currently assigned but are otherwise capable of performing satisfactorily in other available positions. In those cases, a post may wish to reassign the employees to different positions either at the same or at a lower grade in order to better utilize their knowledge, skills, and abilities.

(2) Downgrading an employee for unsatisfactory job performance should not be effected before standard avenues of performance improvement have been attempted and have failed. For example, supervisory advice on deficiencies, job-related training, oral warning, written notice, denial of within-grade increase, notification of possibility of reassignment to a lower graded position, etc.

(3) Under no circumstances can a position be downgraded as a punitive action based only on the incumbent's unsatisfactory performance. An FSN position can be downgraded only as a result of removing the duties and responsibilities supporting the higher grade level or when the classification standards used to evaluate a position are changed. As long as a position's assigned responsibilities and the classification standards used to evaluate them remain unchanged, there is no justification for downgrading a position.

(4) Employees whose unsatisfactory job performance results from improper conduct and/or disciplinary problems, such as insubordination, abuse of leave, malfeasance, etc., are treated under sections 954.5 and 973.

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954.4 Effecting Downgradings

a. Upon completion of any grade retention period, the FSN employee's grade level is changed to the appropriate grade. This action should coincide with the beginning of a pay period.

b. In terms of salary treatment, no employee shall suffer a decrease in pay at the time of downgrading. If the employee's salary *before* the downgrading falls within the range of salaries at the appropriate lower level of the employee's position, the employee's salary is moved to an equivalent rate in the appropriate lower level or, if an equivalent rate does not exist, to the nearest rate in excess thereof in the appropriate lower level. If the employee's salary *before* effecting the downgrading exceeds the maximum salary rate of the appropriate lower level of the employee's position, the employee's salary is saved (that is, remains unchanged) in general accord with section 932.6a(5). Also see section 932.6a(5) for guidance on annotating saved pay cases on a local salary schedule and on salary adjustments based on general salary increases in saved pay cases.

c. An employee's former anniversary date for *within-grade* increases is unaffected by a downgrading action.

954.5 Improper Conduct

An employee may not be downgraded for violating generally accepted standards of conduct as established or perceived at the mission. For disciplinary actions governing improper conduct, see section 973.

954.6 Appeals Procedures

An appeals procedure should be established by the mission to ensure equity in effecting downgrading actions (see section 932.8-1d).

955 through 959 (Unassigned)

960

FSN EMPLOYEE PERFORMANCE EVALUATION, INCENTIVE AWARDS, AND TRAINING

961 PERFORMANCE EVALUATION

(TL:PER-490 10-11-79)
(Uniform State/AID/USIA)

961.1 Policy

It is a supervisor's continuing responsibility to improve FSN employees' work through regular evaluation of their performance. Performance must be evaluated by written report annually. The performance report itself is the supervisor's periodic official summary of the employee's performance. Proper use of employee performance evaluation, including performance reports, should improve employee performance by:

- a. Strengthening supervisor-employee relationships;
- b. Informing employees of work standards and requirements;
- c. Recognizing commendatory and outstanding work performance;
- d. Recognizing and initiating steps to correct work deficiencies;
- e. Providing a guide to personnel actions; and
- f. Identifying training and other developmental needs.

961.2 Procedures

(TL:PER-24 4-9-85)
(Uniform State/AID/USIA)

961.2-1 Report Form

The performance of FSN employees shall be evaluated on FORM JF-50, Performance Evaluation Report (see 3 FAM Exhibit 961.2).

961.2-2 Ratings

a. Outstanding Performance

To justify this rating, most performance factors rated in Section A of the report form would be marked "Greatly exceeds normal requirements." In order to be given an Outstanding overall rating, significantly more than half of the factors on which the employee is rated must be marked "Greatly exceeds normal requirements" and all other rated factors must be marked "Exceeds normal requirements." Factors marked "Not applicable" or "Not observed" may not be included in making this determination.

b. Satisfactory Performance

For this rating, almost all factors should be marked "Meets normal requirements" or higher, but performance does not exceed requirements to a point deserving of an Outstanding rating.

c. Unsatisfactory Performance

To justify this rating, factors especially significant for the position would be marked "Fails to meet normal requirements." A rating of Unsatisfactory may, in and of itself (according to policy established by the post), deny a step or

longevity increase to an employee or may serve as a basis for reassignment or separation.

961.2-3 Rating Officer

The rating officer normally is the person who is responsible for the work of, and gives assignments to, the employee. If a question arises as to who shall rate the employee, the appropriate post official shall decide. The rating officer is responsible for:

- a. Making clear to each employee the duties of the position and the requirements for satisfactory performance at the beginning of the rating period;
- b. *Discussing the strengths, weaknesses, and ways to improve performance with each employee at the end of the rating period and at such other times as may be indicated;*
- c. Giving recognition to superior performance; and
- d. Taking appropriate action toward any employee whose performance is substandard.

961.2-4 Reviewing Officer

A reviewing statement by a U.S. citizen officer is required in cases where the rating officer is not a U.S. citizen. This statement should take account of:

- a. The thoroughness, objectivity, soundness, and compliance with evaluation instructions of the report, and
- b. Whether the employee has received adequate supervision and guidance, whether the rating by the rating officer appears unduly harsh or lenient, and whether the reviewing officer concurs with the report.

961.3 Disposition of the Performance Report

A copy of the report with the reviewing officer's comments will be given to the employee by the rating officer. The report will be discussed with the employee and should include suggestions of ways to improve performance. The rating officer should encourage the employee to comment in Part V of the report. If comments are made, the employee should sign, date, and send this copy of the report to the Personnel Office in a sealed envelope marked "Performance Evaluation Report" within 10 working days. If the employee does not wish to comment in Part V, the employee should sign and date the original of the report in the space provided and the rating officer forwards the report to the post's Personnel Office as above.

962 INCENTIVE AWARDS

The Incentive Awards Program covered by uniform State/AID/USIA regulations in section 640 also applies to FSN employees, including TCN's, but excludes AID PSC employees. However, the post may institute its own incentive awards program for AID PSC employees. Such a program must not authorize a meritorious step increase in salary.

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Each post must jointly establish, through interagency agreement among agencies which employ Foreign Service national employees, a standard definition of what constitutes annual salary; that is, basic rate or adjusted basic rate, when granting to Foreign Service national employees cash awards which are computed on annual salary. That standard will apply to all Foreign Service national cash awards.

963 TRAINING

(TL:PER-490 10-11-79)
(Uniform State/AID/USIA)

963.1 General Policy

(For AID, see also Handbook 28, Training and Staff Development.)

The heads of overseas establishments are responsible for providing formal and informal training for FSN employees as necessary. Subject to availability of funds, job-related training may be authorized at Government and non-Government facilities. Training may not be authorized by, in, or through a non-Government facility teaching or advocating the overthrow of the Government of the United States by force or violence, or by or through any individual who had demonstrated hostility or antagonism toward the United States.

Training is intended to help increase the proficiency and value of employees who are already qualified for the positions they hold. Training may be full-time or part-time, on-duty or off-duty, day or evening, or any combination of these, according to the needs of posts and the availability of funds. It may be accomplished through correspondence, classroom work, conferences, workshops, supervised practice, or other methods or combination of methods. Training may be at Government or non-Government facilities, either within or outside the host country.

963.2 Specialized Training Programs in the United States

State, AID, and USIA conduct specialized FSN employee training programs in the United States. Overseas establishments should refer to appropriate agency instructions regarding FSN employee training in the United States.

963.3 Consultation on Personal Visits to the United States

When an FSN employee is in the United States for business or personal reasons, the visit may provide the Department, AID, or USIA an opportunity to give the employee special orientation or consultation at little expense to the Government. When a post considers such consultation desirable, it should request the approval of temporary duty status from: (1) for State, the appropriate regional bureau; (2) for AID, the appropriate AID/W bureau or office; and (3) the USIA, MGT/PFN. The post should include the following information in its communication:

- a. The type of consultation and experience which the post believes would be most profitable for the employee;
- b. The dates of the employee's visit;
- c. The address at which the employee may be reached in the United States; and

d. The point nearest Washington, D.C., which the employee expects to visit.

The Department of State, the Agency for International Development, and the United States Information Agency will make every effort to advise the post of its decision before the employee's departure from post. It may be possible to pay travel and per diem expenses from the nearest point which the employee expects to visit in the United States to Washington. Other points to consider in making the decision are (1) whether the nearest point is within a reasonable distance of Washington; (2) the availability of budgetary resources; and (3) the benefits to be derived.

963.4 Specialized Training Programs at Other Locations

From time to time, various U.S. Government agencies conduct specialized courses or seminars overseas which are open to FSN employees. Notices of the scheduling of such courses or seminars are sent to appropriate posts, as far in advance as possible.

963.5 General Training Programs at Overseas Establishments

a. Establishing Training Programs

Missions should ascertain training facilities available within the host country. Joint training programs should then be developed at the mission level, wherever feasible, and all overseas establishments within the country notified of available training. Where joint programs are not feasible, the individual agency programs within a country should be closely coordinated to avoid duplication effort.

Overseas establishments are encouraged to request any necessary guidance and assistance from the Foreign Service Institute (M/FSI) in establishing and conducting training programs. Foreign Service posts may send requests directly to M/FSI. USIA and AID should send requests through their respective agency Training Division at Washington.

b. Administering Training Programs

(TL:PER-251 11-22-68)
(Uniform State/AID/USIA)

See section ~~952.2~~^{952.2} "Details," which, except as noted therein, applies also to training details, whether the detail is to another post or to a non-Government facility.

