

3 FAM 7120 DEFINITIONS

(CT:PER-601; 04-01-2008)
(Office of Origin: HR/OE)

3 FAM 7121 DEFINITIONS

(CT:PER-601; 04-01-2008)

(Applies to State and all Agencies under Chief of Mission (COM) Authority)

[**NOTE:** The terms defined in this subchapter apply to all regulations in 3 FAM 7000 and 3 FAM 8000 unless context indicates otherwise.]

Appointment eligible family member (AEFM): An individual who may qualify for a direct-hire Foreign Service appointment on either a family member appointment (FMA; defined below) or a temporary appointment (TEMP; defined below) provided that **all** of the following criteria are met:

- (1) U.S. citizen; and
- (2) The spouse of the sponsoring employee, or a child of the sponsoring employee, who is unmarried and at least 18 years old; and
- (3) Listed on the travel orders of a sponsoring employee, i.e., a direct-hire Foreign Service, Civil Service, or uniformed services member who is permanently assigned to or stationed abroad at a U.S. mission, or at an office of the American Institute in Taiwan, and who is under chief-of-mission authority; and
- (4) Residing at the sponsoring employee's post of assignment abroad or, as appropriate, office of the American Institute in Taiwan; and
- (5) Does not receive a U.S. Government retirement annuity or pension from a career in the U.S. Foreign Service or Civil Service.

Other family members or dependents on direct-hire Foreign Service, Civil Service, or uniformed services member's travel orders are not AEFMs or U.S. citizen EFM for purposes of 3 FAM 8200.

Chief of mission (COM): Principal officer appointed by the President, to be in charge of a diplomatic mission of the United States or of a U.S. office abroad which is designated by the Secretary of State as diplomatic in nature (Section 302(a)(1) of the Foreign Service Act of 1980, as amended (22 U.S.C. 3942(a) (1))). Also, career members of the Service assigned by the President to serve as chargé d'affaires or otherwise as

the head of a mission or the U.S. office abroad which is designated by the Secretary as diplomatic in nature for such periods as the public interest may require (Section 102 (a)(3) and 502(c) of the Foreign Service Act of 1980, as amended (22 U.S.C. 3902(a)(3) and 3982(c)).

Computer-aided job evaluation (CAJE): The interagency job evaluation methodology and approach for evaluating all locally recruited positions filled by overseas employees under COM authority.

Direct-hire appointment: A hiring action that is taken under one of the following general U.S. Government appointment authorities or other agency-specific appointment authorities:

- (1) Section 303 of the Foreign Service Act of 1980, as amended (22 U.S.C. 3943), (foreign affairs agencies' employment authority for U.S. citizens and foreign nationals);
- (2) 5 CFR 8.3 (executive branch authority for employing foreign nationals abroad);
- (3) 5 CFR 8.1, 8.2 and 301.201 et seq. (executive branch authority for employing U.S. citizens abroad);
- (4) Section 202(a)(4)(A) of the Foreign Service Act of 1980, as amended (22 U.S.C. 3922(a)(4)(A)) (nonforeign affairs agencies' employment authority for U.S. citizen eligible family members or ordinarily resident U.S. citizens, authorized by the Department of State, under the Foreign Service personnel system).

Eligible family member (EFM): See 14 FAM 511.3.

Family member appointment (FMA): A Department of State Foreign Service limited, noncareer appointment available only to AEFMs, as authorized in Sections 309 and 311(a) of the Foreign Service Act of 1980, as amended (22 U.S.C. 3949, 22 U.S.C. 3951(a)). An FMA may be extended or renewed for up to five years according to 3 FAM 8200.

Foreign Service national (FSN): A non-U.S. citizen, who is not an EFM (see 14 FAM 511.3) or member of household (MOH; see below) employed at a U.S. mission, or at an office of the American Institute in Taiwan, and who is under chief-of-mission (COM) authority using one of the following types of employment authorities:

- (1) Direct-hire appointment (Section 303 of the FS Act; 5 CFR 8.3);
- (2) Department of State personal services agreement (PSA; see below) or personal services contract (PSC; see below) authorities (22 U.S.C. 2669 (c) and 22 U.S.C. 2669 (n)); or
- (3) An employing agency's specific direct-hire, PSA, or PSC authority, if that agency recognizes individuals hired under its authority as employees.

Local compensation plan (LCP): The official system of compensation for locally employed staff at a Foreign Service post or an office of the American Institute in Taiwan, established in accordance with Section 408 of the Foreign Service Act of 1980, as amended (22 U.S.C. 3968). The LCP consists of the salary schedule(s) and salary rates; benefit plans authorizing various types of benefit payments and premium pay rates; and other pertinent facets of local compensation.

