

August 10, 1999

MEMORANDUM FOR CONTRACTING OFFICERS AND NEGOTIATORS

TO: Distribution List FAC

FROM: Rodney W. Johnson, Director, M/OP

SUBJECT: USPSCS: Changes to AIDAR Concerning Resident Hires
and Deviations

CONTRACT INFORMATION BULLETIN (CIB) 99-15

The purpose of this CIB is to promote more standardized contracts with USPSCs which we hope will make it easier to award and administer such transactions. USPSCs should be treated equitably and consistently, and deviations from standard policies should be approved only in rare and unusual situations. Towards this end, we are making some changes in policy to eliminate the flexibility that has existed in determining who receives the benefits of an off-shore hire PSC and who receives only resident hire benefits. Under the new policy more people are excluded from the resident hire category by definition; their status will not be based on a determination by the Contracting Officer or the Mission Director. In addition, we are changing the procedure for deviations.

Briefly, this CIB makes the following changes in the AIDAR:

1. Revises the definition of a Resident Hire USPSC in Appendix D to reduce the class of people that will be considered resident hires;
2. Revises Section 4(d) in Appendix D to eliminate Contracting officer and Mission Director discretion in providing benefits and allowances to Resident Hire Personal Services Contractors; and
3. Changes the procedures for requesting deviations from Appendix D.

1. Effective immediately, for all new US personal services contracts, the definition of a Resident Hire USPSC is revised.

Section 1, paragraph (b) (5) is revised as follows:

"Resident Hire means a U.S. citizen who, at the time of hire as a PSC, resides in the cooperating country:

(i) as a spouse or dependent of a U.S. citizen employed:
(A) by a U.S. government agency; or (B) under any U.S. government-financed contract or agreement; or (C) under any other contract or agreement that provides for repatriation to the United States; or

(ii) for reasons other than employment: (A) with a U.S. government agency; or (B) under any U.S. government financed contract or agreements; or (C) under any other contract or employment arrangement that provides for repatriation to the United States

A U.S. citizen for purposes of this definition also includes persons who at the time of contracting are lawfully admitted permanent residents of the United States."

Section 12, General Provision 1, "Definitions", paragraph (p) is revised as follows:

"Resident Hire means a U.S. citizen who, at the time of hire as a PSC, resides in the cooperating country:

(i) as a spouse or dependent of a U.S. citizen employed: (A) by a U.S. government agency; or (B) under any U.S. government-financed contract or agreement; or (C) under any other contract or agreement that provides for repatriation to the United States; or

(ii) for reasons other than employment: (A) with a U.S. government agency; or (B) under any U.S. government-financed contract or agreements; or (C) under any other contract or employment arrangement that provides for repatriation to the United States;

A U.S. citizen for purposes of this definition also includes persons who at the time of contracting are lawfully admitted permanent residents of the United States."

2. Section 4, paragraph (d) of Appendix D defines the benefits and allowances to which a Resident Hire USPSC is entitled. It also defines under what circumstances a Resident Hire USPSC can receive the benefits and allowances normally reserved for US direct hires and USPSCs hired from the United States to work overseas.

Effective immediately, for the purpose of all new Resident Hire personal services contracts, Section 4, paragraph (d) shall be revised and applied as follows:

"U.S. resident-hire PSCs are not eligible for any fringe benefits (except contributions for FICA, health insurance, and life insurance), including differentials and allowances."

Neither the Contracting Officer nor the Mission Director shall have the discretion to provide any additional benefits and allowances without M/OP/Pls clearance of a request for deviation.

3. Section 701.4 of the AIDAR provides the processes for requesting a single deviation and a class deviation from the AIDAR. As part of those processes, and prior to submission to the approving authority, a requesting office must submit a copy of the request for deviation to M/OP/P for comments, which are to be submitted with the deviation request to the approving authority. Effective immediately, requests for deviation from Appendix D must be submitted to M/OP/P for clearance rather than just for comments.

We plan to amend Appendix D to incorporate these changes as soon as possible.

Questions about this CIB may be directed to Tom M. Henson or Linh Lam, M/OP/P.