United States Department of State
Under Secretary of State
for Management
Washington, D.C. 20520

APR 27 2012

UNCLASSIFIED
MEMORANDUM

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U.S. Trade & Development Agency - Andrea Lupo
U.S. Trade Representative - William Shockley

FROM: Patrick F. Kennedy PFK

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SUBJECT: FY 2012 Guidance on the Capital Security Cost Sharing Program Charges for FY 2014 Budgets – Standards for Counting Authorized Positions, Assigning Positions to Categories, and Calculating Charges for Each Agency

BACKGROUND

This guidance, approved by the Department of State and reviewed by the Office of Management and Budget (OMB), explains the rationale, standards, definitions, and criteria for identifying positions and categorizing them to determine the charges payable by each department and agency under the Capital Security Cost-Sharing (CSCS) Program. Fiscal Year 2012 marks the tenth year in which CSCS charges are being calculated on the basis of guidance memoranda from the Under Secretary, and this guidance memorandum largely restates last year's memorandum.

The Department is implementing the CSCS Program under the authority of Section 604 of the Secure Embassy Construction and Counterterrorism Act of 1999, as amended by the FY 2005 Consolidated Appropriations Act, Division B, Public Law 108-447 (December 8, 2004), a copy of which is attached as Exhibit A. The law authorizes the Secretary of State to determine the cost share allocable to each agency to provide new, safe, secure U.S. diplomatic facilities, in consultation with these agencies. The law applies to all agencies with overseas personnel under chief of mission authority. Agencies are to pay in advance and without offsets, notwithstanding any other provision of law. The Secretary is directed to implement the CSCS Program in a manner that encourages rightsizing of each agency's overseas presence.

The CSCS Program is designed to:

(1) Generate $1.4 billion annually to accelerate the construction of new secure, safe, functional diplomatic and consular facilities to replace the most vulnerable facilities currently occupied by U. S. Government personnel overseas, and

(2) Provide an incentive for all Departments and agencies to rightsize their overseas staffs by taking into account the capital costs of providing facilities for their staff.

To achieve these objectives, the CSCS Program uses a per capita charge for (a) each authorized or existing overseas position in U.S. diplomatic facilities, and (b) each projected position above current authorized positions in those New Embassy Compounds (NEC/NCCs) i) that the State Department intends to reprogram; ii) is already included in the President's budget; or iii) where a contract has already been awarded. The CSCS Program charges for International Cooperative Administrative Support Services (ICASS) positions are passed through to agencies based on their relative percentages of use of ICASS services. Agencies are eligible to receive a rent credit each year for office rent paid because existing diplomatic facilities are not able to accommodate their overseas personnel.

Unless otherwise specified, every reference to "agency," "agencies," or "department or agency"; comprises all departments and independent agencies with an overseas presence, including the State Department and ICASS (which is treated as an agency for the purpose of the CSCS Program), and the same standards and guidance apply to the extent allowed by law. Subordinate agencies within departments are not addressed separately by the CSCS Program. This approach allows the supervising department to determine how it wishes to budget its CSCS charges internally. Position data breakdowns by subordinate agencies are provided for convenience only.

In accordance with the direction of Congress, the CSCS Program is being administered in a manner that is "inclusive, cooperative, and transparent."

- Inclusiveness requires that all agencies be treated fairly and have access to data and appeal procedures. The Department will make diligent efforts to communicate relevant information and share documents establishing Program policies, procedures, and results. It will take the initiative to consult with all agencies and inform them of their rights and obligations under the law and implementing procedures.

- Cooperativeness requires that the charges assessed to each agency be generated on the basis of a consistent, uniform, standardized formula. The Department will not negotiate or adjust charges for any agency on any other basis.

- Transparency requires that the CSCS Program materials be open to all agencies, as well as Congress and the public. The Department will make all relevant information relating to the Program available to agencies upon request. Each agency may examine the charges and position count data for other agencies. The CSCS Program will be administered using unclassified data to the fullest extent possible.

The CSCS Program is entirely separate from the National Security Decision Directive (NSDD-38) processes and from the Department's programs and mechanisms for establishing NEC/NCC priorities, projecting the size of NEC/NCCs, and allocating space in existing facilities and proposed NEC/NCCs. Nevertheless, the Department recognizes that the requirement that all agencies share in the funding of NEC/NCCs is a further impetus for allowing all agencies to participate fully in those processes. The Department has adopted improved procedures to ensure full consultation with all agencies in the NEC/NCC planning process such as giving agencies access to their position data and ensuring their participation in the reviews of NEC/NCC planning documents.

