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Continuity of Work Considerations for Cooperating Country National Personal Services Contracts with Individuals (CCNPSCs) During Mission/Post Emergencies

An Additional Help for ADS 309

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I. PURPOSE:

Emergencies impacting normal operations at Missions can occur at any time, with or without warning. This document provides guidance to Contracting Officers (COs), including warranted Executive Officers (EXOs), on the continuation of work for current or former Cooperating Country National Personal Services Contractors (CCNPSCs) in such emergency situations.

II. GUIDANCE:

When an emergency occurs, safety of personnel is paramount. Examples of emergencies that can impact normal operations at Missions include political and civil unrest, armed conflict between factions or nations, natural disasters, and unexpected halts in funding or programming, among others.

For emergencies that directly threaten the lives or safety of USAID personnel, including all types of PSCs, COs should refer to their Mission-specific Emergency Action Plan (EAP) (see [ADS 530, Emergency Planning Overseas](#) and [ADS 531, Continuity of Operations Program](#)), execute an immediate action plan in close coordination with the Mission, and direct their CCNPSCs accordingly. After safeguarding measures are complete and personnel are accounted for and in safe locations, the Mission Director determines if normal operations can resume at the primary worksite or if contingency plans for continuing services at an alternate worksite are necessary.

If the Mission Director decides to continue CCNPSC services, the CO may choose from a variety of contingency options, which vary by applicable statutory and regulatory authorities and Agency policies. The authorizing statutes for CCNPSCs, primarily the Foreign Assistance Act (FAA) section 636(a)(3) ([22 USC 2396](#)), [AIDAR Appendix J](#), and [ADS 309](#) govern how to contract and administer CCNPSCs, including during emergency situations. The Department of State (State) Foreign Affairs Manual (FAM) as applicable to posts abroad may also govern some options for USAID's CCNPSCs.

In consultation with the Mission Director, the CO should keep the following in mind for the continuity of CCNPSC staffing during or after a crisis at the Mission/post:

1. The level of staffing required to mitigate disruption of operations consistent with continuity and contingency planning (see [ADS 531](#)).
2. The need for Chief of Mission (COM) approval if working in a different country from the place of performance.
3. Logistical considerations for CCNPSCs.
4. As explained below, if a former CCNPSC becomes a Third Country National Personal Services Contractor (TCNPSC) at a different post, the CO must follow AIDAR Appendix J and its requirements, including use of the Local

Compensation Plan (LCP) for the new contract. Otherwise, Mission Director approval is required under the exception for other compensation not subject to the LCP (see [Appendix J](#), Section 4, paragraph (c)(2)(ii) (B) for guidance on this requirement).

5. The CO must consider the competition requirements for a former CCNPSC under a new PSC contract (any type), and the proper application of the statutory authority for other than full and open competition under AIDAR 706.302-70 (see [ADS 309mad](#) for guidance on this mandatory requirement).

III. OPTIONS FOR CCNPSCs DISPLACED BY AN EMERGENCY:

A. PLACEMENT ON ADMINISTRATIVE LEAVE WITH PAY (EXCUSED ABSENCE)

In accordance with [AIDAR Appendix J](#) and application of the LCP, CCNPSCs are entitled to all administrative leave granted by the Mission to Locally Employed (LE) staff, and in accordance with the terms of their contract. As may apply to Mission LE staff, and if in accordance with the terms of the contract, the Mission can authorize the CCNPSC to be absent from work with pay due to an emergency.

B. SITUATIONAL TELEWORK

[ADS 309man, Telework and Remote Work Policy for PSCs](#) does not apply to CCNPSCs and TCNPSCs subject to the LCP. However, ADS 309man does stipulate that any telework options for those two categories of PSCs are governed by the applicable LCP, Mission, and COM policies for LE staff telework, based on local labor law and other considerations, to the extent that it is within the terms and conditions of the contract. During a Mission or post crisis, the precise location and related details about where the contractor may be allowed to telework on a temporary basis depends on the facts and circumstances of each case, including approval from State, if required.

If the CCNPSC is working for more than 90 days at a place other than their contract's place of performance, refer to post policies to determine if consultation with the CO, EXO, and the Office of General Counsel (GC) or the cognizant Resident Legal Officer (RLO) is required.

C. TEMPORARY DUTY (TDY) ASSIGNMENT

If appropriate during emergencies at Missions/posts abroad, Mission Directors may authorize TDY assignments for a CCNPSC that are in line with [AIDAR Appendix J](#) travel requirements, the CCNPSC's contract terms and conditions, and Agency policies in [ADS 522, Performance of Temporary Duty Travel in the U.S. and Abroad](#). Per [ADS 522.2](#), authority to administer official travel programs and to authorize travel may be re-delegated to EXOs or, where EXOs are not present, to other management staff at post.

The EXO and Mission management should consult with their RLO, the Office of General Counsel, Division for Acquisition and Assistance (GC/A&A), and Assistant General Counsel for Ethics and Administration (GC/EA) prior to authorizing TDY assignments for CCNPSCs when emergencies at post arise to help ensure consistency with Agency policy requirements, CCNPSC contract requirements (e.g., scope of work/duties), and other legal requirements (e.g., local law), that may need to be taken into consideration.

