

Major Function Series 400: PERSONNEL
ADS Chapter 495 - Foreign Service National Personnel Administration

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495.1 Authority

1. 22 U.S.C. Section 2396 (a)(3)
2. 22 U.S.C. Sections 3922 and 3968(b)
3. 22 U.S.C. Section 2365 Foreign Affairs Manual (FAM), Volume 3, Section 7000
4. USAID Acquisition Regulation (AIDAR), Appendix J
5. Foreign Service Act of 1980 (the ACT)
6. Federal Acquisition Regulations (FAR)

495.2 Objective

This chapter provides the Agency's regulations for the administration of Foreign Service National and Third Country National direct hire (FSNDH/TCNDH) and personal services contract (FSNPSC/TCNPSC) employees.

495.3 Responsibility

1. USAID Executive Officers (EXOs) are responsible for:
 - a. Administering Foreign Service National (FSN) personnel operations in their respective Missions; and
 - b. Providing relevant materials, advice, and guidance to help supervisors/team leaders perform their position management responsibilities.
2. The Bureau for Management, Office of Human Resources, Policy, Planning and Information Management Division, Policy and Planning Branch (M/HR/PPIM/P) is responsible for formulating and recommending USAID personnel policy regarding Foreign Service National and Third Country National Direct Hire (FSNDH/TCNDH) employees, and collaborating with the Bureau for Management, Office of Procurement, Policy Division (M/OP/P) in the development of personnel policies concerning FSN Personal Services Contractors (PSCs) and TCNPSCs.
3. The Bureau for Management, Office of Human Resources, Personnel Operations Division, Counseling, Recruitment, and Foreign Service National Operations Branch (M/HR/POD/CRF) is responsible for providing support to Missions on FSN and TCN operational issues.

4. The Bureau for Management, Office of Human Resources, Personnel Operations Division, Position Management and Classification Branch (M/HR/POD/PMC) is responsible for managing the USAID FSN position classification and compensation program.

5. The Bureau for Management, Office of Procurement, Policy Division (M/OP/P) is responsible for developing policy, and providing advice and assistance on matters concerning contracting for FSN and Third Country National (TCN) Personal Services Contractors.

6. The Bureau for Management, Office of Administrative Services, Overseas Management Support Staff (M/AS/OMS) is responsible for providing advice and recommendations on matters concerning equity among the various FSN labor categories.

7. The supervisor/team leader is responsible for:

- a. Structuring organizations and positions within the office/team to accomplish mission objectives efficiently and effectively;
- b. Creating and continuing only those positions for which there is a valid need based upon goals and objectives, workload, and funding;
- c. Adding, removing or changing the duties and responsibilities, type of work, and/or level of complexity assigned to an Foreign Service National (FSN) position at anytime;
- d. Ensuring that FSN position descriptions adequately and accurately reflect currently assigned duties and responsibilities;
- e. Conscientiously evaluating employees' performance and potential;
- f. Motivating employees by example, encouragement, and recognition, when warranted;
- g. Exercising discipline when necessary;
- h. Counseling employees on such issues as career potential, training opportunities, and career development plans;
- i. Resolving employee complaints before they become formal grievances; and

- j. Making individual personnel decisions such as recommendations for assignment and training.
8. The employee is responsible for:
- a. Performing duties in a satisfactory manner;
 - b. Avoiding the appearance or actual conflicts of interest that cast doubt on the integrity of the employee's official acts; and
 - c. Making known any concerns and interests on personnel issues and practices through the channels provided for such expression, including through recognized employee organizations.

