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ADDITIONAL GUIDANCE ON FSN SEPARATION PAY TRUST FUND FORMERLY CONTROLLER BULLETIN 14C (Revised 11/1999)

I. Introduction

A. Background

Under many Mission local compensation plans, foreign service national employees with a specified minimum period of service are entitled to receive a lump-sum separation payment when they resign, retire, or otherwise separate from the Mission through no fault of their own. The amount of the payment is generally based on length of service, rate of pay at the time of separation, and the type of separation.

Prior to fiscal year (FY) 1992, USAID Missions, unlike the Department of State, recorded obligations for separation pay at the time payments were made instead of when the separation pay was earned. As a result, no reserves were established to cover the liability for future payments.

Because of "M" Account legislation (P.L. 101-510) (31 U.S.C. Section 1552), the Department of State was faced with the potential lapse of funds obligated in prior years for foreign service national separation pay liability. The General Accounting Office (GAO) advised the Department to seek legal authority for the establishment of a trust fund into which funds equal to the accrued liability could be deposited, ensuring their continued availability for payment, even after the date on which the funds would otherwise lapse under the M account legislation.

The provisions suggested by the GAO were included in FY 1992 Authorization Act for the Department of State (P.L. 102-138). Section 151 of this Act (22 U.S.C. 4012.9) requires a separate trust fund account to be established in the Department of Treasury for Foreign Service National employees' separation pay. Funds are required to be deposited into this account each year sufficient to cover that year's foreign service national separation pay accrued liability.

B. Terms and Definitions

Separation Pay Payments made to foreign service national (FSN) employees, other than for leave balances, who have

voluntarily (no fault) ended their employment, including through retirement.

Severance Pay	Payments made to FSNs as a result of involuntary termination of employment, such as terminations due to reductions-in-force. Many local compensation plans use the term "severance pay" to refer to any payment due to an employee in connection with separation or no fault termination.
Special Severance	Benefits paid over and above regular severance payments. These amounts should not be deposited into or paid from the 72X8342 trust fund.
FSNs	Employees (direct-hire and personal service contractors) who are not U.S. citizens. These provisions do not apply to FSNs who are hired under a contract other than a personal service contract.
Legal Basis	P.L. 102-138, Section 151, FY 1992 Foreign Relations Authorization Act (codified at 22 USC Sec. 4012a).
Separation	72X8342 Foreign Service National Separation Trust Fund. (It is a non-interest bearing Trust Fund account.)

C. Applicability

These regulations apply to all posts with FSN compensation plans under which the employee is entitled to separation pay upon voluntary termination of employment, including through retirement or any other voluntary separation. For such posts, obligations will be recorded each fiscal year to cover the separation pay liability accruing for that year. Obligations are to be charged to the same funding source used to pay salaries and benefits of the FSN employee (O.E., IG O.E., Housing Administrative Expense, U.S. Dollar Trust Funds, "program funds", etc.). Obligations for FSNs whose salaries and benefits are paid from local currency trust funds (O.E. or program) are to be charged against the appropriate program or O.E. dollar appropriation.

D. Reduction in Force (RIF) and Other Workforce Reductions

A Mission might find itself in a situation in which FSNs for whom separation payments have been obligated and deposited into 72X8342 are being involuntarily separated through reduction in force (RIF) and similar workforce reductions. In these situations, i.e., where there is an entitlement to separation pay for voluntary separations, severance payments will be made from 72X8342 in an amount not to exceed the amount the employee would have been entitled

to had the termination been voluntary. Amounts due and payable under severance provisions that exceed the amount authorized for voluntary separation will normally be obligated and disbursed against current year appropriations (or project funds) used to fund salaries and benefits.

(There are exceptions to the general rule requiring use of current year funding to cover extra RIF or workforce reductions benefits, e.g., where a legally-mandated workforce reduction takes place over a period of more than one year. In such cases, accrued liability for the extra payment must be recorded as an obligation in the year in which the reduction is first approved. Additional obligations must be recorded as they accrue in subsequent years and maintained until payment is made. These amounts do not pass through the FSN Separation Trust Fund.)

Examples:

1. An O.E. funded employee is entitled to \$10,000 under voluntary separation provisions, and deposits have been made to 72X8342 in the amount of \$10,000. The Mission has a RIF, under which the employee is entitled to \$12,000 severance pay. The Mission would pay \$10,000 from 72X8342 and the balance of \$2,000 would be paid from the current year O.E. allowance.

2. An O.E. funded employee is entitled to \$10,000 under voluntary separation provisions, but only \$5,000 has been deposited to 72X8342. The Mission has a RIF, under which the employee is entitled to \$12,000 severance pay. The Mission would pay \$5,000 from 72X8342 and the balance of \$7000 would be paid from the current year O.E. budget.

