

6 FAH-5 H-350 CATEGORIES OF PERSONNEL

(CT:ICASS-5; 07-21-2006)
(Office of Origin: RM/ICASS)

6 FAH-5 H-351 DIRECT-HIRE PERSONNEL

(CT:ICASS-5; 07-21-2006)
(Applies to participating ICASS agencies)

Many agencies send personnel overseas to carry out their missions. These individuals may be hired in the United States, in third countries, or in the embassy's host country. Citizenship does not always correlate with employment category. Thus, while the vast majority of U.S.-based direct-hire personnel will be U.S. citizens, there are agencies that employ non-U.S. citizens in these positions. Posts, when advised that an agency has proposed adding an employee to post under the NSDD-38 process (National Security Diplomatic Directive) should take special care to find out what ICASS services the agency will subscribe to on behalf of that employee. Each case must be treated as unique. Don't assume that a new employee necessarily will be eligible for, or will receive, the same services as other employees in that category or from that agency. Post should get documentation, in writing, of the agencies' intentions regarding each new position.

6 FAH-5 H-351.1 U.S.-Based Personnel

(CT:ICASS-5; 07-21-2006)
(Applies to participating ICASS agencies)

These are employees hired by the agency's U.S. headquarters to fill a permanent, direct-hire position. U.S.-based personnel are often, but not always, U.S. citizens, making them eligible to participate on post ICASS working groups. U.S.-based personnel typically have official orders assigning them to post (and often identifying specific services for which the employee is eligible). Many U.S.-based personnel will be accredited to the host government, will receive allowances, and will be covered by the emergency action plan, meaning that they often should be counted under the Basic Package Services cost center.

6 FAH-5 H-351.2 Third-Country National (TCN) Personnel

(CT:ICASS-5; 07-21-2006)
(Applies to participating ICASS agencies)

Agencies sometimes fill direct-hire positions with nationals of third countries (neither the United States nor the host country). In order to be considered a third-country national (TCN) and be eligible for TCN benefits, the employee must have been recruited from outside the host country or the U.S. Government must have inherited a repatriation agreement from another host-country employer. TCN direct-hire employees present complicated ICASS service subscription issues. For example, an agency may be willing to import a car for the TCN employee. The host government, however, may not be willing to waive safety provisions or customs duties. When advising customer agencies, posts need to look carefully not only at ICASS regulations but also at the Vienna Conventions on Diplomatic and Consular Relations and bilateral agreements with the host government.

6 FAH-5 H-351.3 Locally-Employed Staff (LES) Personnel

(CT:ICASS-5; 07-21-2006)
(Applies to participating ICASS agencies)

Many agencies fill direct-hire positions with resident U.S. citizens or residents and nationals of the host country. While non-U.S. citizens are not eligible to sit on the post ICASS council, the council can invite them to attend meetings where their expertise is needed. Host-country nationals and resident U.S. citizens also can be active participants in ICASS working groups. Agencies often pursue a strategy of subscribing to the same cost centers for all locally-employed personnel to ensure that one group does not receive preferential treatment. Post should still get, in writing, documentation of the agencies' intentions regarding each new position.

6 FAH-5 H-351.4 International Organization Detailees

(CT:ICASS-5; 07-21-2006)
(Applies to participating ICASS agencies)

Individuals assigned to international organizations under a formal detail agreement between the employing agency and the international organization are not subject to NSDD-38 approval procedures. However, ICASS services may be provided to these employees, as appropriate, and charged to the

employing U.S. Government agency.

6 FAH-5 H-352 OTHER THAN FULL-TIME PERMANENT DIRECT-HIRE PERSONNEL

(CT:ICASS-5; 07-21-2006)

(Applies to participating ICASS agencies)

- a. Many U.S. Government agencies have authority to employ other than full-time permanent (FTP) direct-hire (DH) personnel, both U.S. citizen and local-hire positions/personnel. This section addresses these categories and the ICASS services (cost centers) to which they are eligible. It is important that the service provider and customer discuss the services of these personnel prior to their arrival at post or starting work, if locally hired. A customer agency needs to:
 - (1) Advise the service provider which services it has authorized for its personnel; and
 - (2) Follow up to ensure its personnel are getting the correct services.
- b. While nonfull-time permanent direct-hire personnel are not subject to NSDD38, they **are** subject to chief of mission (COM) authority (ref. 2001 State 3573, January 8). The President's 'Letter of Instruction' gives COMs authority over "...all U.S. citizen and foreign national personnel, in all employment categories, whether direct-hire or personal services contract, full- or part-time, permanent or temporary [regardless where located in your country of assignment.]"