495.4 Definitions (See GLOSSARY [Word](#) | [PDF](#) | [HTML](#))

COOPERATING COUNTRY
COOPERATING COUNTRY NATIONAL
EMPLOYER-EMPLOYEE RELATIONSHIP
FOREIGN SERVICE NATIONAL DIRECT HIRE (FSNDH)
FOREIGN SERVICE NATIONAL PERSONAL SERVICES CONTRACTOR (FSNPSC)
HEAD OF OVERSEAS ESTABLISHMENT
HOST COUNTRY
LOCAL COMPENSATION PLAN
POSITION CLASSIFICATION
THIRD COUNTRY NATIONAL (TCN)

495.5 POLICY

The following are the official Agency policies and corresponding essential procedures:

495.5.1 RECRUITMENT

a) The Personal Services Contract (PSC) shall be the only mechanism used to recruit for Foreign Service National (FSN) positions. As FSN Direct Hires (FSNDHs) separate, either through retirement or for other reasons, the positions, if retained, shall be converted to FSN Personal Services Contractor (FSNPSC) positions. If an FSNDH employee applies for and is selected to fill an FSNPSC vacancy, the employee must agree to accept a PSC. Only FSNDH employees who are covered by the U.S. Civil Service Retirement System (CSRS) shall be allowed to retain their direct hire status when moving to a new position.

- b) Agency recruitment for FSNPSC positions shall be conducted in accordance with the USAID Acquisition Regulations (AIDAR) (**See Mandatory Reference, [AIDAR, Appendix J, Section 5](#)**).
- c) FSNPSCs shall be compensated and administered in a manner consistent with the treatment of FSNDH employees in accordance with the AIDAR, Appendix J (**See Mandatory Reference, [AIDAR, Appendix J, Section 4, paragraph \(c\)](#)**).

E495.5.1 Recruitment - N/A

495.5.2 CONDITIONS OF EMPLOYMENT AND PROHIBITIONS

Employment processing of Foreign Service National Personal Services Contractors (FSNPSCs) and Third Country National Personal Services Contractors (TCNPSCs), as well as Foreign Service National Direct Hires (FSNDHs) with CSRS status who transfer from another USAID Mission and retain their direct hire status, must be conducted in accordance with the AIDAR, Appendix J and 3 FAM 7000. (**See Mandatory References, [AIDAR, Appendix J](#), and [3 FAM 7000](#)**)

The policy and procedures that apply to FSNDHs as outlined in 3 FAM 7000 sub-sections also apply to FSNPSCs and TCNPSCs who are paid under the local compensation plan, unless otherwise noted.

- a) USAID Missions must obtain medical and security clearances on prospective FSN employees prior to their employment. Subsequent medical examinations are required of FSNs and TCNs, both direct hires and personal services contractors, at any time the Mission determines it necessary (**See Mandatory References, [AIDAR, Appendix J, Section 7 paras \(i\)\(1\) and \(3\)](#) and [3 FAM 7131, 7132, and 7222](#)**);
- b) USAID Missions shall insure that prospective employees receive and understand the USAID Standards of Conduct and that they have met the Agency's conflict of interest requirements prior to reporting to duty (**See Mandatory References, [AIDAR, Appendix J, Section 7 paras \(l\) and \(m\)](#) and [Section 12 Clause 2 para \(c\)](#) and [3 FAM 7224.1](#)**);
- c) USAID Missions must deduct and withhold Social Security from employees' salaries as required by local law (**See Mandatory References, [AIDAR, Appendix J, Section 12 Clause 7](#) and [State telegrams 1997 127905](#) and [1996 215670, Paragraph 9](#)**);
- d) USAID Missions are not permitted to withhold host country taxes from employees' salaries, except where such action is approved by the

State Department (**See Mandatory References, [3 FAM 7224.2-1 and 7371](#) and State telegram 1997 [127905](#)**);

e) FSNs and TCNs, both direct hires and personal services contractors, are not permitted to perform the duties as outlined in ADS 103.5.1a, except as specifically permitted through the waiver process (**See [ADS 103.5.1a](#)**);

f) FSN and TCN employees, both personal services contractors and direct hires, are not permitted access to classified material or material containing loyalty or security information, except in the limited circumstances as specified in USAID Handbook 6 (**See Mandatory Reference, [USAID Handbook 6, Chapter 5, Section 5G6.b.](#)**); and

g) FSN and TCN employees, both personal services contractors and direct hires, are prohibited from striking against the U.S. Government. Such participation is grounds for immediate dismissal (**See Mandatory Reference, [3 FAM 7224.2-5](#)**).