3. An O.E. funded employee is entitled to \$10,000 under voluntary separation provisions, but only \$5,000 has been deposited to 72X8342. The employee retires or voluntarily terminates employment. The Mission would pay \$5,000 from 72X8342 and the balance of \$5,000 would be paid from the current year O.E. allowance.

II. Annual Deposit

A. General Information

The Missions are required to record obligations in connection with FSN voluntary separation pay at the time the obligation is incurred, i.e., when it is earned. Instead of biweekly deposits, FM recommends a deposit of an estimated amount to the trust fund from each financing source for FSNs, either quarterly or annually. However, the total amount of all funds must be deposited and obligated by July 31st of that fiscal year, including amounts estimated to accrue through the end of the fiscal year. Because it is not possible to determine in advance whether an employee will terminate voluntarily or involuntarily, the Mission must deposit all regular voluntary separation pay amounts into the 72X8342 in order to comply

with 22 USC Section 4012a. (An obligation can occur even when the precise amount of the liability is not known. Where precise amounts are not known, the obligation is recorded based on the Mission's best estimate.)

For each eligible employee, calculate the total amount of accrued separation entitlement in U.S. Dollars at the current exchange rate for the Fiscal Year, i.e. October 1, 1999 to September 30, 2000. Each year, the Mission must recalculate each FSN's cumulative separation liability to reflect any pay raises and other changes in compensation and ensure deposits are sufficient to cover liability accrued for all years for which deposits have been made, (The Agency does not, at this time, have sufficient resources to fund deposits sufficient to cover all prior years outstanding liability. However, Missions are required to maintain deposits sufficient to cover liabilities accrued from the initial deposits in FY 92.)

The Mission Controller determines the amounts to be obligated for the Foreign National Employees Separation Trust Fund in accordance with the local compensation plan. The Mission Controller must complete this determination and e-mail M/FM/CAR by May 31 the amount required to be transferred to the Separation Trust Fund for the fiscal year along with the amount of the liability, if any, that still remains unfunded for the periods prior to FY 1992. M/FM/CAR uses this data in the annual consolidated financial statement of the Agency.

B. Funding Appropriations

The FSN 72X8342 Trust Fund can be funded from either Operating Expense type funds (e.g. Operating Expense - Inspector General, Housing Guarantee Administrative Expense) or Program Funds. In either case, the following procedures are required:

1. Obligation

The Mission records an obligation using funding from one of the above sources to cover the estimated FSN separation pay amount. The obligation is reported on Line A of the funding appropriation's U-101 report.

2. Transfer (Disbursement)

The Mission makes transfer to the 72X8342 fund from the O.E. (or other funding source) by preparing and processing a SF-1081 or SF-1097 document. This transfer out of the funding appropriation is recorded on Line A and Line F of the U101 report as a disbursement.

C. Accounting and Reporting for the 72X8342 Trust Fund.

1. Recording and Processing of Deposit to 72X8342

The Mission records the cash transfer on the 72X8342 Trust Fund U-101 Report as a credit on Line F with an offsetting entry on Line E - identified as "Transfers to FSN Trust Fund - Account 5150."

The Mission Controller reconciles the transfer amount on Line F of the U-101 Report to the SF-1221 report. Immediately review and correct any differences. It is imperative that the deposits are correctly processed by the United States Disbursing Officers (USDOs) to ensure proper crediting by the Department of Treasury on USAID's TFS-6653 Undisbursed Account Report for the 72X8342 account.

2. Preparation and Processing of Budget Allowance

The Mission Controller is authorized to establish or increase the budget allowance under Appropriation 72X8342 based on the disbursement document transferring funds to the Separation Trust Fund.

The Mission records this Budget Allowance on the U-101 Report (Monthly Summary of Budget Allowance Ledger Transactions and Reconciliation with Disbursing Officers Account).

3. Obligations for 72X8342

Obligations in the 72X8342 fund must be established and documented in a manner similar to all obligations incurred under U.S. funds in dollar appropriations or foreign currency (FT) accounts. Obligations must be for the purpose of the fund and must not exceed the amount of funds deposited, allotted, and allowed.

MISSIONS ARE INSTRUCTED TO RECORD THE ENTIRE AMOUNT OF THE TRANSFER AS AN OBLIGATION FOR FUTURE PAYMENT TO FSN EMPLOYEES. THE OBLIGATIONS THEN MUST BE REPORTED ON LINE A OF THE U-101 REPORT FOR THE 72X8342 TRUST FUND.

FM recognizes that disbursements may not take place for some time, but by obligating the funds at the time of the transfer, it will be easier to track the balances in this account. The obligations will provide a record on the U-101 report, MACS, and the AID/W consolidated U-101 reporting system, that funds have been transferred to the 72X8342 and such an amount of funds are available for liquidation.