To aid agencies in their annual budget preparation, the CSCS Program has built in a two-year differential into the assessment of the charges each year. Once data has been collected during the early part of a calendar year, a Statement will follow in the summer that summarizes those CSCS calculations. It is intended that these figures will be included in OMB budget requests submitted that fall. The following summer, agencies will receive an invoice reflecting that same amount. The invoice is in the form of a reimbursement agreement that is due to OBO the following April. This methodology is the best way to provide agencies with accurate figures for the basis of their CSCS charges and for inclusion in their budget requests.

FUNDAMENTAL POLICY

The underlying rationale that guides decisions on whether to count a position and how to categorize it for purposes of calculating the CSCS charges is whether the position will need space in an NEC/NCC when it is built and what kind of space is required. At many posts, U.S. Government (USG) personnel are scattered among several locations, on and off the embassy grounds, for historical reasons or because of inadequate space in existing diplomatic facilities. The Secure Embassy Construction and Counterterrorism

Act of 1999, however, require the collocation on the NEC/NCC of all USG personnel at post unless the Secretary of State and the head of the relevant Department or Agency both personally approve a waiver. Exceptions are recognized in those few cases where the Department has concluded that collocation is not appropriate – for example, USG employees who must work in host-government office buildings, or in research or medical facilities, to accomplish their mission. Otherwise, all USG personnel and vacant authorized positions that are assigned to a chargeable location are charged under the CSCS Program. Chargeable locations are defined as Embassies, Consulates General, Consulates, U.S. Missions, Branch Offices, U.S. Interest Offices, U.S. Liaison Offices, Department of State Language Schools, and Consular Agencies.

COUNTING POSITIONS AND ASSIGNING POSITIONS TO CATEGORIES

1. **Positions to Be Charged.** The CSCS charges apply to the total number of existing or authorized positions, i.e., the total of both filled and currently unfilled positions. These positions include direct-hire American positions and all locally employed staff (LES) (which includes Foreign Service Nationals (FSNs) local Personal Services Contractors (PSCs); temporary appointees, including long-term and permanent or rolling TDY positions; and Eligible Family Member (EFM) positions)), all types of contractors working in USG-owned or -leased facilities, and any others working in USG facilities. They also include contractor positions such as third- party contractors, personal services agreements (PSA), locally contracted guards, janitors, maintenance crews, and the like, if the position is in place and on-compound on a regular and continuing basis for any six-month period of time. Part-time and temporary positions are counted in accordance with the ICASS policy on temporary duty positions. Each authorized position is counted in only one category, even if it arguably falls in more than one of the four chargeable categories below (See Paragraph 3). However, if an agency requires multiple offices or workspaces simultaneously for a position, charges will be assessed for them as if they were additional positions. For positions that are staffed on more than one shift (e.g., security guards, drivers), the charge is adjusted to reflect the fact that facilities needs are not increased by additional shifts.

2. **Which Agency Pays.** Many agencies participate in programs that are "cross-funded" – i.e., the funds come from another agency's budget account. The policy of the CSCS Program is that the agency to which an employee or unfilled position – i.e., "the payer on the paycheck" – is the one that should bear fiscal responsibility under the CSCS Program for the capital cost for accelerated construction of new facilities. If an agency is cross-funded by another agency or program and needs a larger reimbursement in order to pay the CSCS Program cost of cross-funded activities, it should include the CSCS charges in its request to the funding agency as it would for an increase in travel, salaries, or other expenses.

   This approach simplifies the administration of the CSCS Program. The State Department cannot practically trace the funding of every agency's overseas programs. The policy also encourages rightsizing, because the employing agency and its cross-funding partner have the best control over personnel levels, the best understanding of the programmatic choices involved, and the strongest incentive to resolve the budgetary issues in a rational manner.

3. **Categories of Positions**

   - Principal Office Positions. This category comprises Chief of Mission (COM) positions, which are the principal officers in charge of diplomatic missions of the United States or of United States offices abroad, and are always assigned to the Department of State. A higher per capita charge applies because the COM has representational office space that is more elaborate than the office space for other personnel.

   - CAA Office Positions. This category comprises authorized positions that need to be able to operate inside a controlled access area. The controlled access area (CAA) is that portion of the USG-owned or -leased mission facilities in which the handling of classified information is authorized. Although an individual may be cleared for access to classified information, the position only counts as a CAA position if CAA space has been allocated for it. In some cases, several representatives of an agency will work outside CAA space but share one or more desks within the CAA to conduct their work. If the agency requires one or more CAA desks to serve its representatives, that

agency will be considered to have that number of CAA positions in addition to the non-CAA positions.