E495.5.2 Recruitment - N/A

495.5.3 TYPES OF EMPLOYMENT

a) The Agency shall adhere to the policies and essential procedures regarding Foreign Service National Direct Hire (FSNDH) employment and personnel actions as stated in 3 FAM 7231 and 7240 (**See Mandatory Reference, [3 FAM 7231 and 7240](#)**).

b) The negotiation, execution, and administration of FSN personal services contracts (FSNPSCs) must be conducted in accordance with the AIDAR, Appendix J (**See Mandatory References, [AIDAR, Appendix J, Sections 4, 5, 6 and 7](#) and [3 FAM 7260](#)**).

c) The Agency shall adhere to the policies and essential procedures pertaining to the administration and compensation of Third Country National Direct Hires (TCNDHs) as stated in 3 FAM 7270 (**See Mandatory Reference, [3 FAM 7270](#)**).

TCNPSCs paid under the local compensation plan must be compensated and administered in accordance with the AIDAR, Appendix J (**See Mandatory Reference, [AIDAR, Appendix J](#)**).

TCNPSC positions are established only when qualified nationals of the cooperating country are not available, and the press of Agency business does not allow sufficient time to train a citizen of the cooperating country. Program efficiencies and policy objectives also shall dictate the

recruitment of a TCN. In all cases, the establishment of a TCN position shall be temporary in nature.

Non-U.S. citizen expatriates who are resident in a cooperating country and who are recruited locally to work in USAID Missions are not considered TCNs because they are not eligible for return travel to their country of origin at USG expense. Missions shall use, to the extent practicable, the local FSN compensation and benefit plan when employing resident non-U.S. citizens, unless the Mission Director determines, in writing, an exception is appropriate.

d) Guidance on issues concerning the termination of employment of FSN and TCN employees, both personal services contractors and direct hires, who obtain U.S. citizenship shall be sought from M/OP/P and M/HR/PPIM/P.

E495.5.3 Types of Employment - N/A

495.5.4 ASSIGNMENTS, TRANSFERS, AND DETAILS

The Agency shall adhere to the policies and essential procedures regarding FSNDH assignments, transfers and details as stated in 3 FAM 7250 (**See Mandatory Reference, [3 FAM 7250](#)**).

Reassignments and details of Foreign Service National Personal Services Contractors (FSNPSCs) and Third Country National Personal Services Contractors (TCNPSCs) paid under the local compensation plan shall be effected through contract modifications. Transfers of FSNPSCs and TCNPSCs are prohibited.

Temporary duty (TDY) travel assignments directly related to the duties specified in employees' contracts are permitted in accordance with the AIDAR, Section 12 Clause 9 (**See Mandatory Reference, [AIDAR, Section 12 Clause 9](#)**).

E495.5.4 Assignments, Transfers, and Details

The Contracting Officer shall negotiate any reassignment or detail with the Foreign Service National (FSNPSC) or Third Country National (TCNPSC) employee in accordance with the Federal Acquisition Regulation (FAR), Part 43 (**See Mandatory Reference, [FAR, Part 43](#)**).

495.5.5 DELEGATIONS OF AUTHORITY FOR FOREIGN SERVICE NATIONAL (FSN) AND THIRD COUNTRY NATIONAL (TCN) EMPLOYEES

It is the policy of USAID to encourage FSNs and TCNs, both direct hire and personal service contractor, to assume as much professional responsibility as they are capable of handling in accordance with the Assistant Administrator for the Management Bureau (AA/M) delegation of authority to FSN and TCN employees outlined in ADS 103.5.1a. When the abilities of individuals and the needs of the Agency dictate granting additional authorities and responsibilities to employees, USAID Missions must submit to the AA/M requests for specific waivers of the FSN and TCN restrictions. (See [ADS 103.5.1a](#))

