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Policies and Procedures for Position Management

A Mandatory Reference for ADS Chapter 456

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POLICIES AND PROCEDURES FOR FOREIGN SERVICE POSITION MANAGEMENT

This mandatory reference contains required policies and procedures for Foreign Service position management that are binding upon the Agency. These requirements were issued pursuant to Section 401 of the International Development and Food Assistance Act of 1978, which amended the Foreign Assistance Act of 1961. Section 401 mandated that the President issue regulations establishing a unified personnel system for all USAID employees. The regulations have the force and effect of law and apply with respect to USAID personnel.

In conformance with the law, the President issued regulations in 1979. Those regulations were later, in 1994, incorporated into the Agency's Handbook 26. The requirements, listed here, imposed by the regulations remain binding on USAID. The requirements are shown in the same format as what was in the 1990 Code of Federal Regulations (CFR), Title 22, Sections 220 and 222.

Part 220 - General Provisions

A. Sec. 220.01 - Statement of Authority

1. Sec. 401, International Development and Food Assistance Act of 1978
2. Public Law 95-424, 92 Statute 956, as amended by Sec. 503
3. International Development Cooperation Act of 1979
4. Public Law 96-53, 93 Statute 1378

Source: 45 FR 54751, August 18, 1980, unless otherwise noted.

This subchapter of Chapter II is promulgated pursuant to section 401 of the International Development and Food Assistance Act of 1978, October 6, 1978, Public Law 95-424, 92 Statute 956, 22 U.S.C. 2385a, and section 625 of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2385.

B. Sec. 220.02 - Purpose

The purpose of this subchapter is to extend the Foreign Service personnel system to all employees of the Agency for International Development (AID) in the United States and abroad who are responsible for planning and implementing AID's overseas development programs and activities, so that those persons will have significant overseas experience or understanding of the overseas development process. An extended application of the Foreign Service personnel system within AID is intended to ensure that -

- (a) The employees of AID effectively serve the interests of the United States, both in the United States and abroad;
- (b) AID's personnel system can better adjust to frequently changing program and work-force composition requirements;
- (c) A framework is provided to meet the particular requirements of AID, including the need to have personnel serve overseas and meet language and technical skill requirements; and,

(d) All employees who work in the United States and abroad within a single structure of positions, and in common endeavor to plan, carry out and directly support AID's overseas program may be brought within a single personnel system.

C. Sec. 220.03 - Definitions

(a) "AID" means the Agency for International Development, or and successor agency primarily responsible for administering programs under part I of the Foreign Assistance Act of 1961, as amended.

(b) "Administrator" means the Administrator of AID

D. Sec. 220.04 - Position Management

(a) Under such regulations as he may prescribe, the Administrator may, notwithstanding the provisions of Chapter 51 of Title 5 of the United States Code, classify positions in AID, and establish such positions in relation to the grades provided for the Foreign Service of the United States; provided, that such actions shall be carried out in a manner consistent with the purposes of this subchapter and with the principles of position classification established in Chapter 51 of Title 5 of the United States Code.

(b) As of the effective date of this subchapter, each position in AID shall be reviewed and redesignated, if necessary, as to the service in which the incumbent should serve. A position shall be designated as a General Schedule position rather than a Foreign Service position only if the position is in the United States, and if it is determined (1) that the functions of such positions are primarily of a clerical, administrative or program support character and can be performed without significant overseas experience or understanding of the overseas development process; or (2) that such positions require continuity of incumbency and specialized knowledge and skill to the extent that it is not practicable for incumbents of such positions to be assigned abroad. Any person aggrieved by the designation made pursuant to this section of a position in which he or she is serving may appeal the designation to the Administrator. Such designation shall remain in effect pending the appeal provided for herein and pending any other appeal an employee may make, and shall be set aside only if arbitrary or capricious.

(c) A position designated as a Foreign Service position in accordance with paragraph (b) of this section which becomes vacant may be occupied thereafter only by a Foreign Service employee; provided, however, that:

(1) A position in AID/Washington which is designated as Foreign Service may be filled by a non-Foreign Service employee as long as the number of non-Foreign Service employees filling such Foreign Service designated positions does not exceed

20 percent of the number of such positions. Prior to filling a Foreign Service bargaining unit position under this subsection, the Agency will give full consideration to the availability of Foreign Service employees in the bargaining unit for the position. Full consideration will include, but not to be limited to, observing the applicable position advertising requirements; it may, at the Agency's discretion, include supplemental direct advertising for difficult to fill Foreign Service positions. Final decisions on assignments will be made by the Agency based on its determination of the needs of the Agency.

(2) In order to avoid a reduction in force, the director of the Office of Personnel Management, AID is authorized to assign a General Schedule employee to a vacant position which has been designated as a Foreign Service position;

(3) Up to fifteen Foreign Service designated positions may be filled on a time-limited appointment basis by non-Foreign Service personnel. These exceptions will be approved personally by the Administrator on a case-by-case basis.

(d) A position designated as General Schedule in accordance with paragraph (b) of this section may be temporarily designated Foreign Service whenever the Administrator deems it advisable in order to administer properly the rotation policies provided for in section 221.02 of this subchapter; provided, that only vacant General Schedule positions may be so redesignated.

(e) In furtherance of the policy of this subchapter, as provided in section 220.02, to the extent consistent with law, regulation, and staffing and promotion policies generally applicable to AID employees, the Administrator shall encourage employees who are not in the Foreign Service, who serve or wish to serve in positions designated as Foreign Service positions, and who are qualified for appointment in the Foreign Service, to convert to the Foreign Service.

(45 FR 54751, August 18, 1980, as amended at 46 FR 42842, August 25, 1981; 49 FR 44631, November 8, 1984.)

Part 222 - Miscellaneous Provisions

A. Sec. 222.01 - Authority: Sec. 4011, International Development and Food Assistance Act of 1978, Public Law 95-424, 92 Stat. 956, as amended by Sec. 503, International Development Cooperation Act of 1979, Public Law 96-53, 93 Stat. 378.

Source: 45 FR 54752, Aug. 18, 1980, unless otherwise noted.

B. Sec. 222.01 - Implementing Regulations

(a) Notwithstanding the provisions of this subchapter, existing rules and regulations of or applicable to employment in

AID, to the extent not inconsistent with the provisions of this subchapter, shall remain in effect until revoked or until modified or superseded by implementing regulations promulgated in accordance with the provisions of paragraph (b) of this section.

(b) The Administrator may prescribe such administrative, implementing regulations as are necessary and desirable in order to carry out the provisions of this subchapter (and such authority may be delegated as he deems necessary). Such implementing regulations may not revoke, suspend, supersede, or otherwise modify this subchapter.

C. Sec. 222.02 - Construction

If any provision of this subchapter or the application of any provision to any circumstance or persons shall be held invalid, the validity of the remainder of this subchapter and the applicability of such provision to other circumstances or persons shall not be affected thereby.

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