- Non-CAA Office Positions. This category comprises existing or authorized office positions operating, or intended to operate, at a desk, office, or workstation in USG-owned or -leased mission facilities but outside of the CAA. A support supervisory position that occupies a desk or workstation (e.g., chief of motor pool) is counted as an office position. If a position has a desk, office, or workstation assigned to it, it is counted as an office position regardless of the amount of time the current incumbent actually spends working at the desk.

- Non-office Positions. This category comprises existing or authorized "non-office" positions operating, or intended to operate, on the premises of USG-owned or -leased mission facilities. Non-office positions include custodians, laborers, warehouse staff, gardeners, drivers, etc., who do not have an assigned desk, office, or workstation. As noted above, counts will be adjusted to reflect the use of the same facilities by multiple shifts where they occur.

- Outside Embassy Positions.

  (1) This category comprises authorized positions that, in order to do their work, must be located in non-USG-owned or -leased facilities or other non-mission facilities (e.g., in government ministries, at airports and seaports, at memorials, at universities, etc.). Often the host government provides this space. For purposes of the CSCS Program, the Department is assuming that such positions will not be affected by the collocation requirement when an NEC/NCC is built for that post. Since the positions that fall under this category would not be provided space in an NEC/NCC, they are counted, but not charged under the program.

  (2) This category also includes positions that do not perform diplomatic or administrative work, such as research scientists in laboratories or technicians at antenna fields, and roving guards whose mission is residential protection. Since the positions that fall under this category would not be provided space in an NEC/NCC, they are counted, but not charged under the program.

(3) Peace Corps professional staff positions are listed in the survey and counted, but not subject to CSCS charges due to Congressional guidance that they should not be required to collocate in an NEC/NCC.

(4) Positions located in cities that do not have diplomatic posts are not counted because no NEC/NCC or other State Department facility is contemplated for such locations.

(5) Positions that currently occupy leased space in mission annex buildings are not considered Outside Embassy positions, because they are considered part of the mission and will be counted when the Department determines the appropriate size for an NEC/NCC. Positions in annex buildings, even if the building is leased or wholly occupied by one agency, are listed and charged as CAA, Non-CAA Office, or Non-office positions.

- Marine Security Guards. Marine Security personnel, including commanders and local-hire staff shall be counted, but Congress has directed that they not be included in the calculation of CSCS charges. The Marines protect all USG classified activities at the post, and everyone benefits from their presence.

4. **NEC/NCC Projected Staff Growth Positions.** The fundamental building block for planning an NEC/NCC is the projected number and types of positions that must be accommodated in the new facilities. The Department of State and OMB request funds, and Congress appropriates funds, to particular NEC/NCC projects on the basis of these projections, which are the product of a process that includes approval by each agency's headquarters.

To encourage careful, realistic projections of staffing, when an agency projects NEC/NCC positions that exceed its current existing or authorized positions at a post that is budgeted for an NEC/NCC in the President's budget and for which a contract for construction is actually awarded, the projected growth positions will be counted and charged the CSCS Program charges as if they already existed as authorized positions. These charges are calculated from the existing and projected positions listed in the rightsized Space Requirements Program (SRP) that served as the basis for the NEC/NCC cost that appears in the President's budget.

The NEC/NCC Projected Staff Growth Charge for a given facility begins in the first fiscal year following the date the projection is used for determining the size, configuration, and budget for the NEC/NCC. That year is typically the year that the Department submits the project to OMB for inclusion in the President's budget, but will be the year in which a contract for a project is awarded if the project was not included in that year's budget. In some cases, a project is substituted after the President's budget has been submitted to Congress. These projects are also added to the list once awarded. NEC/NCCs on last year's list of posts covered by the Projected Staff Growth Charge that opened prior to January 1, 2012, have been removed from the list. Any projects that were budgeted in a previous year, but for which an award has not been made, have also been removed. The list of Capital Security projects to which the NEC/NCC Projected Staff Growth Charge applies is attached as Exhibit C.

Projected decreases at a proposed NEC/NCC may not be netted against projected increases in NEC/NCC staffing at another post unless the reductions were approved by agency headquarters and incorporated into the projections and budgeting for that post before funding was requested from Congress. Otherwise, the projected reductions will not benefit the agency until the year the NEC/NCC opens and they actually occur.