In addition, overseas establishments should:

(1) Establish criteria for determining eligibility for training. Employees selected for training should be able to benefit from and pass on to their coworkers the benefits of the training received. Except in the case of English language and other training conducted by the overseas establishment, criteria normally should include at least 1 year's satisfactory service with the U.S. Government plus assurance that the employee intends to remain in the service for a sufficient length of time to justify the training at Government expense.

(2) Inform employees of available training, eligibility requirements, and benefits which may be gained from participation in the training program. For example, as a result of improved work proficiency following training, increased opportunity may be available for promotion to a more responsible job or for performance awards under the Incentive

Awards Program (section 640). Overseas establishments should particularly stress the desirability of English Language training.

(3) In each case, carefully select the appropriate training facility, first considering available U.S. facilities. Non-Government facilities should be used only if the type of training needed is not reasonably available at Government facilities.

(4) Provide for assuring that employees complete training they begin, insofar as possible. For example, supervisors might be given responsibility for seeing that their employees attend training as scheduled, or employees who do not satisfactorily complete their training as scheduled might be asked to reimburse the Government for the cost of training except where withdrawal from the course is justified; or overseas establishments might prescribe other appropriate means.

(5) Maintain records of employees trained and provide for continuing evaluation of results and effectiveness of all training. Records should include such information as number of persons enrolled in each type of training; number successfully completing training; dates and places of training; and cost for each trainee.

(6) Record in the employee's official personnel folder any training authorized along with a notation whether the employee satisfactorily completed the training.

c. Funding Training Under Overseas Establishments' Programs

(1) **State** - Except for FSI-sponsored correspondence study, training costs under a post's program will be met from post funds. Where the need for training is urgent and the post concerned has no funds available, it may request financial assistance from the Department.

(2) **USIA** - Training costs generally will be funded in the field. However, where the need for training is urgent and the overseas establishment concerned has no funds available, it may request financial assistance from USIA.

(3) **AID** - Required training is entirely at Agency expense. Voluntary training may be wholly or partly at Agency expense if its value to the Agency so warrants, and the law and regulations permit.

d. Approving Training

(TL:PER-24 4-9-85)

(Uniform State/AID/USIA)

An overseas establishment may approve any job-related local employee training for which it pays the cost from its currently allotted funds, with the following exceptions: (1) USIA correspondence study and details outside the host country should be cleared with the appropriate area offices of USIA; (2) AID correspondence study, when the individual course cost exceeds \$200.00, and details outside the host country must be authorized by AID (PM/MD/T) based on Form AID 4-299, Application for Training, completed by the employee.

If an overseas establishment is in doubt about its authority to approve a certain type of training, it may request advice from the Department (PER/FSN); USIA, the Training and De-

velopment Division (M/PT or VOA/PT); or AID/W, the Training and Development Division (M/PM/TD); as appropriate.

e. Methods of Training - Government Facilities

(TL:PER-251 11-22-68)

(Uniform State/AID/USIA)

Overseas establishments may wish to include in their training programs some or all of the following suggested methods of job-related training through Government facilities:

(1) **Orientation Programs.** Each overseas establishment is encouraged to develop an orientation program to familiarize FSN employees with the functions and purpose of its organizational units. The importance of the FSN employees in effective operations should be emphasized.

(2) **On-the-Job Training.** When necessary, this may be accomplished by detailing an employee to another post either to give or receive training.

(3) **Special classes** at overseas establishments organized and taught by American personnel or their dependents on a gratuitous basis. Courses might include English language, shorthand, typing, accounting, administrative operations, supervisory techniques, etc.

(4) **Instruction**, as appropriate, at Binational and language centers and by part-time instructors.

(5) **Correspondence study** in job-related subjects offered by the Foreign Service Institute, or other agencies of Government through the Institute. For purposes of this paragraph, the Department of Agriculture Graduate School is considered as another agency. Application procedures: State—See section 882 and 816; USIA and AID—See section 963.4d and complete Form DS-1131, Field Training Application.

(6) **Courses**, if feasible, at overseas schools supported by the Department for dependents.

(7) **Others** as may be available to overseas establishments in particular localities, such as in areas where there are U.S. military establishments.

f. Methods of Training - Non-Government Facilities

Some avenues of job-related training open to FSN employees at Government expense through non-Government facilities are:

(1) Details with trade, labor, agricultural, or scientific associations and commercial firms, or to public or private nonprofit institutions for training in particular fields such as commerce, labor, or administration.

(2) Attendance at meetings or seminars concerned with job-related functions or activities;

(3) Enrollment in colleges or universities on a part-time or full-time basis, in day or night school courses; or in correspondence courses;

(4) Participation in training programs offered by other governments. Overseas establishments should authorize training at a non-Government facility outside the host country only if there is no appropriate non-Government facility available within the host country.

End Uniform State/AID/USIA Regulations.

964 through 969 (Unassigned)

970

FSN EMPLOYEE BENEFITS, DISCIPLINARY ACTIONS, SEPARATIONS, AND REEMPLOYMENT

971 FSN EMPLOYEE BENEFITS UNDER LOCAL LAW OR CUSTOM

(TL:PER-541 11-18-82)

(Uniform State/AID/USIA/Commerce/Agriculture)

(See also section 930.)

971.1 General

Under authority in section 408 of the Act, the Department of State and other U.S. agencies may, on behalf of FSN employees, if consistent with section 931.2, authorize posts to (a) participate in host government social insurance systems and (b) purchase medical and hospitalization insurance, life insurance, and pension insurance through established procurement procedures.

971.2 Host Government Social Insurance

971.2-1 Feasibility of Participation

At a mission where participation in the host government insurance system appears feasible, the chief of mission should direct a joint interagency study of the country's social security and related laws and regulations to determine if participation is possible. The study should provide answers to questions a through e below and should provide a good indication of the host government's probable answers to questions f through h below.

a. Is participation by foreign missions permitted by law or regulation?

b. If so, which foreign missions do participate and which missions employing substantial numbers of host country nationals do not participate?

c. What has been the experience of other foreign governments participating in the system? Of other American employers?

d. Is coverage under the system desirable, and will it be beneficial to the employee and in the interest of the service?

e. Would any provisions of host government system conflict with leave benefits given FSN employees under section 940?

f. If the social insurance system provides retirement benefits, would the host government agree to excluding from that portion of the host government system FSN employees covered under the U.S. Civil Service Retirement System with a commensurate reduction in employee/employer contributions?

g. If the social insurance system provides worker's compensation (job-connected injuries or illness), would the host government agree to excluding all FSN employees from that portion of the social insurance system, with a commensurate reduction in employee/employer contribution?

h. Would host government agree to preservation of privileges and immunities of the U.S. Government, particularly with respect to the jurisdiction of local courts and administrative bodies under local social security laws?

971.2-2 Preparation and Submission of a Proposed Plan

After conducting the joint study referred to in section 971.2-1, if a mission believes participation in the host government social insurance system is feasible, the mission should:

a. Develop a plan to meet its needs and those of its FSN employees, insofar as possible within the limits of the host government system and U.S. Government laws. The mission's regular legal staff, where there is one, should assist in preparing the draft plan. A mission which has no legal staff may procure the services of a local attorney for this purpose in accordance with 2 FAM 283, or request the Department's (PER/FSN) assistance. The officer responsible for the mission's budget and fiscal functions should tentatively work out details concerning payment of contributions to the host government system, payroll deductions for the employee's share of the contribution, and any other related details. If the mission is receiving payroll services from a Regional Administrative Management Center, the mission should solicit comments from the RAMC on its proposed plan.

b. Submit the plan (and any subsequent modifications) to the Department (PER/FSN) with a copy to the appropriate regional bureau, and the headquarters office of USIA, Commerce, and Agriculture where these agencies are concerned.

c. Enclose with each copy of the plan:

(1) Translated copies of all pertinent host government social security and related laws and any regulations based on these laws, as well as any legislation or ordinances which may lead to interference with the mission's operations if the mission adopts the social insurance plan.

(2) Recommendations regarding those portions of the social insurance system in which the mission deems it desirable to participate and a general over-all evaluation of the system.

(3) Comments on any possible or anticipated difficulties in operating the plan and suggestions for their solutions.

(4) An estimate and explanation of additional costs, if any, for each agency. Increased costs might be due to lack of appropriate monetary adjustments for the benefit in the compensation plan or compelling reasons which necessitate installing a plan without an appropriate reduction of wages. If a monetary adjustment is included in the current salary schedule and the plan is installed without an appropriate reduction in wages, the employer's cost of this benefit must be removed from computation of salary rates in the first ad-

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justment of such rates after the social security plan is adopted.

(5) Procedures the mission plans to follow in making (a) payroll deductions for contributions to the host government plan (attach copies of documentation required by the host government to support payroll payments) and (b) the actual payment of the contribution, plus other related procedures as appropriate, as determined by the responsible officer in accordance with section 971.2-2a.

971.2-3 Washington Review and Approval

Interested offices in the Department and other agencies will review the plan and related material submitted by the mission. If Washington approves the mission's plan, the Department in consultation and with the approval of affected headquarters agencies will authorize the mission to enroll its FSN employees who are not covered by CSR under the host country social security system through normal social security procedures. Previously, posts were required to negotiate an executive agreement with the host government in order to participate in its insurance system. This requirement no longer exists except in special circumstances, such as the host government tending to exercise too much control over the post's FSN personnel.