D. FELLOWSHIP PROGRAM FOR CCNPSC ONLY

- i. For CCNPSCs, Missions may use the fellowship program per [ADS 309.3.3.1](#), which references the requirements of [ADS 495](#) and [495maa, Foreign Service National Fellowship Program](#), as appropriate, during emergencies at Missions/posts abroad.
- ii. CCNPSCs remain under their home Mission contract, however, the host Bureau/Independent Office (B/IO) or Mission funds each rotational assignment. For example, a USAID/Senegal program-funded CCNPSC Health Officer could perform work for the USAID/Washington Bureau for Global Health under the fellowship program during the time when their home Mission is in crisis.
- iii. The CCNPSC's duties during the fellowship must be within the general scope of the CCNPSC's home Mission contract in accordance with [ADS 495maa](#).

E. NEW PSC CONTRACT

1. FORMER CCNPSC TO A NEW CCNPSC CONTRACT AT A DIFFERENT MISSION/POST

When a CCNPSC relocates to a new USAID post country, they may be eligible for a new CCNPSC position in that country as follows:

- i. A bona fide Agency need for services at the new post.
- ii. Publicizing and Competition: COs must follow the FAR and AIDAR, including the [2023 class justification and approval \(J&A\)](#) for CCNPSC position competition. If other than full and open competition outside the scope of the class J&A is needed, a J&A is required in accordance with [AIDAR 706.302-70](#). An Expedited Procedures Package (EPP) may also include an applicable J&A (see [ADS 302mbo](#) for more information).
- iii. When a former CCNPSC relocates to a neighboring country and possesses or will obtain citizenship or legal residence status, the individual may be considered for that country's host Mission CCNPSC positions. Such positions are paid under the LCP in accordance with [Appendix J](#).

- iv. The relocating CCNPSC from a prior post is responsible for resolving any immigration status, work permits, housing, and other logistics in accordance with the terms of their contract and the LCP.

2. FORMER CCNPSC TO A NEW TCNPSC

After a former CCNPSC relocates to the new USAID post country, they may be considered for a TCNPSC position at the new post, subject to meeting the definition of a TCNPSC under Appendix J for the new post (i.e. they are not, and do not intend to soon become, a citizen or legal permanent resident of the new post country, and are expected to be repatriated to their home country at the end of the TCNPSC contract with the new post).

- i. According to [ADS 309](#), to solicit for a TCNPSC position, the Requesting Office and CO must address the USAID PSC order of preference policy in [ADS 309.3.1.4.d](#) to address why the TCNPSC position type is appropriate.
- ii. All TCNPSC contracts are governed by AIDAR Appendix J. Any potential changes to Appendix J provisions for relocation expenses or other travel expense-related matters require deviation approvals per AIDAR 701.402.
- iii. Requirements for competition depend on whether the new TCNPSC position is classified on or off the LCP, as described below. An EPP may also include an applicable J&A (see [ADS 302mbo](#)).

a) New TCNPSC position classified on LCP

- (1) Compensation is on the new receiving host Mission/post LCP;
- (2) Limited competition using the class J&A for TCNPSCs under AIDAR 706.302-70 in [ADS 309mad](#); or
- (3) By a situation-specific individual or class J&A, following the guidance in [ADS 309mad](#).

b) New TCNPSC position classified off the LCP

- (1) Requires approval under the Appendix J exception (sec. 4(c)(2)(ii)(B)), by the Mission Director of the new cooperating country. Only after obtaining approval may specific compensation and benefits be adopted as enumerated in [Appendix J](#).
- (2) Competition is full and open by default, as priority must be given to United States Personal Services Contractors (USPSC) positions in accordance with [ADS 309.3.1.4.d](#).

- (3) Limited competition requires a situation-specific individual or class J&A, addressing the practicality of soliciting other sources under the circumstances as required under AIDAR 706.302-70 (see the guidance and requirements in [ADS 309mad](#)).

3. FORMER CCNPSC TO A NEW USPSC POSITION IN THE UNITED STATES OR ABROAD

- i. A former CCNPSC who relocates to the United States may be eligible for a new USPSC position if they are a U.S. national (i.e. dual citizen), Special Immigrant (SIV), or other legal permanent resident visa holder.
- ii. If another PSC procurement statutory authority other than FAA, section 636(a)(3) applies, then the USPSC position could be based in the United States. The CO must be certain to identify the applicable statutory authority for the new USPSC position in accordance with [FAR 37.104](#), [AIDAR Appendix D](#), and [ADS 309](#).
- iii. Competition, solicitation, and award are all subject to [AIDAR Appendix D](#) requirements, as described in [ADS 309mad](#). Per the Competition in Contracting Act (CICA), full and open competition is required by default.
- iv. Limited competition requires a situation-specific individual J&A or class J&A following the guidance in [ADS 309mad](#). An EPP may also include an applicable J&A (see [ADS 302mbo](#)).
- v. Compensation and benefits must correspond to the type of USPSC for the new position (i.e. ex-patriate or “off-shore,” versus United States based versus Resident Hire) in accordance with [AIDAR Appendix D, sec. 4](#), and [ADS 309.3.2.3](#)).

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