In order to treat all agencies equally and fairly, an agency that requests an increase in projected positions on an NEC/NCC after the President's budget is fixed or the contract is awarded will be required to pay Projected Staff Growth Charges retroactively, in the same amount as if the agency had correctly projected the positions at the proper time. (In addition, it may be required to bear some or all of the costs of any increase in actual construction costs resulting from its late decision to expand.) OBO will make reasonable efforts to alert agencies making "out of cycle" requests for increases in NEC/NCC positions that retroactive charges will be applied in the next annual CSCS billing. CSCS Program staff will assist agencies in estimating what those charges will be.

CALCULATING THE CSCS PROGRAM CHARGES FOR EACH AGENCY

FY12 charges were reduced by 20.5%, due to language enacted by Congress.

The Department has established per capita charges that reflect the costs of construction of the various types of space in NEC/NCCs. The proportional amount of those construction costs are then multiplied by the target annual budget amount of $1.4 billion, (however, future CSCS program levels will be determined through the budget process). This determines the actual dollar amounts for those proportional construction costs. These dollar amounts are divided by the total number of billable positions overseas and results in the per capita charges for each category. The current charges are for use on the FY 2014 – FY 2016 invoices.

Like the initial FY 2005 – FY 2007 per capita charges, these per capita charges are fixed, so each agency's bill will vary directly with changes in the number of its overseas positions. Charges for previous years will not be affected by these new per capita charges. This approach facilitates budget planning by all concerned. Position charges for FY 2014 - FY2016 are as follows:

$ 171,111 per capita for PO space
$ 76,017 per capita for CAA space
$ 11,429 per capita for non-CAA space
$ 2,893 per capita for non-office space

The CSCS charges have been phased in over five years starting at 20 percent in FY 2005. FY 2009 represents the first year the 100 percent level of the per capita charges were fully phased. FY 2014 and beyond will continue to use the fully phased per capita charges. The following table shows the actual per capita charges for each category of positions beginning with FY 2011.

Category	FY11	FY12	FY13	FY14	FY15	FY16
PO	215,031	215,031	215,031	$171,111	$171,111	$171,111
CAA	49,781	49,781	49,781	$ 76,017	$ 76,017	$ 76,017
Non-CAA	19,344	19,344	19,344	$ 11,429	$ 11,429	$ 11,429
Non-office	3,450	3,450	3,450	$ 2,893	$ 2,893	$ 2,893

Each agency's CSCS charges are composed of the following calculations:

1. **Existing Positions Charge.** Once the number and type of authorized positions has been collected from posts, the overall counts are multiplied by the current per capita rates for each category. This results in the existing positions charge.

2. **NEC/NCC Projected Staff Growth Charge**. Projected Staff Growth positions will be allocated to the same four space categories as the existing positions. The per capita charges for these projected positions are the same as the rates for existing positions. The count of these positions is gathered from planning documents that are used for the applicable facilities. The data supporting the invoice and statement that is supplied to each agency will show charges for planned positions at those Posts where planned positions exceed existing positions.

3. **ICASS Pass-Through.** ICASS positions are listed and counted like those of all other agencies, but their costs are ultimately the joint responsibility of the participating agencies. The ICASS Executive Board has decided to pass through its CSCS Program charges for ICASS positions like other indirect costs: they are to be paid at the headquarters level in the same percentage proportion as overall use of ICASS services. The Department includes each agency's share of ICASS CSCS Program charges on the same invoice as the other CSCS Program charges. Each agency's invoice includes a line showing the ICASS CSCS Program charges allocated to the agency.

4. **Rent Credit.** Each agency that is paying rent for office space for existing or authorized positions that are counted and included in the CSCS Program charges is given credit for the amount of rent it actually paid to provide offices for those positions in the year in which the count of authorized positions occurred. This credit is for the net rent paid and does not include

maintenance, utilities, or other expenses, as similar expenses are incurred by agencies located within the Department's owned diplomatic facilities. Credit will not be given for locations at which the agency does not have chargeable positions.

In those circumstances where an agency other than the State Department expends funds for (or contributes to) the purchase or construction of separate functional facilities that are owned by the State Department and located on an embassy or consulate compound, the CSCS Program will grant a credit for those outlays as well. The rent credit will be applied against the CSCS charges being calculated in the year the agency shows it has actually paid the funds (e.g., payments made in FY 2012 will be credited against FY 2014 charges). This policy will encourage other agencies to contribute to on-compound construction as an alternative to leasing off-compound space, which goes against the collocation objective.

The Department has arranged to have ICASS provide the data on rent paid by each agency through ICASS, and that amount will automatically be credited to the agency. Each agency must take the initiative to claim and document any amount of other rent it is paying this year, with sufficient specificity that the rent can be verified in the Department's leased property records. The full amount of the rent credit will be applied against the total amount of CSCS Program charges, thereby reducing the agency's obligation.