971.2-4 Installation

Before installation the mission should amend its local compensation plan to authorize payment of contributions for this new benefit. A statement to this effect should be included under "Remarks" on the compensation plan. Copies of the amended compensation plan should be distributed in accordance with section 932.5d.

971.2-5 Required Coverage Under Mission-Adopted Plan

Once a mission installs a social insurance plan, coverage is mandatory for all new direct-hire and personal service contract employees of all participating agencies in the area, except as provided in section 971.2-6 for plans which include retirement benefits. Coverage of personal services contract employees must be stipulated in their contracts.

971.2-6 Effect of Mission-Adopted Plan on CSR Coverage

Since the U.S. Government cannot contribute to two retirement systems simultaneously for the same employee except where this is clearly local practice, it is necessary to set forth the following guidelines:

a. Employees Under CSR

If a mission installs a social insurance plan which includes retirement benefits, an FSN employee under CSR who wishes to be covered by the U.S. Government under the local plan may be so covered provided the overseas establishment changes the employee's type of appointment so that he ceases contributing to CSR (See section 972.1). An employee who ceases contributing to CSR to participate in a social insurance plan may still be entitled to a retirement annuity under the Civil Service Retirement System. (See section 972.1-4).

If an employee elects to continue participating in CSR, the overseas establishment should, if possible, cover employee

to receive any appropriate benefits under the local plan except retirement.

An employee may participate individually in a local retirement plan while continuing to participate in CSR, if host government laws and regulations permit, provided he contributes to the local plan both the employer's and employee's share. The employee may make these contributions through allotment of pay (4 FAM 556.3-2b and AID Handbook 26, Position Classification, Pay, and Allowances).

b. Subsequent Appointments Under CSR

Once agencies in a country begin participating in a local social insurance system which provides retirement benefits, no additional FSN employees in that country will be brought under Civil Service retirement except under unusual circumstances as determined by the Department. Requests for exceptions should be submitted through PER/FSN.

971.3 Private Insurance Plans

971.3-1 General Guidelines

In countries having no host government social insurance plan or one in which participation is not feasible, a mission should consider the feasibility of purchasing, through established procurement procedures, private medical, pension, life, and other insurance coverage to the extent consistent with section 931.2. Insurance coverage for illnesses and injuries should not overlap coverage under BEC (see sections 689 and 972.2).

971.3-2 Health Insurance Plans

a. Study of Prevailing Employer Practices

In consultation with other overseas establishments in the country, the mission should conduct a survey of prevailing health insurance practices among local employers to determine:

(1) Whether local employers generally provide health protection to their employees through private insurance carriers to the extent that the requirement set forth in section 931.2 (1) is met;

(2) The types of health insurance benefits generally provided by local employers through private insurance carriers; for example, hospital room and board, miscellaneous in-hospital expenses, surgery, maternity care, limited outpatient care, etc.;

(3) The scope and limitations of each type of health insurance benefit generally provided by local employers through private insurance carriers; for example, the maximum number of days during which room and board benefits are payable under the prevailing type of insurance policy; the maximum amount payable per day; and the amount of any deductibles;

(4) Usual exclusions; for example, eye glasses, dental care, mental disorders, etc.; and

(5) The shares of premium costs generally paid by employees and employer.

Based on these findings, an outline of the specific types and scope of benefits generally provided by other employers should be developed. The outline should exclude all those benefits generally provided to FSN employees through the medical facilities at the overseas establishments and under 5 U.S.C. 8101-8150 (formerly the Federal Employees' Com-

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ensation Act) (also see section 972.2). Reputable local insurance carriers should be requested to provide, for informational purposes only, sample policies and rates for the types and scope of benefits specified in the outline as prevailing in the area. The sample policies should be reviewed and the carrier offering the coverage generally provided by other employers at the best price normally should be selected (for special problems, see the Federal Procurement Regulations and the Department of State Procurement Regulations (FPR-DOSPR)). In no instance may the benefits to be contracted for exceed the benefits generally provided by other employers in the post locality.

b. Preparation of Proposed Contract

A proposed formal contract should be developed which consists normally of the following parts:

(1) An agreement which establishes the legal basis of the contract and sets forth the general understanding between the contracting parties;

(2) A section entitled "General Conditions" which contains clauses from the Department of State Procurement Regulations (DOSPR), and several other standard clauses considered appropriate for inclusion therein; and

(3) The policy itself or a section entitled "Special Provisions" which sets forth clauses covering definition of insurable group, hospital, benefits, physician, etc., eligibility requirements, benefits provided, benefits excluded, termination of employee's insurance, premium rates, grace period, individual certificates of membership, cancellation, notice and proof of claims, renewal, payment of claims, and schedules of fees.

The basic agreement and "General Conditions" portions of the contract are considered essentially standard for insurance contracts for local employees. A sample basic agreement is shown as Exhibit 971.3-2b(1) for use in developing a contract which meets the individual needs of each post. A sample set of "General Conditions" is shown as Exhibit 971.3-2b(2) for the same purpose. Some clauses should be included without change in the contract for legal or administrative reasons. Other clauses should be included in the contract but may be modified to conform to prevailing local conditions or to the special needs of the post. Included in the margins of each exhibit are notations on whether or not the clauses are required, may be modified, or are optional.

The policy itself or the section concerning "Special Provisions" (see subparagraph (3)) will vary from post to post to such an extent that a sample is impracticable to provide. The post should ensure, however, that clauses covering the subjects mentioned in subparagraph (3) are included in the draft contract.

No commitment shall be made to the insurance carrier until Washington approval of the proposed contract is received. The prospective insurer's concurrence in the proposed contract must be secured, along with concurrences of all affected overseas establishments at the mission, before the contract is submitted to Washington for approval.

c. Distribution of Copies

The original of the proposed contract shall be submitted to the Department of State, Bureau of Personnel, Office of Position and Pay Management (PER/PPM); one copy to the appropriate regional bureau; and one copy to the headquar-

ters offices of AID, Office of Personnel and Manpower, Overseas Division (M/PM/OS), and USIA, Office of Personnel and Training, Foreign Service Personnel Division (M/PF), if those agencies are involved. Copies should be distributed also to affected overseas establishments at the mission.

The submission shall include:

(1) Statements confirming the fact that the proposed means of obtaining the health benefits (that is, through a private insurance carrier) is the means generally used by other local employers to provide the benefits; the types and scope of benefits in the proposed contract conform to those generally provided by other local employers; the proposed eligibility provisions in the proposed contract (that is, full-time employees only, dependent coverage, etc.) conform to the general practices of other local employers; and all other using agencies concur in the proposed contract;

(2) An outline of the procedures which the mission and other agencies plan to follow in making premium payments to the insurer and payroll deductions for the employee's share, if any, of premium payments. (Normally, payroll deductions for the employees' shares are made on the regular biweekly payroll, and amounts to the insurer for premium payments, including both the employer's and employees' contributions, are made by biweekly check. This is done in accordance with normal payroll procedures.); and

(3) A listing of the costs of the insurance contract for each using agency, and the amount of those costs which each can absorb.

971.3-3 Health Protection Plans Obtained by Means Other Than Through Private Insurance Carriers or Host Government Social Security Systems

In some foreign areas, it is the general practice of local employers to provide health protection to their employees by means other than through private insurance carriers or the host government social security system. For example, employers in some post localities may contract with a doctor, a group of doctors, or a hospital for various medical and hospitalization benefits. If a post located in such an area determines that adoption of a similar benefit plan is feasible and desirable, it should conduct a study of prevailing local practices, prepare a proposed contract, and submit it to Washington for approval in accordance with guidelines set forth in section 971.3-2, with appropriate modification for the difference in the means of obtaining the benefit.

971.3-4 Other Insurance Plans

Guidelines set forth in section 971.3-2 relating to the adoption of health insurance plans generally apply to other locally prevailing types of insurance (for example, life and pension) for FSN employees.

971.3-5 Washington Review and Mission Installation

These procedures are essentially the same as for a social insurance plan (sections 971.2-3 and 971.2-4).

971.3-6 Required Coverage Under Plan and Effect on C.S. Retirement

Procedures in sections 971.2-5 and 971.2-6 apply also when a mission installs a private insurance plan.

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971.3-7 Renewals of Approved Insurance Contracts

The authority is delegated to the heads of overseas establishments to approve changes in the levels or types of benefits provided under a renewal or an amendment of an approved insurance contract, subject to the availability of funds. Such changes, however, may be made only upon a joint determination of the heads of overseas establishments that the changes are necessary to conform to new types of benefits or to new benefit levels provided generally by other local employers.

971.3-8 Change of Insurer After Initial Contract Approval

If, after approval and implementation of a contract under section 971.3-5, the overseas establishments elect to obtain the protection through a different insurance carrier, the contract shall be treated as a new proposal and submitted to Washington for prior review and approval.

972 FSN EMPLOYEE BENEFITS UNDER U.S. LAW

972.1 Civil Service Retirement and Disability System (CSR)

(For AID, also see Handbook 30, Separations and Disciplinary Actions.)

The Civil Service Retirement and Disability System (5 U.S.C. 8331 through 8348), as described in section 675, applies equally to Americans and FSN's, with one exception. That exception is discussed in section 972.1-1.