E495.5.5 Delegations of Authority for Foreign Service National (FSN) and Third Country National (TCN) Employees - N/A

495.5.6 COMPENSATION

The Agency shall adhere to the policies and essential procedures pertaining to Foreign Service National (FSN) compensation as stated in the following regulations. The policy and procedures that apply to FSN Direct Hires (DHs) as outlined in 3 FAM 7300 sub-sections also apply to Foreign Service National Personal Services Contractors (FSNPSCs) and Third Country National Personal Services Contractors (TCNPSCs) who are paid under the local compensation plan, unless otherwise noted:

- a) FSN Compensation: **See Mandatory References, [3 FAM 7310 and 7320](#);**

In addition, for FSNPSCs and TCNPSCs: **See Mandatory Reference, [AIDAR, Appendix J, Section 4\(c\) paragraph \(2\)](#);**

- b) FSN Salary Payment: **See Mandatory Reference, [3 FAM 7330](#);**
- c) Direct Benefit Payments: **See Mandatory Reference, [3 FAM 7340](#);**
- d) Premium Compensation: **See Mandatory Reference, [3 FAM 7350](#);**
- e) Furnishing Names and Salary Payments at Request of Host Government: **See Mandatory Reference, [3 FAM 7360](#);** and
- f) Withholding Taxes: **See Mandatory Reference, [3 FAM 7370](#).**

(In addition, for FSNPSCs and TCNPSCs: **See also 495.5.2c**)

E495.5.6 Compensation - N/A

495.5.7 EMPLOYEE ATTENDANCE AND LEAVE

The Agency shall adhere to the policies and essential procedures pertaining to Foreign Service National (FSN) employee attendance and leave contained in the following regulations. The policy and procedures that apply to FSN Direct Hires (DHs) as outlined in 3 FAM 7400 sub-sections also apply to Foreign Service National Personal Services Contractors (FSNPSCs) and Third Country National Personal Services Contractors (TCNPSCs) who are paid under the local compensation plan, unless otherwise noted.

- a) Establishment of Workweeks: **See Mandatory Reference, [3 FAM 7410](#)**;

Workweeks for FSNPSCs and TCNPSCs: **See also Mandatory Reference, [AIDAR, Appendix J., Section 12 Clause 5](#)**;

- b) Time and Attendance Reports: **See Mandatory Reference, [3 FAM 7420](#)**;

Time and attendance for FSNPSCs and TCNPSCs: **See also Mandatory Reference, [AIDAR, Appendix J., Section 12 Clauses 5 and 10](#)**;

- c) Annual and Sick Leave: **See Mandatory Reference, [3 FAM 7430](#)**;

Annual and sick leave accrual and use for FSNPSCs and TCNPSCs: **See also Mandatory Reference, [AIDAR, Appendix J., Section 4, para. \(c\)\(2\)\(iii\) and Section 12 Clauses 6\(a\) and \(b\)](#)**;

- d) Holidays: **See Mandatory Reference, [3 FAM 7440](#)**;

Holiday leave for FSNPSCs and TCNPSCs: **See also Mandatory Reference, [AIDAR, Appendix J., Section 12 Clause 6 \(d\)](#)**;

- e) Excused Absences: **See Mandatory Reference, [3 FAM 7450](#)**;

All FSN and TCN excused absences are subject to the Post policy for granting excused absences;

- f) Leave Without Pay (LWOP): **See Mandatory Reference, [3 FAM 7460](#)**;

