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**State Cable 154772: Notification of USAID Mission Employees
for Privileges and Immunities**

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ANEAA ANEAMS1 ANEEP ANEESA ANEMEA ANESPOTS
BLANE DCHA1 DCHADG DCHAFFP DCHAFVPP
DCHAOFDA DCHAOTI1 DCHAPVC EEAA EEDG
EEECA EEEI EENCA EEOM EEPO EGATPAICO
EGATPDAM EGATPDSP EGATWID EHOUSTON
GHAA HPROCTOR HR HREM HRLER HRLS HRPP
JHASSE LACAA LACCAR LACCEN LACDHR LACSAM
LBARBOUR MKARBELING MPI OPE OPPS OPTC
PPCAA PPCRA SGARVEY TWAY VDUARTE

INFO LOG-00 AGRE-00 UTED-00 TEDE-00 INR-00 L-00 TEST-00
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ADM AID

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TAGS:

SUBJECT: NOTIFICATION OF USAID MISSION EMPLOYEES FOR
PRIVILEGES AND IMMUNITIES

1. FOR USAID EXOS AND RLAS. FROM GC, JOHN GARDNER AND
AA/M, JOHN MARSHALL. EXOS PLEASE PASS TO EMBASSY ADMIN.
COUNSELORS. THIS CABLE HAS BEEN CLEARED BY

STATE/HR/CDA/T&R AND STATE/L/DL.

2. SUMMARY. THIS IS TO REMIND POSTS OF THE GENERAL POLICY OF NOTIFYING USAID U.S. DIRECT-HIRE AND PERSONAL SERVICES CONTRACT ("USPSC") EMPLOYEES ASSIGNED TO A USAID MISSION OR U.S. EMBASSY WHERE THE MISSION IS PART OF THE EMBASSY. ALSO INCLUDED ARE USAID MISSION EMPLOYEES HAVING REGIONAL RESPONSIBILITIES. IT DOES NOT APPLY TO USAID EMPLOYEES ASSIGNED TO PUBLIC INTERNATIONAL ORGANIZATIONS OR OTHER ENTITIES.

3. COMPARABLE RANK. THE POLICY IS THAT USAID MISSION U.S. DIRECT-HIRE EMPLOYEES ARE TO HAVE PRIVILEGES AND IMMUNITIES "COMPARABLE IN RANK" TO THOSE ACCORDED TO EMBASSY PERSONNEL.

(A) PROFESSIONAL EMPLOYEES. UNDER THE "COMPARABLE RANK" FORMULATION, USAID PROFESSIONAL U.S. DIRECT-HIRE EMPLOYEES ARE TO BE NOTIFIED WITH THE PRIVILEGES AND IMMUNITIES OF DIPLOMATIC AGENTS UNDER THE VIENNA CONVENTION. MOST USAID MISSIONS HAVE ONLY PROFESSIONAL STAFF, I.E., SENIOR FOREIGN SERVICE OFFICERS AND FOREIGN SERVICE OFFICERS (OR SFS/FSO CAREER CANDIDATES) SERVING AS PROGRAM OFFICERS, EXECUTIVE OFFICERS, GENERAL DEVELOPMENT OFFICERS, LEGAL OFFICERS, CONTROLLERS, AGRICULTURE, HEALTH AND POPULATION, DEMOCRACY, FOOD FOR PEACE AND OTHER SPECIALIZED OFFICERS AND IN OTHER PROFESSIONAL POSITIONS.

(B) NON-PROFESSIONAL EMPLOYEES. NON-PROFESSIONAL USAID MISSION DIRECT-HIRE EMPLOYEES ARE TO BE NOTIFIED WITH THE PRIVILEGES AND IMMUNITIES OF ADMINISTRATIVE AND TECHNICAL STAFF ("A & T") UNDER THE VIENNA CONVENTION.

4. NOTIFICATION OF USAID MISSION PROFESSIONAL EMPLOYEES UNDER USAID BILATERALS. IN MANY COUNTRIES USAID HAS A FRAMEWORK BILATERAL OR OTHER ARRANGEMENT THAT PERMITS USAID MISSION PROFESSIONAL EMPLOYEES TO BE NOTIFIED AS DIPLOMATIC AGENTS WITHOUT THE NEED TO GO THROUGH STATE'S FORMAL DIPLOMATIC TITLE APPROVAL PROCESS. USAID MISSION EMPLOYEES USUALLY ARE NOTIFIED AS "EQUIVALENT TO" A PARTICULAR SECRETARIAL OR ATTACHI TITLE. USAID'S PRIMARY CONCERN IS ENSURING THAT ALL ITS PROFESSIONAL DIRECT HIRE EMPLOYEES HAVE THE SAME PRIVILEGES AND PROTECTIONS ACCORDED DIPLOMATIC AGENTS

UNDER THE VIENNA CONVENTION AND UNDER HOST COUNTRY PRACTICE. EVEN WHERE ALTERNATIVE ARRANGEMENTS PERMIT USAID MISSION PROFESSIONAL STAFF OFFICIALS TO BE NOTIFIED AS "EQUIVALENT TO" A PARTICULAR DIPLOMATIC TITLE, AN ACTUAL DIPLOMATIC TITLE STILL MAY BE NECESSARY TO ACCOMPLISH CERTAIN PURPOSES. FOR EXAMPLE, IN SOME COUNTRIES THE HOST GOVERNMENTS WILL ONLY ISSUE TAX-EXEMPTION CARDS OR DIPLOMATIC LICENSE PLATES TO PERSONS HAVING ACTUAL DIPLOMATIC TITLE. THE MISSION AND EMBASSY SHOULD MAKE EVERY EFFORT TO ELIMINATE ANY DISPARITY IN TREATMENT, INCLUDING SEEKING STATE/HR/CDA/T&R APPROVAL OF SPECIFIC DIPLOMATIC TITLES IF NECESSARY.