6 FAH-5 H-353 PERSONAL SERVICES CONTRACTORS (PSCS)

(CT:ICASS-5; 07-21-2006)

(Applies to participating ICASS agencies)

Personal services contracts (PSCs) are contracts with individuals that establish employer/employee relationships. PSCs can be hired from the United States, a third country or locally; they are normally referred to as USPSCs, TCNPSCs or FSNPSCs. The distinction that an agency chooses to make between its direct-hire and offshore PSCs should be maintained for ICASS purposes at the direction of the agency. Agencies must provide the ICASS council with clear guidance on the services and levels of service that their contractors can be provided through ICASS. The council, agency, and service provider should ensure that the services and levels of service being charged through the ICASS budget process are equal to the services and levels received by that agency's contractors.

6 FAH-5 H-353.1 Offshore Personal Services Contractors

(CT:ICASS-5; 07-21-2006)
(Applies to participating ICASS agencies)

- a. Offshore personal services contractors are defined as those individuals who have repatriation rights to their country of citizenship or the country from which recruited.
- b. Offshore U.S. personal services contractors (USPSCs), unlike contractors (nonpersonal), are normally provided the same level of service as U.S. direct hires except personnel services. Contract provisions vary, however, and in some instances contractors may not be authorized to use services. If services are authorized, USPSCs should be included in the basic package. If ICASS services are not authorized in the contract of USPSCs who are not resident in the capital, then they would not normally be included in Basic Package Services. The service provider should request a list of the services authorized from the agency, as with all contracts.
- c. Offshore third-country personal services contractors (TCNPSCs) are complex and need to be judged on a case-by-case basis. Post should look carefully at the terms and conditions of the contract and host-country requirements, and coordinate closely with the agency. Like offshore USPSCs, TCNs are often provided the same services as USDHs. The exceptions are personnel services. Pouch services are limited to official mail; however, contract provisions may vary and services might not be authorized.

6 FAH-5 H-353.2 Locally Hired Personal Services Contractors

(CT:ICASS-5; 07-21-2006)
(Applies to participating ICASS agencies)

Locally hired personal services contractors can be foreign nationals, U.S. citizens or TCNs entitled to repatriation, and they receive very few services (i.e., no housing, transportation or related services, etc.). The majority of locally hired PSCs are from the host country. However, they can be U.S. citizens, including family members, and individuals who are neither U.S. citizens nor citizens of the host country but hired locally and not entitled to repatriation rights. If family members are hired as locally hired PSCs, ICASS charges should be charged to the agency sending the family unit to post; the only ICASS charges accruing to the supporting agency would be from activities related to the function for which the family member was employed. Local PSCs are normally not counted under Basic Package Services and are

treated as locally employed staff (LES) for other cost centers.

6 FAH-5 H-353.3 Personal Services Agreements

(CT:ICASS-5; 07-21-2006)

(Applies to participating ICASS agencies)

A personal services agreement (PSA) is a hiring authority derived from the Department of State or other agency's basic contract authority, which is not subject to the Federal Acquisition Regulation (FAR). It establishes an employee/employer relationship equal to the one for locally employed staff. PSA individuals are locally hired and can be foreign nationals, and U.S. nationals or TCNs entitled to repatriation. Local PSAs are normally not counted under Basic Package Services and are treated as LES for other cost centers.

6 FAH-5 H-353.4 Contracts (Non-PSCs with Individuals or Institutions)

(CT:ICASS-5; 07-21-2006)

(Applies to participating ICASS agencies)

- a. As used in this section, the term "contract" means a mutually binding legal relationship by which the U.S. Government acquires goods or services in which the personnel rendering the services are not subject, either by the contract's terms or by the manner of its administration, to the supervision and control usually prevailing in relationships between the U.S. Government and its employees. A contractor may be (but is not limited to being) a commercial firm, a nonprofit organization, an educational institution, or an individual. Typically, these contractors do not have a benefit package at the level of direct-hire personnel.
- b. Agencies must provide the ICASS council and the service provider with clear guidance on the services and levels of service that their contractors can be provided through ICASS. From the ICASS perspective, ICASS service providers should **not** deal directly with the contractor. The ICASS service provider should get from the customer agency, in writing, a list of service subscriptions for which the agency is willing to pay on behalf of the contractor. Contractors, either individual or institutional, are not signatories to the ICASS memorandum of understanding (MOU) at post. If a contractor asserts that it is entitled to a particular ICASS service per the terms of the contract, the contractor must discuss that issue with the customer agency's representative. ICASS service providers have no standing in the contractual relationship between the agency and contractor. For ICASS purposes, it is the agency's written subscription of services that governs the services that the ICASS service provider can

offer and for which the agency will be billed. Because contractors are private organizations receiving only very limited services, they are not normally included in the Basic Package Services and in no case would they be assessed the full Basic Package Services charge.