Leave Without Pay (LWOP) for FSNPSCs and TCNPSCs: **See also Mandatory Reference, [AIDAR, Appendix J, Section 12 Clause 6\(c\)](#)**;

g) Absence Without Leave (AWOL): **See Mandatory Reference, [3 FAM 7470](#)**; and

h) Leave Records: **See Mandatory Reference, 3 FAM 7480.**

E495.5. Employee Attendance and Leave - N/A

495.5.8 POSITION CLASSIFICATION AND PAY

The Agency shall adhere to the policies and essential procedures pertaining to Foreign Service National (FSN) position classification and pay as stated in the following regulations. The policy and procedures that apply to FSN Direct Hires (DHs) as outlined in the 3 FAM 7500 sub-sections also apply to Foreign Service National Personal Services Contractors (FSNPSCs) and Third Country National Personal Services Contractors (TCNPSCs) who are paid under the local compensation plan, unless otherwise noted:

a) FSN Position Classification and Position Management: **See Mandatory Reference, [3 FAM 7510](#)**;

Classification of FSNPSC and TCNPSC positions: **See also Mandatory Reference, [AIDAR, Appendix J, Section 5\(a\)\(4\) and Section 7 \(j\)](#)**;

b) Delegation of Authority: **See Mandatory Reference, [3 FAM 7520](#)**;

USAID Missions have classification authority for FSNPSC and TCNPSC positions, unless the Embassy and USAID Mission interagency agreement extends classification authority to the Embassy personnel or administrative officer. (**See Mandatory References, [3 FAM 7521.2c.\(2\) and 7523.1-1](#)**);

c) Position Classification and Management Evaluation: **See Mandatory Reference, [3 FAM 7530](#)**;

d) FSN Position Classification Appeals: **See Mandatory Reference, [3 FAM 7540](#)**;

e) Pay Administration: **See Mandatory Reference, [3 FAM 7550](#)**;

- f) General Policy and Authority: **See Mandatory Reference, [3 FAM 7560](#)** (NOTE: This paragraph applies solely to FSNDHs.);
- g) Promotions: **See Mandatory Reference, [3 FAM 7570](#)**;
- h) Within-Grade Increases: **See Mandatory Reference, [3 FAM 7580](#)**; and
- i) Downgradings: **See Mandatory Reference, [3 FAM 7590](#)** (NOTE: This paragraph applies solely to FSNDHs).

E495.5.8 Position Classification and Pay - N/A

495.5.9 EMPLOYEE PERFORMANCE EVALUATION, INCENTIVE AWARDS, AND TRAINING

The Agency shall adhere to the policies and essential procedures pertaining to Foreign Service National (FSN) employee performance evaluation, incentive awards, and training as stated in the following regulations. The policy and procedures that apply to FSN Direct Hires (DHs) as outlined in the 3 FAM 7600 sub-sections also apply to Foreign Service National Personal Services Contractors (FSNPSCs) and Third Country National Personal Services Contractors (TCNPSCs) who are paid under the local compensation plan, unless otherwise noted:

- a) Performance Evaluations: **See Mandatory Reference, [3 FAM 7610](#)**;

Missions shall administer and process all FSN and TCN (direct hire and personal services contractor) performance evaluations in accordance with the Post and/or Mission FSN Performance Evaluation policy and procedures;

- b) Incentive Awards: **See Mandatory References, [3 FAM 7620](#); [3 FAM 4800](#); and [ADS 491](#)**;

Incentive awards for FSNPSCs and TCNPSCs paid under the local compensation plan are administered under the post's Interagency Incentive Awards Program in accordance with 93 State 179035. (**See Mandatory References, [AIDAR, Appendix J., Section 4\(c\)\(3\)](#); [3 FAM 7261.6-2](#); and 93 State [179035](#)**);

Notwithstanding the language in Paragraph 4(c)(1) of AIDAR, Appendix J, FSNPSCs and TCNPSCs who are paid under the local

compensation plan are eligible for nomination for Meritorious Step Increases (MSIs) provided the granting of such increases is local prevailing practice. Employees shall not be nominated for more than one MSI within any 52-week period; and

- c) Training: **See Mandatory Reference, [3 FAM 7630](#)**;

Training applications for FSNPSCs and TCNPSCs: **See Mandatory References [AIDAR, Appendix J, Section 4\(c\) para \(4\)](#) and [3 FAM 7261.6-3](#)**.