5. NOTIFICATION OF USAID MISSION PROFESSIONAL EMPLOYEES UNDER THE VIENNA CONVENTION. IN COUNTRIES WHERE THERE IS NO BILATERAL PROVISION OR OTHER MECHANISM THAT PERMITS APPROPRIATE NOTIFICATION, USAID DIRECT-HIRE EMPLOYEES ARE NOTIFIED AS DIPLOMATIC AGENTS UNDER THE VIENNA CONVENTION. THIS REQUIRES APPROVAL OF SPECIFIC DIPLOMATIC TITLES BY STATE/HR/CDA/T&R. THE SPECIFIC SECRETARIAL OR ATTACHI TITLE DEPENDS UPON CUSTOM, USAGE, LOCAL CONDITIONS, AND STATUS AS A COMMISSIONED OR NONCOMMISSIONED OFFICER. GENERALLY, COMMISSIONED PERSONNEL WHICH INCLUDE SENIOR FOREIGN SERVICE OFFICERS AND FOREIGN SERVICE OFFICERS (OR SFS/FSO CAREER CANDIDATES) OF CLASS 1 OR 2 ARE NOTIFIED AS FIRST SECRETARY. FSO OR FSO OF CLASS 3 OR 4 ARE NOTIFIED AS SECOND SECRETARY. FSO OR FSO OF CLASS 5 OR 6 ARE NOTIFIED AS THIRD SECRETARY. OTHER DIRECT-HIRE EMPLOYEES AT CLASS 4 OR ABOVE ARE NOTIFIED AS ATTACHI WITH THOSE BELOW CLASS 4 AS ASSISTANT ATTACHI. SEE 3 FAH-1 H-2436 FOR GUIDANCE ON THE APPROPRIATE TITLE.

FAH-1 H-2435.2(B) PERMITS A TITLE TO BE ISSUED WHERE A DENIAL WOULD IMPAIR THE EFFECTIVE PERFORMANCE OF ONE'S DUTIES AND OF THE DIPLOMATIC FUNCTIONS OF THE FOREIGN SERVICE POST. STATE/HR/CDA/T&R CONSIDERS 3 FAH-1 H-2435.2 (B) TO BE MET FOR USAID MISSION DIRECT-HIRE EMPLOYEES WITHOUT THE NEED FOR ANY FURTHER JUSTIFICATION FROM THE CHIEF OF MISSION. THIS IS BASED ON RECOGNITION OF THE ROLE OF USAID PERSONNEL SERVING OVERSEAS IN FURTHERING THE FOREIGN POLICY GOALS OF THE UNITED STATES AND THE INCREASING SECURITY THREAT POSED TO SUCH PERSONNEL.

6. USAID PSC EMPLOYEES. AS SET FORTH IN STATE 232440, DECEMBER 7, 2000, USAID PSCS ASSIGNED TO AN EMBASSY

ARE NOTIFIED AS A & T.

7. HOST COUNTRY NATIONALS AND PERMANENT RESIDENTS. USAID EMPLOYEES WHO ARE LOCAL NATIONALS OR PERMANENT RESIDENTS OF THE HOST STATE ARE NOT NOTIFIED TO THE HOST STATE.

8. REGIONAL USAID EMPLOYEES. USAID MISSION DIRECT-HIRE EMPLOYEES SERVING IN REGIONAL POSITIONS (I.E., REGIONAL CONTRACTING OFFICERS, REGIONAL LEGAL ADVISORS, ETC.) MAY BE NOTIFIED AS MEMBERS OF THE DIPLOMATIC STAFF OF THE USAID MISSION IN EACH COUNTRY THAT THE INDIVIDUAL COVERS AS PART OF THE EMPLOYEE'S REGIONAL DUTIES. THE HOST GOVERNMENT OF THE RESIDING COUNTRY MUST FIRST CONCUR IN MULTIPLE ACCREDITATION PRIOR TO REQUESTING ACCREDITATION FROM THE COUNTRIES OF REGIONAL RESPONSIBILITY. IN COUNTRIES WHERE USAID HAS A FRAMEWORK BILATERAL OR OTHER ARRANGEMENT THAT PERMITS THEM TO BE NOTIFIED AT THE APPROPRIATE LEVEL, USAID MISSION EMPLOYEES MAY BE NOTIFIED WITHOUT A TITLE, UNLESS A TITLE IS NEEDED FOR OTHER PURPOSES. PLEASE CONSULT WITH USAID REGIONAL LEGAL ADVISORS ON WHETHER THE BILATERAL PERMITS NOTIFICATION.
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