Complete files of liquidated and unliquidated 72X8342 Separation Trust Fund obligation documents will be maintained by USAID to support postings to the budget allowance ledgers. The files must be retained beyond the file maintenance handbook requirements until the liquidation is

made. Such files of trust fund obligation documents will be segregated from files of documents applicable to appropriated funds.

4. Disbursements

All disbursements processed in the 72X8342 fund must be reported on the U-101 Report for 72X8342 on Line A and Line F. The disbursements on Line F must be reconciled to the SF-1221 and any differences with the USDO must be corrected immediately.

D. Fiscal Reports to AID/W

The only recurring fiscal report on the 72X8342 Trust Funds required by AID/W is the monthly Summary of Budget Allowance Ledger Transactions and Reconciliation with Disbursing Officers Account (Report U-101). This report will be prepared in accordance with the requirements of AID Handbook 19, Chapter 9, Mission Financial Reports.

III. Mission Accounting and Control System (MACS)

For the Missions using MACS, the following instructions apply:

- A. Make an entry into the Functional Category Table on MACS, the extracted BPC 13 "SPM."
- B. Enter the BPC into the BPC table on MACS - the appropriation symbol is "72X8342" and the appropriation code is " SPX (Fiscal Year)"
- C. Enter the amount into MACS
 - a) Through PF Key 1 Accounting Transactions,
 - b) PF Key 11 Disbursements, and
 - c) PF Key 8 Collections - Appropriation Reimbursements.
- D. At the end of the month, insert the amount on Lines E and F of the U-101 report for 72X8342. The Collections - Appropriation will ask for only the appropriation symbol, not the BPC.
- E. Following the procedures described in the previous section, budget allowance and obligations are posted in MACS in the normal manner and will appear on Line A of the U-101 report for 72X8342.

IV. Payments From Account

A. Normal Payment

When a FSN or FNPSC express the intention to voluntarily separate or retire, the Mission calculates the amount owed to the employee and researches the amount paid into 72X8342 over the period of employment. Payments out of the trust fund for separation do not need AID/W prior approval. When payment is made, the Mission can charge a portion of the total amount of the payment to 72X8342. This portion may not exceed the amount deposited for that particular employee.

The total payment to the employee will consist of two parts:

1. The amount that has been paid into 72X8342 for that particular employee will be paid out of 72X8342, and
2. The remaining balance owed the employee will be paid out of the current funding source for that employee (i.e., Operating Expense (O.E.), I.G., Housing Administrative Expense funded; local currency trust fund, etc.).

On the U-101 reports for the 72X8342, the proportion of the disbursement properly chargeable to the trust fund is recorded on line A. When the Mission makes a payment from 72X8342, the Mission will report the payment on the U101 Report on Line A and F for the fund. From the U101 reporting system, AID/W/FA/FM/CAR will adjust the general ledger account and the subsidiary ledger for that country.

If an employee loses his/her entitlement due to a RIF or separation for cause, the deposits for that employee can be applied to the prior year liability of other employees that remains unfunded.

All disbursements processed in 72X8342 fund must be reported on the U-101 Report for 72X8342 on Line A and Line F. The disbursements on Line F must be reconciled to the SF-1221 and any differences with the USDO must be corrected immediately.

B. Payment due to the Death of FSN

Applying the criteria set forth in State 111095, dated April 9, 1992 (State's cable on using the trust fund in involuntary situations), USAID is authorized to pay severance or separation pay upon the death of an FSN from 72X8342, up to the amount that would have been paid upon voluntary separation, provided, of course, the employee is eligible to receive a severance or separation pay benefit under the local compensation plan. (As an example, the Pakistan plan extends a regular severance benefit to anyone who serves three years and whose employment is terminated, unless the termination is for cause, involves a move from full time to part time or from PSC to direct hire, etc. So an FSN who separates by death is normally entitled to severance pay under the plan.) If there is an additional death benefit that exceeds the amount that would have been paid

in a normal voluntary separation situation, that benefit would not be payable from 72X8342.

C. Mission Accounting and Control System.

For Disbursement from the Trust Fund when an employee resigns.

1. Set up an obligation under 72X8342.
2. Enter the disbursement into MACS
 - a) Through PF Key 1 Accounting Transactions,
 - b) PF Key 11 Disbursements - enter as a regular disbursement,
and
 - c) PF Key 8 Collections - Appropriation Reimbursements

V. Audited Financial Statement.

Due to the Chief Financial Officer Act, the trust fund account is subject to the requirement of the preparation of the consolidated financial statements and the auditing of those statements. Since the Missions have the detailed information on the trust fund account, there may be periodic data calls for supporting documentation.