When participation in a host government-sponsored social security plan is found not to be feasible, participation in CSR is mutually beneficial to both the U.S. Government and its employees. In this situation, local employees should be encouraged to participate in CSR since they would acquire valuable retirement and survivor benefits for themselves and their families.

972.1-1 Coverage

FSN employees are covered by the U.S. Civil Service Retirement and Disability System if (a) they have either a conditional or permanent appointment, or (b) they are serving under another type of appointment or a personal services contract (except a personal services contract with AID subsequent to May 14, 1960) to which they were transferred before October 1, 1965, and to which CSR coverage was continued from a prior appointment.

An amendment to the Civil Service retirement regulations, effective October 1, 1965, prohibits continuance of CSR contributions for an FSN employee whose type of employment is changed on or after that date to other than a conditional or permanent appointment. This amendment does not apply to renewals of personal services contracts for employees who were contributing to CSR by virtue of prior direct-hire permanent employment.

972.1-2 Reasons For Causing Cessation of CSR Contributions

Except for the following two reasons, an FSN employee who has acquired CSR coverage should continue contributions as long as the FSN employee remains an employee of the U.S. Government:

a. Obtaining Retirement Coverage Under a Host Government Plan When Adopted by the Overseas Establishment

Salary deductions for CSR coverage normally are terminated when the employee is covered by a host government retirement plan to which the overseas establishment is contributing directly, as provided in sections 971.2 and 971.2-6. This is accomplished by processing Form SF-50, Notification of Personnel Action, changing the employee's type of appointment from permanent or conditional to indefinite.

b. Obtaining Retirement Coverage Under a Host Government Plan When Not Adopted by the Overseas Establishment

Salary deductions for CSR coverage may be terminated at the request of the employee concerned when the employee joins a host government retirement plan to which the overseas establishment is not contributing. The following steps are to be taken when the employee requests discontinuance of CSR contributions for this reason:

(1) The employee informs the overseas establishment in writing that the employee no longer wishes to retain CSR coverage inasmuch as the employee prefers to participate in the employee's host government retirement plan (proof of the employee's membership must be given);

(2) The overseas establishment discusses the matter with the employee and emphasizes the importance of being covered by a retirement plan. It is also pointed out that as a progressive employer the post expects the individual to continue contributing to his new retirement plan so long as the employee remains an employee of the U.S. Government.

(3) The overseas establishment advises the employee by letter that:

(a) The discontinuation of the employee's CSR contributions is at the employee's request;

(b) The CSR contributions are being discontinued to enable the employee to join the host government retirement plan;

(c) The employee shall continue contributions to the employee's government's retirement plan so long as the employee remains a U.S. Government employee to enable the employee to acquire appropriate social benefits for self and family;

(d) The U.S. Government will not pay any portion of the host government retirement plan as it did for the CSR plan;

(e) The employee may choose to withdraw contributions from the Civil Service Retirement System or, if eligible, the employee may leave the contributions in the CSR Fund until becoming eligible for a deferred annuity (see section 972.1-4);

(f) The employee may be restored to CSR coverage only in the most exceptional circumstances as determined by the head of the overseas establishment and not based on personal convenience.

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(4) A copy of the employee's letter requesting termination of CSR coverage and a copy of the overseas establishment's letter, countersigned by the employee confirming its receipt, are placed in the employee's personnel file.

(5) The overseas establishment processes form DS-1032, changing the type of appointment from permanent or conditional to indefinite.

972.1-3 Actions Causing Cessation of CSR Salary Deductions

Overseas establishments are to exercise care to preclude issuing personnel actions which would inadvertently cause loss of CSR coverage. The following personnel actions could automatically cause cessation or denial of an employee's contribution to CSR:

- a. Change of direct-hire appointment to any type other than a permanent or conditional appointment.
- b. Change of contractual employment from a personal services contract to another type contract (renewal of a personal services contract does not constitute a disqualifying change). State does not authorize personal services contracts. (See section 926.2 and DOSPR 6-1.258-1.)
- c. Change from direct-hire to employment under a personal services or other contract.
- d. Reappointment, following a break in service, to other than a permanent or conditional appointment.
- e. Reemployment under a personal services or other contract following a break in service.
- f. Transfer to another U.S. Government agency which does not authorize appointments entitling FSN personnel to continue CSR.

Upon receipt of form SF-50 effecting any of the above actions, the headquarters agency automatically forwards the employee's records to the Civil Service Commission for retention in the records division until claim for refund or retirement is made.

972.1-4 Effect of Cessation of CSR Contributions on Past Retirement Deductions

An FSN employee with 5 or more years of creditable Federal service who ceases to contribute to CSR is eligible either for a deferred annuity at age 62 (not discontinued service retirement) or for a refund of retirement deductions before age 62. An employee with less than 5 years of creditable Federal service is eligible for a refund of retirement deductions and normally will find it advantageous to obtain such refund.

An employee who elects a deferred annuity must be separated from the service in order to receive the annuity.

972.1-5 Effect of Cessation of Contributions on Crediting Subsequent Service for CSR

No Federal Service that an FSN employee performs after losing the right to contribute to CSR may be creditable towards Civil Service retirement unless it is followed by service under a conditional or permanent appointment.

972.1-6 Reinstatement in CSR

a. Ad Hoc Committee to Review Reinstatement Cases

If an FSN employee who has ceased contributing to CSR is later given a permanent or conditional appointment because of unusual circumstances, that employee may again contribute to CSR. The head of the overseas establishment determines whether an FSN employee should be reinstated into CSR. Decisions should be based upon the recommendations of an *ad hoc* committee composed of representatives of agencies at the post which jointly reviews all cases in order to ensure uniformity and compliance within the intent of the regulations. Examples of exceptional circumstances warranting reinstatement for an employee who ceased contributing to CSR to join the host government's retirement plan are (1) the termination of the host government's retirement plan, or (2) major reductions in its benefits. Requests based solely on personal convenience of the employee should not be approved.

When a decision is made to reinstate CSR coverage, this is accomplished by processing form SF-50 to change the employee's current employment status to permanent or conditional appointment, as appropriate.

b. Drawing Maximum Annuity After Reinstatement

If the employee wishes to draw maximum annuity after reinstatement in CSR, the employee may deposit amounts to purchase full credit for prior uncovered service. The employee's prior uncovered service will count toward total service, with or without deposit, provided the employee completes at least 1 year of service after coverage is resumed, and even though retirement deductions were not made for the prior period of uncovered service.

972.1-7 Effect of Making Deposits and Redeposits for CSR

a. Deposits

The making of a deposit is purely optional. Whether an employee should make a deposit is a personal matter on which no general advice can be given. Making the deposit will assure the employee and/or survivors maximum retirement protection, and the employee must view the matter as the employee would any other investment for the benefit of self and family. Deposit may be made or completed after the death of the employee by a survivor who is qualified to receive annuity benefits.

(1) Effect on Annuity

Employees who have had creditable service for which deductions were not made for any reason will receive credit for such service in the computation of annuity benefits without making a deposit to cover the period of service. However, if a deposit is not made by the employee or the employee's survivor, or if installment payments are begun and not completed, the annuity otherwise payable will be reduced by an amount equal to 10 percent of the balance due and unpaid, unless the employee elects to eliminate the service entirely from credit for annuity computation purposes. (For FSN employees, see 4 FAM 573.) The elimination of a period of service from credit is advisable only when the employee has sufficient other service to entitle the employee to the maximum annuity. Full credit is allowed without deposit for all ser-

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vice prior to August 1, 1920, for service with the Panama Railroad Company prior to January 1, 1924, and for creditable military service.

(2) Amount of Deposits

Deposits will be computed on the basis of the following percentages of basic salary for the periods indicated:

2-1/2% from August 1, 1920, to June 30, 1926; 3-1/2% from July 1, 1926, to June 30, 1942; 5% from July 1, 1942, to June 30, 1948; 6% from July 1, 1948, to October 31, 1956; 6-1/2% from November 1, 1956, to December 31, 1969; and 7% after December 31, 1969.

To the above is added interest computed from the mid-point of each period of service to the date of deposit or commencing date of annuity, whichever is earlier, at the rate of 4 percent to December 31, 1947, and 3 percent thereafter, compounded annually, except that no interest shall be charged for any period of separation from the service which began before October 1, 1956.

b. Redeposits

In most cases it is definitely to the employee's advantage to make a redeposit. Redeposit may be made or completed after the death of the employee by a survivor who is qualified to receive annuity benefits. (For AID, also see Handbook 30, Separations and Disciplinary Actions.)

(1) Effect on Annuity

If an employee has received a refund of retirement deductions under the Civil Service Retirement System, the Foreign Service Retirement and Disability System, or any other system for the retirement of Government employees, the employee or the employee's survivor must make a redeposit to the Fund before the service can be credited in the computation of annuity benefits.

(2) Amount of Redeposit

A redeposit consists of the amount refunded to the employee plus interest. Interest is computed from the date of the refund to date of redeposit or commencing date of annuity, whichever is earlier (excluding any period of separation from the service which began before October 1, 1956) at the rate of 4 percent to December 31, 1947, and 3 percent thereafter, compounded annually.

An employee may not apply to make a redeposit to cover only a portion of a period of service for which deductions were refunded. Where installment payments on a redeposit are not completed prior to final adjudication of an application for retirement, or prior to the death of the employee before retirement, and the survivor does not complete the payments, the installment payments will be applied as follows:

(a) If two or more periods of service are involved, the amount will be applied to the best advantage of the employee to purchase as many complete periods of service as possible.