E495.5.9 Employee Performance Evaluation, Incentive Awards, and Training - N/A

495.5.10 EMPLOYEE BENEFITS, DISCIPLINARY ACTIONS, SEPARATIONS, AND REEMPLOYMENT

The Agency shall adhere to the policies and essential procedures pertaining to Foreign Service National (FSN) employee benefits, disciplinary actions, separations, and reemployment as specified in the following regulations. The policy and procedures that apply to FSN Direct Hires (DHs) as outlined in the 3 FAM 7700 sub-sections also apply to Foreign Service National Personal Services Contractors (FSNPSCs) and Third Country National Personal Services Contractors (TCNPSCs) who are paid under the local compensation plan, unless otherwise noted.

- a) FSN Employee Benefits under U.S. Law: **See Mandatory References, [3 FAM 7710](#) and [3 FAM 7262](#)** (NOTE: 3 FAM 7711 applies solely to FSNDHs covered under the CSRS);

Retired FSNs and TCNs who are awarded personal services contracts shall not incur any reduction or offset against their Government annuity per the provision outlined in the AIDAR, Appendix J (**See Mandatory References, [AIDAR, Appendix J, Section 4\(c\) para \(2\)\(vii\)](#) and [3 FAM 7262](#)**);

- b) The Agency policies and procedures on the FSN and TCN Emergency Health and Accident Insurance Plan is contained in ADS 496 (**See [ADS 496](#)**);
- c) FSN employees (both direct hire and personal services contractor) are permitted to participate on Post FSN Employee Affairs Committees;
- d) Disciplinary Actions: **See Mandatory Reference, [3 FAM 7720](#)**;

- e) FSN and TCN Employee Separations: **See Mandatory Reference, [3 FAM 7730](#)**;

Termination of FSN and TCN personal services contracts: **See Mandatory Reference, [AIDAR, Appendix J, Section 12 Clauses 11 and 12](#)**; and

- f) Claims for Private Personal Property Losses: **See Mandatory References, [3 FAM 7750](#) and [6 FAM 311.3c](#)**.

4945.5.10 Employee Benefits, Disciplinary Actions, Separations, and Reemployment - N/A

495.5.11 PERSONNEL RECORDS MANAGEMENT AND REPORTING

- a) The official personnel records of all Foreign Service Nationals (FSNs) and Third Country Nationals (TCNs) (both direct hires and personal services contractors) shall be maintained at post and are the legal records of their employment.
- b) The official personnel records of all FSNs and TCNs (both direct hires and personal services contractors) must be disposed of in accordance with the Agency's records disposition policy and procedures contained in ADS References, Records Disposition, Section 6A and Appendix 6, Chapter 37 (**See Mandatory Reference, ADS References, [Records Disposition, Schedule for USAID Missions, Section 6A and Appendix 6B, Chapter 37, Personnel Records](#)**).
- c) Missions must submit staffing pattern data (MSPS) covering all Mission personnel to the Bureau for Management, Office of Human Resources, Policy, Planning and Information Management Division, Information Management Branch (M/HR/PPIM/IM) on a quarterly basis in accordance with guidance which is issued periodically by USAID/W. Missions must submit their MSPS reports to M/HR/PPIM/IM by no later than the 20th calendar day of each quarterly month (e.g., the fourth quarter report must be submitted to M/HR/PPIM/IM by not later than September 20).

E495.5.11 Personnel Records Management and Reporting - N/A

495.5.12 EMPLOYEE-MANAGEMENT RELATIONS

The Agency shall adhere to the policies and essential procedures regarding all Foreign Service National (FSN) employee-management

relations (both FSN and Third Country National (TCN) direct hires and personal services contractors) contained in 3 FAM 7290 (**See Mandatory Reference, [3 FAM 7290](#)**).

Grievances shall be handled in accordance with Post Grievance policy and procedures.

E495.5.12 Employee-Management Relations - N/A

495.6 Supplementary Reference - N/A

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