Locally employed staff (LE Staff): The general term used for Foreign Service nationals, as well as some U.S. citizens who ordinarily reside (see definition for “ordinarily resident” below) in the host country and are thus subject to its labor law. LE Staff are employed at a U.S. mission or at an office of the American Institute in Taiwan by the U.S. Government under the authority of the COM and are paid under the LCP.

For USAID, LE Staff are paid either under the LCP or under the General Schedule scale in accordance with AIDAR Appendices D and J.

Member of household (MOH): An individual who accompanies a sponsoring employee, i.e., a direct-hire Foreign Service, Civil Service, or uniformed services member who is permanently assigned to or stationed abroad at a U.S. mission, or at an office of the American Institute in Taiwan, and who is under chief-of-mission authority. An MOH is:

- (1) Not an EFM; and
- (2) Not on the travel orders of the sponsoring employee; and
- (3) Officially declared by the sponsoring U.S. Government employee to the COM as part of his or her household.

An MOH may be a parent, unmarried partner, or other relative or adult child who falls outside the Department’s current definition of eligible family member. A MOH may or may not be a U.S. citizen.

Not ordinarily resident (NOR): An individual who:

- (1) Is **not** a citizen of the host country; and
- (2) Does not ordinarily reside (see definition of “ordinarily resident” below) in the host country; and
- (3) Is not subject to host-country employment and tax laws; and
- (4) Has a U.S. Social Security Number (SSN).

NOR employees are compensated under a General Schedule or Foreign Service salary schedule, not under the local compensation plan.

For USAID, such individuals are personal services contractors referred to as “offshore USPSCs” or “internationally recruited USPSCs,” and subject to U.S. Federal taxes: Federal income tax, FICA, and Medicare. An individual’s contract includes a position description which is classified using the General

Schedule scale for direct hires and compensation is paid within the salary range for that classified position. USAID does not compensate its personal services contractors under the Foreign Service salary schedule.

Ordinarily resident (OR): A foreign national or U.S. citizen who:

- (1) Is locally resident; and
- (2) Has legal, permanent resident status within the host country; and
- (3) Is subject to host-country employment and tax laws.

All OR employees, including U.S. citizens, are compensated in accordance with the local compensation plan (LCP).

USAID distinguishes between U.S. citizens living within the host country and citizens of the host country (FSNs). (See USAID's Acquisition Regulations (AIDAR Appendices D and J).) U.S. citizens living in the host country are referred to as "local hires" or "resident hires" and compensation is based upon job classification and advertisement: if the position is classified using the General Schedule scale (the same as used for direct hires) and advertised as such, compensation is paid in dollars within the salary range of the position; if the position is classified and advertised using the local compensation plan, compensation is paid in accordance with the LCP. Regardless of the compensation method, U.S. citizens are required to pay U.S. taxes, FICA, and Medicare. FSNs are compensated under the LCP, unless a deviation is approved by the USAID mission director in accordance with AIDAR Appendix J.

Overseas employees (OE): The term used for all employees regardless of citizenship, legal residency, and family status, who are recruited and employed under a direct-hire appointment, personal services agreement (PSA), or personal services contract (PSC) at a U.S. mission, or at an office of the American Institute in Taiwan, and who are under chief-of-mission authority. This does not include individuals sent to post from recruitment actions, contracts, and/or agreements conducted in the United States. Overseas employees may include locally employed staff, eligible family members, or members of household employees.

For USAID, overseas employees also include personal services contractors who are recruited in the United States to work overseas at a USAID mission.

Participating agency (PA): A U.S. Government agency with representation overseas under chief-of-mission authority that has signed a memorandum of agreement (MOA) authorizing the Department of State to recruit and hire on behalf of the agency individuals to perform services in support of the participating agency as provided under 22 U.S.C. 2669(n).

Personal services agreement (PSA): A personal services employment mechanism. PSAs are administered by the mission's human resources

office in accordance with 3 FAM 7000 and 3 FAM 8000 regulations. The Department of State's PSA authority is found in Section 2(c) and (n) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(c) and 22 U.S.C. 2669(n)).

The PSA, by U.S. statute, is not subject to procurement law, and the Procurement Executive has waived application of procurement regulations, such as the Federal Acquisition Regulation (FAR), when obtaining personal services under this statutory authority.

The Department of Agriculture's PSA authority is found in Section 740 of the Public Law 106-387.

For USAID, employment by PSA is not authorized.