(b) If only one period of service is involved, or if installment payments are not sufficient to cover a complete period of service, the installment payments will be refunded, unless redeposit is completed at the time the claim for annuity is adjudicated.

c. Application by FSN Employees

Application by FSN employees for deposit or redeposit for past creditable service is made on SF-2803, Application To Make Deposit or Redeposit. The form is initiated by the employee. Post officials review the form, verify service claimed against the employee's official personnel folder, and execute the certification block on the reverse of the form. The certified SF-2803 is forwarded directly to the Bureau of Retirement, Insurance, and Occupational Health, Claims Division, Office of Personnel Management, Washington D.C. 20415. (For AID, also see Handbook 30, Separations and Disciplinary Actions.)

If SF-2806, Individual Retirement Record, has not been forwarded to the Department, or Agency, the post completes the SF-2806 with information from the employee's official personnel folder showing per annum salary rates in U.S. dollars. (See section 924.2e.)

The Office of Personnel Management determines if the service claimed is creditable, computes the amount due, and advises the employee directly.

If the FSN employee is unable to pay the deposit or redeposit amount in lump-sum, the employee may request the Office of Personnel Management to approve installment payments of \$25.00 or more with interest chargeable on the unpaid balance of the total due. All payments must be made in U.S. dollars directly to the Office of Personnel Management by negotiable instrument, such as cashier's check, bank draft, international money order, or Treasury check obtained through the U.S. Disbursing Officer (USDO) (see also 4 FAM 551.4 and 573). Charges incurred for conversion of local currency, purchase of dollar instruments, and transmittal are the employee's responsibility.

The post cannot assume responsibility for or guarantee future installment payments through a job commitment.

972.1-8 Supplemental Payments for Certain Non-American CSR Annuitants

a. Authority

Section 408(a)(2) of the Foreign Service Act of 1980 (hereinafter referred to as the Act) states: "The Secretary may make supplemental payments to any civil service annuitant who is a former foreign national employee of the Service (or who is receiving an annuity as a survivor of a former foreign national employee of the Service) in order to offset exchange rate losses, if the annuity being paid such annuitant is based on—

"(A) a salary that was fixed in a foreign currency that has appreciated in value in terms of the United States dollar; and

"(B) service in a country in which (as determined by the Secretary) the average retirement benefits being received by individuals who retired from competitive local organizations are superior to the local currency value of civil service annuities plus any other retirement benefits payable to foreign national employees who retired during similar time periods and after comparable careers with the Government."

b. Coverage

Sections 408(b) and (c) of the Act provide the legal basis for all U.S. Government agencies (USG) conform with section 408(a)(2) of the Act.

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c. Funding

Supplemental payments will be paid by the Department of State. If an annuitant worked for another agency immediately prior to retirement, that agency shall reimburse the Department for the amount of the payments. However, any agency may establish its own payment program in lieu of reimbursement by the Department.

d. Eligibility Determination

(1) Country Eligibility

The eligibility of non-American annuitants and the superiority or inferiority of local currency value of the prevailing local retirement system as compared to Civil Service Retirement (CSR) will depend, among other things, on the U.S. dollar/local currency exchange rate.

a. Appreciation of Foreign Currency

i. For Employees Retiring Before March 1, 1982

A country's currency will initially satisfy requirement A of section 408(a)(2) of the Act if, as of the date of determination, that country's average exchange rate for the preceding 12 months has appreciated by at least 10 percent over the average exchange rate for the period March 1970, through February 1971.

ii. For Employees Retiring Between March 1, 1982, and February 28, 1987

A country's currency will initially satisfy requirement A of section 408(a)(2) if, as of the date of determination, that country's average exchange rate for the preceding 12 months has appreciated by at least 10 percent over the average exchange rate for the period March 1980, through February 1981.

iii. For Employees Retiring After February 28, 1987

For employees retiring after February 28, 1987, the average exchange rate will be recomputed.

b. Comparison of Locally Prevailing Retirement Benefits to U.S. Government Retirement Benefits for Foreign Service National Employees

Once currency eligibility has been established, the mission can proceed with a comparison survey of retirement benefits. Procedures for conducting the survey will be furnished by the Department (PER/ER/FN) upon request. The post shall survey only those employers used during its last full-scale wage survey. In general, the survey compares the average retirement benefits received by retirees from USG Foreign Service National (FSN) employment to those received by retirees from competitive local employment who have earned similar salaries over the same number of years. Information is collected about any general host government social insurance plan, medical benefits for retirees, plus any type of supplemental pension or provident fund payment received by retirees of the surveyed competitive local employers.

The results of the survey are sent to the Department for evaluation and comparison to the retirement benefits received by the FSN retirees from USG employment. These retirement benefits include the CSR pension plus any other benefit available to the FSN annuitants, either from the host government (whether or not the USG contributes to the program) or from another source to which the USG contributes,

either directly or indirectly. Eligibility depends on whether the local currency value of the retirement benefits received by retirees of competitive employers exceeds the local currency value of the benefits received by those FSN retirees from USG employment in that country who receive Civil Service Retirement annuities. PER/ER/FN will determine for each country the retirement comparability exchange rate, which is the exchange rate at which total retirement benefits from all sources received by CSR annuitants most nearly equals total retirement benefits paid by competitive employers.

2. Individual Eligibility

The following individuals meet the eligibility requirements for supplemental CSR annuity payments:

- (a) FSN annuitants who retire from eligible countries, having served at least 2 of their last 3 years in an eligible country, and who must engage in exchange rate transactions in order to negotiate their U.S. dollar CSR annuities; or
- (b) Survivor annuitants who must engage in exchange rate transactions in order to negotiate their CSR dollar annuities and provided the annuitant who they survive would have been entitled to supplemental payments.

3. Status of Annuitants Who Worked in One Country and Live in Another Country

(a) Annuitants who retire from eligible countries, having served at least 2 of their last 3 years in an eligible country and who reside in another eligible country, and their survivors, shall receive the supplemental payment for either the country in which they were employed or the country in which they are residing, whichever is less.

(b) Annuitants and survivors who retire from an eligible country and reside in a non-eligible country shall be ineligible to receive a supplemental payment or to claim a supplemental payment at a later time for periods of residence in a non-eligible country. Inversely, an annuitant who retires from a non-eligible country and who resides in an eligible country shall be ineligible to receive a supplemental payment.

(c) For the purposes of subparagraphs (a) and (b) of this section, Andorra and Monaco shall be considered as parts of France; Liechtenstein as part of Switzerland; and San Marino and the Vatican as parts of Italy.

e. Computation and Payment of Supplements

(1) The supplemental payment is intended to offset exchange rate losses. This will be accomplished by comparing either the retirement comparability exchange rate, defined in section 972.1-8d(1)(b) or the individual constant exchange rate, whichever is lower, to the current monthly exchange rate for the currency of the eligible annuitant's country. The individual constant exchange rate is defined as the average exchange rate for the 3 years preceding the final separation date of each individual annuitant. For purposes of computing the average exchange rate, the exchange rates on the last working day of each month, as reported by the appropriate Regional Administrative Management Center (RAMC) will be used. The current monthly exchange rate is the rate reported to the Department on the last working day of the previous month by the appropriate RAMC.

(2) If the current monthly exchange rate is equal to or greater than either the retirement comparability exchange

rate or the individual constant exchange rate, no supplemental payment will be paid for the month.

(3) If the current monthly exchange rate is less than both the retirement comparability exchange rate and the individual constant exchange rate, either the retirement comparability exchange rate or the individual constant exchange rate, whichever is lower, is divided by the current monthly exchange rate and the result is multiplied by the individual's current monthly dollar annuity. This product minus the current monthly dollar annuity equals the amount of the month's supplement.

(4) If the total amount of the supplemental payment is less than 5 U.S. dollars, no payment for that month will be made. The amount will be placed in a separate account and credited to the annuitant. These accounts will be reviewed annually and if the amount credited for the year equals or exceeds 5 U.S. dollars, the total amount credited will be paid to the annuitant.

(5) The regular CSR annuity is in no way affected by any supplemental payment.

(6) Examples (L/C designates the local currency unit):

(a) Annuitant Eligible—Supplement Not Paid

Individual's	constant	exchange	rate:
4.00 L/C = U.S.	\$1.00		
Retirement	comparability	exchange	rate:
3.00 L/C = U.S.	\$1.00		

Current monthly exchange rate: 3.25 L/C = U.S. \$1.00

The retirement comparability exchange rate is lower than the individual's constant exchange rate, and therefore is used for computation of the supplement. Inasmuch as the retirement comparability exchange rate is less than the current monthly exchange rate, no supplemental payment will be made or credited to the individual for that month.