- c. ICASS service providers also must examine the proposed service subscriptions against host-country rules and the Vienna Conventions on Diplomatic and Consular Relations (VCDR/VCCR). There have been instances when an agency made commitments in a contract to provide a contractor with accreditation, duty-free importation, diplomatic license plates, tax-free status, and other privileges. The embassy had no possibility of providing these services under either host-government rules or the VCDR. A customer agency representative must clear any ICASS service subscription commitments with the ICASS service provider before awarding the contract. ICASS is voluntary for both customers and service providers.

6 FAH-5 H-353.5 Recipients (Grantees)

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Awards (grants) are assistance instruments with nongovernmental organizations, such as private voluntary organizations (PVOs) and universities. Recipients are not U.S. Government employees and they do not have a seat at the ICASS council. By the terms of the award, employees of recipients of a grant or cooperative agreement maintain private status and may not rely on local U.S. Government offices or facilities for support while under the award. They do not receive ICASS services including Basic Package Services. The one exception is limited pouch access, if approved by the Department of State. Pouch should be charged to the Department of State at the appropriate modified level in such cases.

6 FAH-5 H-353.6 Scholars

(CT:ICASS-5; 07-21-2006)
(Applies to participating ICASS agencies)

- a. Scholars can be subject to NSDD-38 requirements and to authority of the chief of mission (COM), depending on the type of scholar. Scholars do not have a seat on the ICASS council.
- b. **Fulbright Scholars (Fulbrighters):**
 - (1) The extent of ICASS administrative services received by Fulbrighters varies from post to post. These individuals do not fall under the authority of the COM. Most missions provide no services other than support during an evacuation. Even though ICASS is not

required to provide services, some missions do authorize the use of mail, medical facility, cashier, etc., to Fulbrighters based on local conditions;

- (2) ICASS services provided to Fulbrighters at the option of the mission should be charged to the applicable public diplomacy work count. A Basic Package Services charge is generally not applicable, although ICASS councils may consider a modified charge for extensive service demands.
- c. **Olmsted Scholars:** Department of Defense (DOD) personnel participating in the Olmsted Scholar Program are full-time permanent direct-hire U.S. citizen employees (USDHs). They come under the authority of the chief of mission and are subject to the NSDD-38 process. They may receive limited support services from the mission that can be charged to the program. Based on discussions with DOD, the interagency working group has approved a specific policy on charging personnel participating in this program. Namely, Olmsted scholars will be counted as modified capitation and workload at the .3 level for any cost centers where they receive services regardless of whether the cost centers are modifiable or not. As mandatory cost centers, Basic Package Services and CLO Services will be charged at the 0.3 level. Charges should be assessed against the agency code for the military students by branch of service contained in the cost-distribution software.

6 FAH-5 H-353.7 Interns

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(Applies to participating ICASS agencies)

Occasionally, agencies may sponsor personnel at posts abroad who are classified as interns. In many cases, such personnel have security clearances and perform official duties, but they are unpaid and often must pay their own way to post and find their own accommodations. Usually, interns are assigned at post for several months only. The sponsoring agency will be responsible for the costs of any ICASS support services for interns; however, post ICASS councils should weigh the costs involved against the program benefit with the objective of encouraging such programs. Generally, interns should not be charged Basic Package Services and CLO Services costs.

6 FAH-5 H-353.8 Peace Corps Volunteers

(CT:ICASS-5; 07-21-2006)

(Applies to participating ICASS agencies)

- a. Peace Corps volunteers should be treated essentially in the same manner as all other private U.S. citizen residents in the area. ICASS services are not provided directly to Peace Corps volunteers. Therefore, Peace Corps volunteers should never be counted in any ICASS service distributed by capitation (e.g., Basic Package Services and CLO Services). For the purposes of ICASS, Peace Corps volunteers are not counted as U.S. Government employees. They are not official members of the mission and are not members of the official community.
- b. Peace Corps staff are responsible for providing support to volunteers. ICASS services subscribed to by the Peace Corps as an agency do benefit volunteers and the appropriate charges are automatically included in the Peace Corps invoice. Any further support to volunteers, which is provided at the discretion of the chief of mission (COM), should be provided at no charge.

6 FAH-5 H-353.9 U.S. Citizen School Teachers

(CT:ICASS-5; 07-21-2006)

(Applies to participating ICASS agencies)

Teachers may receive ICASS services if they are family members. If they are not family members of a mission employee, they can only receive ICASS services at the discretion of the chief of mission.

6 FAH-5 H-354 THROUGH H-359 UNASSIGNED