

Supplement 38C

U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT
SENIOR FOREIGN SERVICE
RECERTIFICATION PLAN

1. Purpose

This supplement to Chapter 38 provides the policies and procedures that govern Senior Foreign Service (SFS) Recertification. Recertification is a vehicle for ensuring that the performance of career SFS members demonstrates the excellence needed to meet the objectives set by the Foreign Service Act of 1980; that is, "a Senior Foreign Service which is characterized by strong policy formulation capabilities, outstanding executive leadership qualities, and highly developed functional, foreign language, and area expertise.

2. Authority

Career Senior Foreign Service (SFS) members in the Agency for International Development are subject to recertification, pursuant to Section 305 of the Foreign Service Act of 1980, as amended by Section 506 of the Ethics Reform Act of 1989 (Public Law 101-194, November 30, 1989).

3. Coverage and Applicability

a. This supplement applies to all SFS employees of AID. Generally, employees working in AID's Office of the Inspector General (IG) will be subject to recertification as outlined in this supplement. However, the IG has separate authority per the IG Act of 1978, as amended, to administer the Human Resources Development and Management function of that office.

b. SFS career employees who have been continuously employed in the SFS for 156 weeks preceding the end of the recertification period are subject to recertification. This period includes any service as an SFS noncareer or limited appointee as well as SFS service in another agency.

c. One or more breaks in SFS service of a total of 6 months or less do not interrupt the 156 weeks of continuous employment.

(1) For this purpose, "breaks in service" would include periods when the member was separated from the Senior Foreign Service (including Presidential appointments at Executive Level V or higher) or seconded to an

international agency with reemployment rights in the SFS.

(2) Among periods which would not be considered a break in SFS service are: sabbaticals, training, details to other federal agencies, details to state and local governments or private organizations while still remaining on the federal payroll, or service with the American Institute of Taiwan or Multi-National Observers.

d. SFS career appointees who are on extended detail or absence from their positions at the time of recertification will generally be subject to recertification, so long as they were in career SFS status at the end of the recertification period and meet the 156 week length of service requirement.

e. This recertification plan does not apply to SFS noncareer, SFS limited appointees, or former SFS career appointees who are on Presidential appointments with Senate confirmation at Executive Level V or higher regardless or whether they elected to retain SFS benefits. However, performance while serving on such appointments may be taken into consideration in recertification.

4. Relationship to Annual Performance Appraisal Process

a. Recertification complements other AID personnel programs mandated by the Foreign Service Act of 1980 which also seek to ensure excellence in the Senior Foreign Service. To the extent possible, recertification procedures will parallel those for other SFS personnel actions.

b. Recertification strengthens the AID regular reviews of executive excellence. Unlike Limited Career Extensions and promotions, decisions on recertification are made irrespective of workforce planning concerns--i.e., the predictable flow through the ranks sought by the FS Act. There may not be a prescribed distribution of how many or what percentage of executives will be recertified, conditionally recertified, or not recertified.

c. A member who has been recertified remains subject to retirement for expiration of time-in-class. Recertification does not preclude any personnel action based on the decisions of the Senior Foreign Service Consolidated Selection Board in subsequent years.

5. Recertification Period

a. The initial recertification period ended on March 31, 1991, which is the end of the annual performance appraisal

period. Subsequent recertification shall take place every third calendar year thereafter, with the end of the annual performance appraisal period continuing to serve as the end of the 156-week employment period for calculating recertification eligibility.

b. An individual who transfers to AID after having been recertified as an SFS member by another agency within the same calendar year, is not subject to recertification in AID.

c. An individual who transfers from another agency without having been recertified as an SFS member in the same calendar year is subject to recertification in AID. The Office of Human Resources Development and Management (FA/HRDM), will request the required performance appraisals and other relevant information from the previous agency.

6. Standard for Recertification

a. To be recertified, members of the Senior Foreign Service must have performed at the level of excellence expected of a senior executive during the recertification period in the following areas:

(1) Planning for, substantially advancing, and attaining presidential, agency, or organizational goals and objectives that required a sustained superior effort;

(2) Taking specific initiatives that advanced a major policy and/or significantly improved delivery of services;

(3) Taking the necessary actions to ensure the achievement of a quality product in a timely manner; and

(4) Making significant technical, scientific, or professional contributions.

b. Also, if applicable to the responsibilities of the senior executive, excellence is demonstrated by:

(1) Achieving substantial savings in the execution of programs under his or her direction;

(2) Maintaining the high quality and effectiveness of a program under his or her direction with reduced resources;

(3) Providing strong leadership to enhance the development, utilization and achievements of subordinate personnel, including achievement of equal employment opportunity goals; and/or

(4) Superior Accomplishment in long-term training.