(b) Annuitant Eligible—Supplement Paid

Individual's	constant	exchange	rate:
2.25 L/C = U.S.	\$1.00		
Retirement	comparability	exchange	rate:
2.40 L/C = U.S.	\$1.00		

Current monthly exchange rate: 2.00 L/C = U.S. \$1.00

Monthly CSR annuity: U.S. \$300.00

The individual's constant exchange rate is lower than the retirement comparability exchange rate, and therefore is used for computation of the supplement. Since it is greater than the current monthly exchange rate, a supplemental payment for the month will be made as follows:

$$2.25:2.00 = 1.125 \times \$300 = \$337.50 - \$300.00 = \$37.50.$$

\$37.50 is the amount of the supplemental payment for that month.

f. Filing for Payment

Once a country's eligibility has been established, the Department will make supplemental payments automatically to those eligible employee or survivor annuitants who are presently receiving regular CSR annuity checks in that country. Annuitants who retired from an eligible country and are residing outside of that country but fulfill the requirements for individual eligibility (section 972.1-8d(2)) and qualify under the provisions of section 972.1-8d(3), must file a claim

through the Department through the American Embassy in the country of employment. Payments to these individuals will commence upon validation of their claims and will not be retroactive.

g. Duration of Payment Eligibility

(1) Country Eligibility

Once a country is determined to be eligible, it will remain eligible so long as the retirement comparability exchange rate is greater than the current monthly exchange rate. If the current monthly exchange rate is equal to or greater than the retirement comparability exchange rate, payments will cease until such time as the retirement comparability exchange rate is once again greater than the current monthly exchange rate.

(2) Individual Eligibility

The amount of the individual supplemental payment for any eligible employee or survivor annuitant, assuming continued country eligibility, may vary from month to month and even cease due to the effect the exchange rate fluctuations have on the relationship between the individual constant exchange rate and the current monthly exchange rate. Individual supplemental payments will terminate when an employee or survivor annuitant is no longer eligible to receive the regular CSR annuity or no longer meets the requirements in section 972.1-8(d).

h. Monitoring Country Eligibility

Cost-of-living adjustments in either CSR or for prevailing local retirement plans, and fluctuations in the exchange rate, can change the status of a country from supplemental payment eligibility to ineligibility and vice versa.

Posts in countries where the supplement is paid are required annually to update the sample annuities used in the original benefits survey. This includes any changes in the level of benefits payments due to cost-of-living adjustments, and will indicate which changes are prospective (for future retirees only) and which are retroactive. The Department will collect similar information regarding CSR annuities. This information will be used to update the retirement comparability exchange rate, and for such other purposes as may be necessary.

i. Requests for Assistance

Requests for assistance concerning country eligibility should be directed to PER/FSN. Requests for assistance concerning individual eligibility should be directed to M/COMP/FO/FD/RA.

972.2 Disability Compensation

972.2-1 Policy

An FSN employee who suffers illness or sustains an injury in the performance of duty may be entitled to compensation under the provisions of the Federal Employee's Compensation Act (5 U.S.C. 8101-8150) as administered by the Department of Labor's Office of Workers' Compensation Program (OWCP). The basic provision and requirements for U.S. citizen employees as outlined in section 689, **except as regards amount of compensation** (see section 972.2-2) and continuation of pay apply also to FSN employees.

972.2-2 Amount of Compensation

As determined by OWCP, an FSN employee may be compensated in one of the following ways:

- (1) In accordance with the schedule of compensation specified in the FEC Act for U.S. citizen employees; or
- (2) In accordance with the benefit provisions of local law or custom of the country in which the overseas establishment is located; or
- (3) In accordance with special schedules of compensation promulgated by the OWCP for citizens or residents of a specified country or area, for example, Australia and the Philippines.

It is the responsibility of the head of the overseas establishment to recommend an appropriate amount of compensation, normally based upon local law or custom, in its report and in any subsequent claim relating to a case. The OWCP may, if it is in the interest of the United States, make payment in a lump sum for partial or total disability or for death, after which no further claim may be made against the U.S. Government by the FSN employee or dependents.

972.2-3 Emergency Medical Expenses

a. Authority

Heads of overseas establishments or their designees may make emergency payments of medical bills direct from applicable agency funds in accordance with special authority granted the agencies by OWCP. The OWCP will reimburse the agency upon certification of the appropriate officer that the treatment for which payments were made was for injury sustained in the performance of duty and that such injury was not caused by the willful misconduct of the employee or by the employee's intention to bring about injury to self or another, and that intoxication was not the proximate cause of the injury.

b. Funding

Payment for the emergency treatment and/or hospitalization of FSN employees of State whose salaries are paid from appropriated funds will be made from Washington-held allotment 2034. Such payments for AID employees whose salaries are paid from appropriated funds will be made from the allotment used to pay the employee's salary. Such payments for USIA employees are charged to USIA GE allotment, resource code 25102.

Bills for reimbursement for the cost of emergency treatment paid by the agencies are submitted to OWCP in accordance with provisions of section 4030, title 7, GAO Manual for Guidance of Federal Agencies. The documentation in support of the billing consists of two copies of paid vouchers or bills. The vouchers or bills show the full name (same as reported on C.A. 1 and C.A. 2; see section 689) of the injured employee, date of injury, as well as the date or dates of treatment, character of services or supplies, amounts for each, and name of doctor, hospital, or vendor furnishing the services or supplies, translated into English at the post.

c. Special Provisions Applicable to AID

Payment of compensation and emergency treatment and hospitalization for **Foreign Service national employees whose salaries are paid from local currency trust funds** are charged to such funds provided payment can be made

within the provisions of current agreements, with the cooperating government. If the current agreement is so restrictive that this type of expense cannot be paid from the trust fund account, any local currency source available may be used provided it is legal to do so, or the allotment from which U.S. citizen employees in the same division office are paid may be used. Costs paid from the local currency trust fund account or from other local currency sources will not be reimbursed by OWCP. (See also Handbook 19, Section 10D, Accounting for Medical Expenses.)

d. Continued Treatment

Authorization for continued treatment is requested immediately from OWCP. Full details of the circumstances of the injury and type of treatment given shall be provided. The Bureau will allow or disallow treatment on the basis of whether they are compensable under United States law as work-connected illness.

972.2-4 Reporting Procedures

See section 689.6 through 689.11 for reporting and related procedures. Include in the report the overseas establishment's recommendation on amount of compensation, as described in section 972.2-2. (In addition, report any accidents involving local employees to the post Safety Officer for inclusion in the report in accordance with 6 FAM 610.4 and AID Handbook 20, Office Services.)

972.3 Health Unit Facilities

See section 922.3c.

972.4 (Unassigned)

(TL:PER-30 5-9-85)

972.5 Death Gratuity

(TL:PER-541 11-18-82)

(Uniform State/AID/USIA/Commerce/Agriculture)

Survivors of any FSN employee who died or dies on or after August 1, 1974, as a result of injuries sustained in the performance of duty outside the U.S. are eligible for payment of a death gratuity under conditions in section 692.

972.6 Special Immigrant Status

The Immigration and Nationality Act, as amended, provides special immigrant status for "an immigrant who is an employee, or an honorably retired former employee, of the United States Government abroad, and who has performed faithful service for a total of fifteen years, or more, and his accompanying spouse and children: Provided, that the principal officer of a Foreign Service establishment, in his discretion, shall have recommended the granting of a special immigrant status to such alien in exceptional circumstances and the Secretary of State approves such recommendation and finds that it is in the national interest to grant such status." (See 9 FAM 22 CFR 42.26 and pertinent notes; also 8 U.S.C. 110.1.)

972.7 Allotments of Pay

Regulations governing allotments of pay for FSN employees are contained in 4 FAM 556. For AID, see Handbook 26, Position Classification, Pay, and Allowances.

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972.8 Financial Assistance

An employee association is authorized to operate a loan fund for FSN employees, financed from unofficial funds, if not prohibited by local law. The treasurer of the loan fund should be bonded at the fund's expense. (See 6 FAM 514.1r. For AID, see Handbook 23, Overseas Support.)

972.9 Compensation of Imprisoned Aliens

972.9-1 Purpose

This section provides terms and conditions for authorizing compensation payments for current or former Foreign Service national employees of State, AID, USIA, Commerce, and Agriculture who are or were imprisoned by foreign governments as a result of their employment by the United States.

972.9-2 Definitions

a. "Agency" means the Department of State, the Agency for International Development (AID), the United States Information Agency (USIA), the Department of Commerce and the Department of Agriculture.

b. "Claimant" means an employee, dependents, executor of a former employee's estate, court appointed guardian, or other legally-qualified person.

c. "Compensation" means basic salary (including regular periodic step-increases), premium compensation, bonus payments, and any other pay or allowances authorized for the employee in the local compensation plan.

d. "Dependent" means a spouse; an unmarried child (including an unmarried dependent step-child or adopted child) under 21 years of age; a dependent mother or father; a dependent designated in official records; or an individual determined to be dependent by the agency head concerned or designee.

e. "Employee" means any current or former Foreign Service national (FSN) employee of State/AID/USIA/Commerce/Agriculture including one under a personal services contract when authorized by law, who is or has been imprisoned by a foreign government.

f. "Principal U.S. representative" means the principal State Department representative in a foreign country.

972.9-3 Authority

a. Legal

Section 410 of the Act provides for compensation of certain FSN employees imprisoned by a foreign government, under regulations prescribed by the Secretary of State.

b. Authority Under the Missing Persons Act

The following officials, for purposes of this section, are authorized to exercise the same powers with respect to current or former FSN employees as the agency head has under sub-chapter VII of chapter 55 of title 5, U.S. Code, to the extent that such powers are consistent with this section:

- (1) State: The Under Secretary for Management;
- (2) AID: The Director, Office of Personnel Management, or designee;
- (3) USIA: The Director, Office of Personnel;
- (4) Commerce: The Director, Office of Personnel, Office of the Secretary; or

(5) Agriculture: Secretary of Agriculture, or designee.

c. To Determine Validity of Imprisonment

The State Deputy Assistant Secretary for Personnel having jurisdiction over the administration of the FSN program is authorized to determine that an FSN employee's imprisonment is or was the result of the individual's employment by the United States.

d. To Approve Payment

The following officials are authorized to approve payment of compensation under the terms and conditions in this section:

- (1) State: The Deputy Assistant Secretary for Personnel;
- (2) AID: The Director, Office of Personnel Management, or designee;
- (3) USIA: The Director, Office of Personnel;
- (4) Commerce: The Director, Office of Personnel, Office of the Secretary; or
- (5) Agriculture: Secretary of Agriculture, or designee.