COUNTING AND VALIDATING POSITIONS TO BE CHARGED

To implement the CSCS Program, each Department and Agency's existing or authorized overseas positions must be identified and categorized according to the type of space it occupies: CAA space, non-CAA space, or non-office space. Positions that are not charged for whatever reason must also be tabulated to facilitate verification of the count.

The Department has implemented additional changes to the web PASS Post Personnel system that enable OBO and the agencies to obtain position information needed for the CSCS Program directly from posts. This database serves as the accounting of overseas positions for all purposes, including ICASS, CSCS and Long-Range Construction Planning. Post personnel can be reviewed and updated by the agencies on an ongoing basis. The system has

been modified to allow for the reporting of all existing positions and all other positions under the authority of the Chief of Mission as of May 1, 2009. The system has been populated with the most recent CSCS data collected and verified with each agency. The Department is working both with agencies and posts to ensure that the position data in the system is updated accurately.

1. **Review in Washington**. Each agency has been given on-line access to its position data via the Executive Agency Personnel Support System (EAPS), especially designed for their use. Each agency is responsible for reviewing its data and coordinating any needed changes through EAPS directly with post. The State Department will also review the web PASS data and make needed corrections, in accordance with OBO space standards and previous CSCS data records. Agencies can seek to resolve discrepancies through direct discussions with posts. Senior officials will review the relevant data and provide guidance on resolving any remaining differences. Agencies that cannot resolve discrepancies at post, can communicate their issues to the Chief Financial Officer of the State Department (CFO).

   To assist in verifying the data for the State Department and ICASS, OBO may transmit the State Department and ICASS position data to each Regional Bureau for review. Copies of all position data will be provided to the State Department's Bureau of Resource Management and OMB. OBO's objective is to make the final determinations of the FY 2014 charges and provide them to all agencies (including ICASS and the Department of State charges) in August of 2012.

   After any differences over the position data and rent credits are resolved with the interested agency, the CFO of the State Department will send a letter to his counterpart at each agency transmitting a statement of charges for FY 2014, which should be incorporated into the agency's upcoming budget submission to the OMB. This information will also be given directly to OMB. The CFO's letter will also transmit a final invoice for the FY 2013 charges, which will be due April 1, 2013.
2. **Final Review by OMB.** To the extent that differences have not been resolved (1) through discussions between the Department and the agency, or (2) if the issue is a matter of general applicability, through consultation with a working group of the Interagency Facilities Council, the Department and the affected agency or agencies will present their respective views in

writing to the appropriate OMB staff, and OMB will facilitate the final resolution of the differences.

Attachments:

Exhibit A: Legislation authorizing the CSCS Program
Exhibit B: Posts covered by the NEC/NCC Projected Staff Growth Charge

Exhibit A: Legislation authorizing the CSCS Program

SEC. 629. Section 604 of the Secure Embassy Construction and Counterterrorism Act of 1999 (title VI of division A of H.R. 3427, as enacted by section 1000(a)(7) of Public Law 106–113) is amended by adding the following new subsection at the end:

''(e) CAPITAL SECURITY COST SHARING.—
''(1) AUTHORITY.—Notwithstanding any other provision of law, all agencies with personnel overseas subject to chief of mission authority pursuant to section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) shall participate and provide funding in advance for their share of costs of providing new, safe, secure United States diplomatic facilities, without offsets, on the basis of the total overseas presence of each agency as determined annually by the Secretary of State in consultation with such agency. Amounts advanced by such agencies to the Department of State shall be credited to the Embassy Security, Construction and Maintenance account, and remain available until expended.
''(2) IMPLEMENTATION.—Implementation of this subsection shall be carried out in a manner that encourages right-sizing of each agency's overseas presence.
''(3) EXCLUSION.—for purposes of this subsection 'agency' does not include the Marine Security Guard.''.

SEC. 630. (a) Except as provided in subsection (b), a project to construct a diplomatic facility of the United States may not include office space or other accommodations for an employee of a Federal agency or department if the Secretary of State determines that such department or agency has not provided to the Department of State the full amount of funding required by subsection (e) of section 604 of the Secure Embassy Construction and Counterterrorism Act of 1999 (as enacted into law by section 1000(a)(7) of Public Law 106–113 and contained in appendix G of that Act; 113 Stat. 1501A–453), as added by section 629 of this Act.
(b) Notwithstanding the prohibition in subsection (a), a project to construct a diplomatic facility of the United States may include office space or other accommodations for members of the Marine Corps.

FY2005 Consolidated Appropriations Act, Public Law No. 108-447, December 8, 2004