7. Recertification Recommendation and Determination Procedures

a. Because of the mobility of the Senior Foreign Service, few supervisors are able to recommend certification based on three years' performance, as intended by the Ethics Reform Act. Thus, the annual Consolidated Selection Board (C Board) meeting in the year of recertification will make the recommendation. The Board will make its recommendation based on all the material in the SFS member's official performance file, including the annual recommendations of the supervisor(s), related to performance during the previous three rating

years and whatever additional materials the member may submit. These procedures will be incorporated in the C Board precepts and will be subject to the general procedures governing the Board.

(1) The Standards for Recertification will be incorporated in the instructions for the Foreign Service EER form.

(2) Rating officials will be urged to keep these criteria in mind as they set annual work requirements and draft the narrative portions of each member's EER. In addition, rating officials will check a box on the EER form each time that a rating is prepared, specifically recommending whether the rated officer should be recertified as a senior executive.

(3) SFS members may submit materials in support of their recertification, in addition to any comments in the rated officer's portion of the EERs. These materials will become part of the performance file and are subject to provisions on "inadmissible comments."

b. The C Board, after completing its deliberations on recertification, will forward the following to the Director of Human Resources Development and Management:

(1) a list of those SFS members it recommends for recertification;

(2) a list of those SFS members it recommends for conditional recertification;

(3) a list of those SFS members it recommends not be recertified; and

(4) a recertification form for each member indicating the action recommended, and signed by the Board Chairperson and each member.

In addition, the Board will prepare a written

justification for each SFS member in (2) and (3) above, specifying those aspects of the standards for recertification that have not been met, citing examples and, as appropriate, quoting from the performance record. This justification will not only provide a basis for the member's response and the Agency's final decision, but will serve as a guide to performance improvement for those conditionally recertified.

c. Impact on Other Selection Board Recommendations

When the C Board recommends that a member be conditionally recertified it may not recommend the member for promotion, a Limited Career Extension, a Performance Award or a Presidential Award and should consider low-ranking the member. Normally, the Board should also recommend either that such a member's next ES pay level increase be denied or that the member's pay be reduced by one level within the same class.

8. Decisions on C Board Recommendations

The Director of Human Resources Development and Management has the delegated authority to make final decisions on behalf of the Agency. Hereafter, the Director of Human Resources Development and Management is referred to as the Deciding Official.

a. Decisions to Recertify

(1) The Deciding Official will normally accept and implement - on behalf of the Administrator - a C Board recommendation to recertify an SFS member. The Deciding Official will sign the recertification form, and the member will remain in the SFS.

(2) However, the Deciding Official may return a recommendation to the Panel and defer a final decision pending resolution of any questions on conformity with regulations or precepts. The Deciding Official may also defer a final decision if the employee is subject to an ongoing investigation or adverse action involving issues of loyalty, security, misconduct, or malfeasance. If the reason for any deferral is resolved in favor of the SFS member or if any disciplinary action taken falls short of removal, the Deciding Official will make the final decision on recertification retroactive to the effective date of the list from which the member's name was initially excluded.

b. Decisions to Conditionally Recertify or Not to Recertify

(1) The Deciding Official (DO) will first conduct an administrative review of each case to ensure conformity with

regulations and precepts. The DO may return any or all of the recommendations to the C Board and defer further action until questions are resolved.

(2) The records of members not recommended for recertification will be reviewed on a confidential basis within the Office of Human Resources Development and Management and/or the Office of Medical Services before the Board's non-recertification recommendations are implemented.

The DO may, on the basis of their recommendations, determine that for compelling medical or compassionate reasons, a member should not be non-recertified or notified of non-recertification. In this event, the individual shall be given the same treatment as members who have been recertified.

(3) In the case of recommendations for conditional recertification, the DO will send a letter notifying the affected member of the C Board's recommendations. The letter will include:

(a) Copies of the completed recertification determination for and the Board's justification for the recommendation;

(b) An explanation of the terms of conditional recertification:

(i) That the member is responsible for undertaking an intensive, 12-month program to correct the deficiencies cited in the Board's justification memorandum;

(ii) That the DO will make a final decision on whether to recertify or to remove the member from the SFS based on the recommendation of the next annual C Board to convene after 12 months have expired;

(iii) That the member shall be retained in the SFS if recertified and shall have any reduction in ES pay level made under paragraph 7.C. restored as of the beginning of the first pay period following recertification when 12 months have elapsed since the pay reduction.