972.9-4 Applicability

This section applies to current or former FSN employees of the agencies, including persons employed under personal services contracts, when authorized by law, who are or were imprisoned by foreign governments as a result of U.S. Government employment.

972.9-5 Locating and Notifying Eligible Persons

Agencies are responsible for making a reasonable effort to locate and notify all eligible persons of their possible entitlement under this section and assisting them in submitting claims.

972.9-6 Filing Deadline

No compensation or other benefit shall be awarded under this section unless a claim is filed within 3 years after:

- a. August 17, 1977;
- b. The date imprisonment ended; or
- c. The date of the claimant's first opportunity to file such a claim, as determined by the appropriate agency official listed in section 972.9-3d, whichever is later.

972.9-7 Qualifying Terms and Conditions

The following qualifying terms and conditions govern payment of compensation under this section:

- a. The employee (including an FSN employee under a personal services contract when authorized by law) was employed by the U.S. Government at the time of imprisonment;
- b. The employee was imprisoned by a foreign government;
- c. The employee's imprisonment was the result of employment by the U.S. Government;
- d. Where payment is to be made to a claimant other than the employee, the claimant has legitimate right to payment as determined by the appropriate agency official listed in section 972.3d;
- e. A claimant (principal or beneficiary) is barred from assignment of rights or benefits granted under this section;
- f. For periods of imprisonment that terminated prior to August 17, 1977, payment is authorized only to an employee or former employee alive as of that date who files a claim

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within the time limits in section 972.9-6, and there is reasonable evidence still available that the claimant was imprisoned as a result of employment by the U.S. Government; and

g. For periods of imprisonment that terminate on or after August 17, 1977, payment is authorized to an employee, to dependents while the employee is imprisoned, and, upon death of the employee during imprisonment, to dependents in the order of precedence in section 972.9-2d, or other person whom the Deputy Assistant Secretary for Personnel determines to be entitled to payment.

972.9-8 Amount of Benefit

a. Compensation may not exceed an amount that the appropriate agency official listed in section 972.9-3d determines to approximate the salary and other benefits to which an employee or former employee would have been entitled had the individual remained employed during the period of such imprisonment.

b. An appropriate agency official listed in section 972.9-3d will deny or reduce compensation to employees who may have received other relief, such as through private legislation enacted by the Congress.

972.9-9 Procedures

a. Making Application

The claimant submits a written application for compensation under this section to one of the following, as appropriate:

- (1) The agency facility, in the locality of imprisonment, for whom the employee worked at the time of imprisonment;
- (2) The principal U.S. representative when the employing agency is no longer located in the locality of imprisonment;
- (3) The diplomatic mission representing the United States in the locality of imprisonment; or
- (4) For State, the appropriate bureau executive director, and for AID and USIA, the appropriate official, listed in section 972.9-3d, or the agency for whom the employee worked when imprisoned, if submission to one of the contact points listed in section 972.9-9a(1), (2), or (3) is not feasible.

b. Documentation

The claimant or the employee's agency must obtain and submit to the appropriate agency official listed in section 972.9-9a(4) the following in support of a written claim:

- (1) A certified copy of official records, including Notification of Personnel Action, verifying employment, salary, and benefits being paid the employee at time of imprisonment, the dates of beginning and ending of imprisonment, and an estimated cost of payment of the claim;
- (2) Official documents verifying the amount of salary and other benefits which would have been payable had employment continued through the period of imprisonment, and a statement as to whether the employee received other financial relief, such as through private legislation enacted by the Congress;
- (3) Legal documents supporting the relationship of the employee to the claimant, if other than the employee;
- (4) Documentation of the agency's investigation of the claim, including circumstances leading to and the reasons for imprisonment; and
- (5) Recommendation of the principal U.S. representative in the country in which imprisonment occurred (or the ap-

propriate agency official listed in section 972.9-9a(4), if there is no longer U.S. representation in the country), including a statement as to whether imprisonment was the result of employment by the U.S. Government.

c. Approval of Claim

(1) For State, the appropriate bureau executive director, having jurisdiction over the post by whom the employee was last employed preceding imprisonment, forwards the claimant's application and the documents listed in section 972.9-9b, together with a recommendation, to the Deputy Assistant Secretary for Personnel for determination that imprisonment is or was the result of the FSN's employment by the U.S. Government, and for approval of the claim;

(2) For AID, USIA, Commerce, and Agriculture the appropriate official listed in section 972.9-3d forwards the claimant's application and the documents listed in section 972.9-9b, together with a recommendation, to the Deputy Assistant Secretary for Personnel, Department of State, Washington, D.C. 20520, for determination that imprisonment is or was the result of the FSN's employment by the U.S. Government;

(3) The Deputy Assistant Secretary for Personnel advises the appropriate AID, USIA, Commerce, or Agriculture official listed in section 972.9-3d in writing of that determination;

(TL:PER-564 11-8-83)

(Effective date: 10-18-83)

(Uniform State/AID/USIA/Commerce/Agriculture)

(4) After the appropriate approving officer (see section 972.9-3d) signs the approval memorandum, that officer shall forward that memorandum with supporting documentation for payment to one of the following, as appropriate:

- (a) State: The appropriate payroll center;
- (b) AID: The Chief, Employee Services Division (M/FM/ESD);
- (c) USIA: The Chief, Financial Operations Division (M/CF);
- (d) Commerce: The Chief, Financial Operations Division; or
- (e) Agriculture: FAS Management Services Division.

(5) After certifying payment, the certifying official will promptly advise the appropriate agency official listed in section 972.9-3d.

972.9-10 Notification of Payment

The appropriate agency official listed in section 972.9-3d will promptly notify the claimant if payment has been approved and, if so, that a check will be processed by the appropriate payroll center.

972.9-11 Other Benefits

Any period of imprisonment of an FSN which is compensable under this section shall be considered for purposes of any other employee benefit to be a period of employment by the U.S. Government, with the following exceptions:

- a. A period of imprisonment shall not be creditable toward Civil Service retirement unless the employee was covered by the Civil Service Retirement and Disability System during the period of Government employment last preceding

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the imprisonment, or the employee qualifies for annuity benefits by reason of other services; and/or

b. A period of imprisonment shall not be considered for purposes of workers' compensation under subchapter I of chapter 81 of title 5, U.S. Code, unless the Foreign Service national was employed by the U.S. Government at time of imprisonment.

972.9-12 Advisory Services

The Foreign Service National Personnel Office (PER/FSN), Bureau of Personnel, Department of State, will provide interpretive and advisory services relating to any aspect of this subchapter.

973 FSN EMPLOYEE DISCIPLINARY ACTIONS

Each head of an overseas establishment is responsible for initiating and effecting necessary disciplinary action on FSN employees, that is, official reprimands, exclusions from official premises, denials of periodic stepincreases and suspensions. An FSN employee is subject to suspension without pay for any period but not to exceed 90 days at any one time for disciplinary reasons. Section 760 relating to U.S. citizen employees may also be used as a guide for FSN employees. However, disciplinary actions for FSN's are administered at post and are not subject to due process or other Washington procedures noted in section 760 for American employees. For AID, see Handbook 30, Separations and Disciplinary Actions.

If an FSN employee is suspended as a disciplinary action, a Form SF-50, Notification of Personnel Action, is processed stating the reason for and the period of suspension.

974 FSN EMPLOYEE SEPARATIONS

974.1 Policy

Under the authority of section 612 of the Act, an FSN may be separated at any time in light of criteria and procedures normally followed in the locality in similar circumstances and those set forth below.

The heads of overseas establishments are responsible for developing uniform rules governing the separation of FSN employees. The rules shall conform to the procedures and circumstances governing separations used by other reputable, competitive employers in the post locality to the extent consistent with the other instructions contained in this section. Under no circumstances may a separation be arbitrary or capricious. The rules developed should contain such a statement.

A separation notice period should be established and be included in the separation rules. The period established should also conform to local prevailing practice.

An FSN employee is separated from an overseas establishment without the usual advance notice if:

a. The head of the overseas establishment determines that the continued employment of the employee presents a security threat to the United States; or

b. The final results of a security and suitability investigation are adverse and recommendation for separation is made by the regional security officer.

974.2 Types of Separation

974.2-1 For Cause

Separation for cause occurs when an employee is separated for security reasons, malfeasance, misconduct, unsatisfactory performance of duties, insubordination, theft, fraud, accepting or soliciting favors or gifts, etc. Abandonment of position may also become a separation for cause case if disciplinary action is involved. The heads of overseas establishments should jointly prescribe rules governing this type of separation. Before the determination is made to separate an employee for cause, it is suggested that the employee:

- Receive notice of shortcomings prior to separation and have an opportunity to overcome such shortcomings.
- Be informed of the charges, except when adverse security reasons are the cause of separation.
- Be permitted to appeal to some person other than the one who brings the charges.
- Be permitted to have a hearing at the overseas establishment in a language intelligible to the employee.