Personal services agreement limited (PSA-Ltd): A streamlined PSA used for short-term employment. This hiring mechanism is used to employ foreign nationals for any combination of no more than 30 work days, or six weeks, within a calendar year in accordance with maximum limits set by host-country law that precludes permanent employment status. U.S. citizens and U.S. legal permanent residents (i.e., "green card" holders) **may not** be hired on a PSA-Ltd.

Personal services contract (PSC): A contract characterized by the employer-employee relationship it creates between the U.S. Government and the contractor. These contracts, by U.S. statute, are not subject to procurement law, and the Procurement Executive has waived application of procurement regulations, such as the FAR, when obtaining personal services under this statutory authority.

NOTE: With the institution of the PSA, employment by PSC is no longer sanctioned as a Department of State employment mechanism for locally recruited and hired foreign nationals or U.S. citizens.

USAID uses personal services contracts (PSCs), which are authorized under the Foreign Assistance Act of 1961, as amended, and such contracts are subject to, written, and administered under the Federal Acquisition Regulations (FAR) and USAID's Acquisition Regulations (AIDAR), Appendices D and J.

Temporary appointment (TEMP): For appointment eligible family members, a direct-hire, noncareer appointment of less than one year. Temporary appointments may be extended in one year or less increments when criteria for an FMA appointment cannot be met.

Temporary employment: For overseas employees, noncareer employment for a period of less than one year using a direct-hire temporary appointment, a PSA or PSC when authorized by the employing agency.

Third-country national (TCN): A foreign national employee:

- (1) Compensated under Section 408 of the Foreign Service Act of 1980;
- (2) Who is neither a U.S. citizen, nor a citizen of the country in which the duty station is located; and
- (3) For whom the U.S. Government is obligated to pay for repatriation to his or her country of citizenship, or to the country from which he or she was recruited.

USAID hires TCNs under personal services contracts under its authority in the Foreign Assistance Act of 1961, as amended, the FAR, and AIDAR. TCNs are compensated under the LCP unless the mission director determines that compensation under the LCP would be inappropriate in a particular instance(s). In such instances, the proposed position description is classified under the General Schedule scale as is used for USPSCs, and compensation is paid as described in AIDAR Appendix J.

U.S. citizen eligible family member (USEFM): For purposes of receiving a preference in hiring for a qualified position, a USEFM is an individual who meets the following criteria:

- (1) U.S. citizen; and
- (2) The spouse of the sponsoring employee, or a child of the sponsoring employee who is unmarried and at least 18 years old; and
- (3) Listed on the travel orders of a sponsoring employee, i.e., a direct-hire Foreign Service, Civil Service, or uniformed services member who is permanently assigned to or stationed abroad at a U.S. mission, or at an office of the American Institute in Taiwan; and who is under chief-of-mission authority, and either:
 - (a) Resides at the sponsoring employee's post of assignment abroad or, as appropriate, at an office of the American Institute in Taiwan; or
 - (b) Resides at an involuntary separate maintenance allowance (ISMA) location authorized under 3 FAM 3232.2. If residing at an ISMA location, the individual will not be listed on the sponsoring officer's travel orders but will have a Form SF-1190 processed authorizing ISMA.

Other family members or dependents on direct-hire Foreign Service, Civil Service, or uniformed services member's travel orders are not USEFMs or AEFMs for purposes of 3 FAM 8200.

When actually employed (WAE): A work schedule on an as-needed basis as determined by the supervisor. The employee's hours of duty may be intermittent and irregular. For WAE work, a temporary appointment is the mechanism used for AEFMs; a direct-hire appointment, PSA, or PSC, is used for LE Staff.

3 FAM 7122 DEFINITIONS BY CATEGORY

3 FAM 7122.1 Employment Mechanisms

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(Applies to State and all Agencies under Chief of Mission (COM) Authority)

Employment mechanisms are:

- Direct-hire appointment
- Personal services agreement (PSA)
- Personal services agreement limited (PSA-Ltd)
- Family member appointment (FMA)
- Temporary appointment (TEMP)
- Temporary employment
- Personal services contract (PSC)

3 FAM 7122.2 Entry on Duty Employee Categories

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(Applies to State and all Agencies under Chief of Mission (COM) Authority)

Entry-on-duty employee categories are:

- Locally employed staff (LE Staff)
- Foreign Service national (FSN)
- Appointment eligible family member (AEFM)
- U.S. citizen eligible family member (USEFM)
- Member of household (MOH)
- Third-country national (TCN)
- Not ordinarily resident (NOR)
- Ordinarily resident (OR)

3 FAM 7123 THROUGH 7129 UNASSIGNED