(iv) That the C Board will make a recommendation on whether to recertify after reviewing: the three years' performance record on which the conditional recertification recommendation was made; the justification for conditional recertification; and the member's success in overcoming the cited deficiencies as evidenced in subsequent EERs and any written statement the member might wish to make;

(v) That the decision to conditionally recertify may not be grieved or appealed, though a

subsequent decision not to recertify could be appealed either to the Foreign Service Grievance Board or a Special Review Board.

(4) In the case of recommendation for non-recertification, the DO will send a letter notifying the affected member of the C Board's recommendation. The letter will include:

(a) Copies of the completed recertification determination form and the Board's justification for the recommendation;

(b) Notice that the member is entitled to a reasonable time to respond to the recommendation of non-recertification. The member may respond either in a personal appearance before the DO or in writing, or both, to show cause why the recommendation should not be implemented. The response time - after the member has received notification from the DO of the recommended action - will not exceed 20 days for members assigned in the U.S. or 40 days for members assigned overseas;

(c) Notice that the member has the right to be represented by counsel or by any other representative of the member's own choosing, but that a personal appearance before the DO is not a formal hearing which is adversarial in nature; and

(d) Notice that the member will be provided a reasonable amount of official time to prepare and to present a response to the recommended action.

(5) The DO will consider any response made by the member in making a final decision on the C Board's recommendation not to recertify and will provide the member with written notice of the decision within 90 days after receipt of the member's response.

(6) The DO's notification of a decision not to recertify a member will include the following:

(a) A copy of the completed recertification determination form and supporting documentation;

(b) Notification that the member will be retired involuntarily for failure to be recertified;

(c) The member so retired shall be entitled to the same benefits as personnel retired under Section 608 of the FS Act of 1980 and implementing regulations issued thereunder;

(d) The date on which the member will be retired;

(e) The member's right to appeal the basis of the decision either to the Foreign Service Grievance Board or to the Special Review Board, but not to both, and copies of the regulations governing both procedures.

(f) The time limits for filing an appeal are in accordance with the appropriate regulation (3 FAM 662.7 for the FS Grievance Board and HB 30, Chapter 3B, para. 4b for the Special Review Board).

(g) The officer's appeal of involuntary retirement does not waive any existing right to retire voluntarily at any time prior to the effective date of involuntary retirement.

(7) The effective date for retirement due to failure to be recertified will be within 6 months of the date of the official notification of the final decision by the Director of Human Resources Development and Management. The date may be temporarily postponed, however, by the Director of Human Resources Development and Management where the interests of the service so require, but in no case may such postponement exceed one year.

Supplement 38C Attachment A

SENIOR FOREIGN SERVICE RECERTIFICATION CY 1991

Name of Executive: Period	Recertification FROM: TO:
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Standard for Recertification

1. The career appointee must perform at the level of excellence expected of a senior executive. Excellence means that the executive has demonstrated over the recertification period that he or she has achieved excellence in:
 - a. Planning for, substantially advancing, and attaining Presidential, agency or organizational goals and objective that required a sustained superior effort.
 - b. Taking specific initiatives that advanced a major policy and/or significantly improved delivery of services.
 - c. Taking the necessary actions to ensure the achievement of a quality project in a timely manner.
 - d. Making significant technical, scientific, or professional contributions.
2. Also if applicable to the responsibilities of the senior executive, excellence is demonstrated by:
 - a. Achieving substantial savings in the execution of programs under his or her direction.
 - b. Maintaining the high quality and effectiveness of programs under his or her direction with reduced resources.
 - c. Providing strong leadership to enhance the development, utilization and achievement of subordinate personnel, including achievement of equal employment opportunity goals.

The following recommendations/decision are based on an

assessment of the executive's overall performance during the recertification period in relation to the above Standard for Recertification stipulated in law, regulation, and agency written procedures and include consideration of the executive's performance ratings, awards and other recognition, developmental activities, and other relevant factors related to performance during the period.

Consolidated Selection Board (C Board) Recommendation:

Recertify_____ Conditionally Recertify
Not Recertify

Recommend pay adjustment to FE-_____ No pay adjustment
recommended

C Board Chairperson's Signature Date

Appearance Before the Deciding Official if Recommendation is to
Not Recertify:

Yes_____ Date _____ Declined appearance (documentation
attached)

Deciding Official's Decision:

Recertify_____ Conditionally Recertify
Not Recertify

Pay rate adjustment to FE-_____ No pay rate adjustment

Deciding Official's Signature and Title Date