974.2-2 By Disqualification

Separation by disqualification occurs when an employee:

- Fails to qualify during a probationary period.
- Is found to have made false statements on the employment application.
- Fails to meet medical standards.
- Fails to qualify as a result of security investigations, or as a result of a review of security investigation by the regional security officer.
- Who is a participant in CSR, (1) reaches the mandatory separation age established by the mission for the employee's category of employment in the mission's Separation for Age Plan, and (2) meets the minimum requirements for an immediate annuity upon involuntary retirement (see section 675, Appendix A, subchapter S-11).

974.2-3 For Age

Separation for age occurs when an FSN employee reaches the mandatory separation age established by the mission's Separation for Age Plan for the employee's category of employment. Such age limit normally is established in accordance with local law and prevailing practice in the locality. In addition, efficient operation of the mission based on sound management practices is a legitimate consideration in establishing the age limit(s). FSN employees are exempt from the provision of U.S. law which prohibits the establishment of a mandatory age requirement for certain U.S. citizen employees of the Federal Government. All employees must be included in the mission's Separation for Age Plan. Adequate advance written notice of pending separation must be given to the employee. (See Exhibit 974.2-3 and 974.3-1.)

a. FSN Participants in CSR

For FSN participants in CSR, separation at the age established in a mission's Separation for Age Plan is an involuntary separation in that the employee is disqualified from further employment with that overseas establishment. (See section 675, Appendix A, subchapter S-11 for OPM's regulation on Discontinued Service Retirement.) The Nature of Action Code and Nature of Action for discontinued service retire-

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ment is "300 Retirement-Mandatory." (See Exhibit 924.2c and 974.3-1.)

b. Separation for Age Plan

Each mission should develop a Separation for Age Plan to reflect prevailing law and practice in its locality and efficient operation of the mission. The mission may establish either an appropriate age for the mandatory separation of all FSN's or establish an appropriate age for one or more categories of positions, such as chauffeurs. (See Exhibit 974.2-3.)

The mission should ensure that its plan includes a provision that FSN participants in CSR who reach the mandatory age for separation qualify at the same time for an immediate CSR annuity. The Office of Personnel Management establishes criteria by which a participant in CSR qualifies for an immediate annuity. The mission's Separation for Age Plan may not alter or modify these criteria. (See section 675, Appendix A, subchapters S-9 and S-11.)

974.2-4 By Reduction in Force

Separation by reduction in force (RIF) occurs when an employee is separated involuntarily because of lack of funds, reorganization, decrease of work, or similar reason. The heads of overseas establishments should jointly establish rules and procedures governing such separation. Consideration is given to the local labor laws and practices and the employee's performance, type of appointment, and length of service. A point-score system may be developed to provide an equitable retention register after the overseas establishment has determined competitive areas relating to occupational skills and qualifications.

974.2-5 For Abandonment of Position

Separation for abandonment of position occurs when an employee quits post of duty or fails to return to duty after end of authorized leave. The overseas establishments should jointly establish a period of time to permit receipt of an explanation from the employee of such absence before taking separation action.

974.2-6 For Disappearance

Separation for disappearance occurs when an employee remains missing or has disappeared for 1 year, and it has been impossible during that time to obtain an official document as to death. The advice of the appropriate headquarters office should be sought regarding appropriate statutes of limitations, as to disposition of the employee's salary, lump-sum leave payment, or contributions to the Civil Service Retirement Fund.

974.2-7 For Military Service

Separation for military service occurs when an employee is called to active duty in the armed forces of a country other than the United States or when given leave of absence because of entering or recall to the U.S. Armed Forces. The heads of overseas establishments should jointly prescribe rules governing separation of employees entering the armed forces of another country. Good personnel practice would be to place the employee in a nonpay (furlough or LWOP) status, if feasible, rather than effect a separation action. FSN employees entering or recalled to U.S. military service are entitled to the benefits as provided in sections 741.4 and 742 for U.S. citizen employees.

974.2-8 For Disability

Separation for disability occurs when an employee is physically or mentally incapable of performing satisfactorily the duties required of employee's position. This type of separation normally applies to employees who are not covered under the provisions of the Civil Service Retirement and Disability System. However, it may apply to an employee who is covered under the System, but who is ineligible for disability retirement under it.

974.2-9 By Death

In cases of separation by death, Form SF-50, Notification of Personnel Action, should reflect the employee's separation from the service as of the close of business on the date of death.

974.3 Preparation of Separation Action

(See also 4 FAM 523.2.)

In all cases of separation, a Form SF-50, Notification of Personnel Action, is prepared and distributed in accordance with Exhibit 924.2c and the following supplemental instructions:

- a. Under the "Remarks" section on each separation action, enter:
 - (1) Date on which any advance notice of separation was given the employee.
 - (2) Amount of leave for which any lump-sum payment is authorized.
 - (3) Dollar equivalent of annual local currency salary at official rate.

974.3-1 Separation for Age

(See also 974.2-3.)

a. For employees separated under mission's rules on separation for age, the following guidelines for preparing the Form SF-50 should be closely adhered to:

- (1) The Nature of Action Code is "300."
- (2) The Nature of Action is "Retirement-Mandatory."
- (3) The "Remarks" section must include in addition to other applicable statements (see Exhibit 924.2c):

(a) The date on which advance notice of separation was given to the employee:

(b) A statement that "(insert employee's name) has reached the age and length of service required for retirement in (insert name of post or country) in accordance with the mandatory separation for age established by this mission's separation for age policy document."

b. In addition, a copy of the advance notice of separation letter (see Exhibit 974.2-3) and c copy of the mission's Separation for Age Policy Document should be securely attached to the SF-2806, "Individual Retirement Record."

974.4 Retirement Certificate

a. State/USIA

The heads of overseas establishments may adopt the practice of presenting a certificate to FSN employees upon their retirement from the Service. A sample certificate is shown in Exhibit 974.4. The certificate may be modified as deemed appropriate.

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b. Special Provisions Applicable to AID

All retiring FSN employees upon meeting voluntary or involuntary retirement eligibility requirements will be entitled to receive a retirement certificate and a retirement plaque.

Eligibility is not restricted to those retiring under the Civil Service Retirement and Disability System. Those who meet the years-of-service criteria for retirement under local insurance systems are also eligible. For those employees not covered by retirement insurance of any kind, missions will apply the years-of-service criteria for either the CSR or local system. Missions with no retirement plan in effect will apply the local-practice rule in determining years of service for retirement eligibility.

(1) Certificate

See Exhibit 974.4.

(2) Plaque Procurement

See Handbook 30, Separations and Disciplinary Actions.

975 REEMPLOYMENT OF FSN'S

975.1 Policy

A former FSN employee may be reemployed at the discretion of the head of the overseas establishment provided funds are available and local complement ceilings and other applicable regulations and laws are observed. This includes reemployment of an FSN who was separated upon expiration of a short term of employment. Normally, persons separated for cause or disqualification are not reemployed.

975.2 Reemployment of Annuitants

A person who receives a retirement annuity prescribed by U.S. law (for example, CSR, U.S. uniformed services, etc.) may be reemployed as an annuitant under the provisions of the U.S. law under which retirement benefits are received.

Reemployment of a CSR or U.S. uniformed services annuitant as an FSN may require reduction or suspension of the

annuity or rate of compensation at which employed. Therefore, posts should seek guidance from Washington headquarters before offering re-appointment to such an annuitant.

Post's request for guidance should include, but not be limited to: Applicant's full name (including all names used during previous employment or service), date of birth, U.S. Social Security number or other number of identity, retirement claim number, reason for retirement, and details of proposed employment such as rate of compensation and work schedule. For former members of U.S. uniformed services, show military rank, dates of service, branch of service, and indicate whether regular or reserve service.

Washington headquarters guidance will include effect of proposed appointment on annuity, whether candidate needs a special medical examination, how to document the re-appointment and separation action on the SF-50, whether candidate would be subject to pay limitation and required notice(s) by post to annuitant's retirement system.

A person who receives a retirement annuity from a source other than directly from the U.S. Government may be reemployed under any applicable provisions of the authority which provides the annuity.

976 CLAIMS FOR PRIVATE PERSONAL PROPERTY LOSSES

The regulations and procedures under 6 FAM 310, Claims for Private Personal Property Losses, apply also to FSN employees.

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SPECIAL CASES

Although the majority of the location citations follow the pattern described previously, there are these exceptions:

- o In some of the Handbooks, a majority of the text is reprinted from the Foreign Affairs Manual (FAM). All FAM citations are marked by a '#' sign before the section number.
- o A major portion of Handbook 14 is composed of the Federal Acquisition Regulation (FAR). All citations to this publication are cited as 14:FAR(section number).
- o Three Handbook supplements that are basically separate volumes are cited as, 1B: (Procurement Policy), 3A: and 3B: (Project Managers Guidebook).
- o In Handbooks which contain both Parts as well as Chapters, the Roman numeral Part number is separated from the Arabic Chapter number by a dash (-). For example: 21:I-2A8, a citation to Chapter 2 of Part I of Handbook 21.

CROSS REFERENCES

These references provide direction for selection of index terms:-

A 'see' reference points from an unused term to the one that is used.

'x' is the reverse of see (do not bother to look) and provides a guide to terms that are not used in the index.

'see also' points to terms that are closely related.

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