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Office of Inspector General

U.S. Department of State • Broadcasting Board of Governors

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March 2017

Management Assistance Report: All Posts Should Comply With New Department Requirement to Revise Policies on Hiring of Personal Domestic Workers

MANAGEMENT ASSISTANCE REPORT

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Summary of Review

On February 1, 2016, the Department of State (Department) issued revised requirements for the employment of personal domestic workers abroad in 3 Foreign Affairs Manual (FAM) 4128. OIG reviewed the Bureau of Human Resources' efforts to verify that all chiefs of mission (COMs) issued revised post policies on personal domestic worker employment that incorporated the new requirements. OIG found that 20 out of 169 missions did not submit a policy to the Bureau of Human Resources. OIG recommended that the Bureau of Human Resources require all delinquent missions to submit a policy on hiring personal domestic workers as soon as possible. OIG also found that 131 out of the 149 missions that did submit a policy failed to incorporate some of the required elements in their policies. OIG recommended that the Bureau of Human Resources require those 131 missions to revise their policies to comply with 3 FAM 4128 and resubmit them to the Department.

In their comments on the draft report, Department stakeholders concurred with both recommendations. OIG considers the two recommendations resolved, pending further action. Department responses are included in their entirety in Appendix B.

BACKGROUND

The United States is a leader in the fight against human trafficking, of which domestic servitude is one form. Victims of domestic servitude experience compelled service through the use of force, fraud, or coercion. In recent years, the Department has strengthened requirements for the appropriate treatment of domestic workers employed by foreign diplomats in the United States, including holding foreign governments accountable for their diplomats' mistreatment of these workers. Similarly, the Department sought to hold its own diplomats serving overseas to similar standards in the employment of personal domestic workers and to make certain that these workers were treated fairly and in accordance with local law and Department requirements.

To achieve this, on February 1, 2016, the Department revised its guidelines on personal domestic workers¹ hired by executive branch personnel assigned abroad under COM authority. The guidelines, published in 3 FAM 4128, included two sets of requirements: one applied to domestic workers hired abroad and brought to post (third-country national domestic workers), and the other pertained to locally resident domestic workers.

On February 29, 2016, the Department issued cable 16 State 20748, "New Standards for Hiring Personal Domestic Workers," which required COMs, by May 31, 2016, to incorporate the new 3 FAM 4128 requirements into a post policy applicable to all executive branch employees under their authority. The cable instructed COMs to include a provision in the policy requiring employees with personal domestic workers to comply with the new guidelines within 60 days of

¹ Personal domestic workers are neither Federal employees nor employees of U.S. missions abroad. They are the personal employees of the executive branch employee in whose home they work and provide personal services (for example, housekeeping, child care, or gardening). The guidelines in 3 FAM 4128 do not apply to locally employed staff or personal domestic employees of principal representatives who live in specially designated official residences (i.e., ambassadors, most deputy chiefs of mission, and principal officers). Guidelines related to these domestic workers are covered in other parts of 3 FAM and the Department of State Standardized Regulations.

the issuance of the policy and thereafter whenever they hire a personal domestic worker. The cable also instructed COMs to submit the policy to the Bureau of Human Resources.

The cable and 3 FAM 4128 outlined the Department's expectations that executive branch employees will treat domestic workers employed in their homes fairly and provide employment conditions that follow host country labor laws and are consistent with Department standards. While the Department already required that an employment contract be in place between executive branch employees and their third-country national domestic workers, 3 FAM 4128 introduced a similar requirement for local domestic workers hired to work more than 20 hours per week. The guidelines also instructed employees to consider host country labor laws as a minimum standard rather than a ceiling and required employees to abide by all contract provisions with their personal domestic workers.

The cable and the revised FAM requirements reiterated the Department's policy that all employees assigned abroad under COM authority, their family members, and other members of their households observe high standards of conduct related to domestic employees. Pursuant to these requirements, the use of physical force, threats of force, coercion (including threatened withdrawal of immigration benefits), or fraud to compel labor or sexual services from a personal domestic worker could result in criminal prosecution under U.S. law.

FINDINGS

Twenty Embassies Did Not Submit a Personal Domestic Worker Policy

Department cable 16 State 20748 required overseas posts to issue a policy that incorporated the new FAM requirements for hiring personal domestic workers by May 31, 2016. According to data provided to OIG by the Bureau of Human Resources, 20 missions had not submitted a personal domestic worker employment policy to the bureau as of December 10, 2016. Missions that did not submit such a policy included seven embassies in the Bureau of African Affairs,² nine in the Bureau of European and Eurasian Affairs,³ one in the Bureau of Near Eastern Affairs,⁴ and three in the Bureau of Western Hemisphere Affairs.⁵ A total of 149 missions submitted policies, while an additional 8 missions⁶ were exempt or covered by another embassy. Failure to submit a policy that includes all Department requirements increases the risk that employees will fail to comply with Department standards and to respect host country labor laws.

Recommendation 1: The Bureau of Human Resources, in coordination with the Bureaus of African Affairs, European and Eurasian Affairs, Near Eastern Affairs, and Western Hemisphere Affairs, should require all delinquent missions to submit their personal domestic worker

² Embassies Addis Ababa, Asmara, Freetown, Lilongwe, Lomé, Luanda, and Windhoek.

³ Embassies Budapest, Helsinki, Lisbon, Luxembourg, Minsk, Moscow, Prague, Pristina, and Warsaw.

⁴ Embassy Beirut.

⁵ Embassies Ottawa, St. George's, and Port of Spain.

⁶ In light of suspended operations, Embassies Juba, Mogadishu, Damascus, Sanaa, and Tripoli were exempt from this requirement. Embassies Bissau and Republic of Maldives were covered by other embassies. Executive branch employees assigned to Embassy Baghdad are not authorized to hire personal domestic workers.

employment policy before the end of fiscal year 2017. (Action: DGHR, in coordination with AF, EUR, NEA, and WHA).

One Hundred Thirty-One Missions Did Not Incorporate All Requirements into Their Policy

Of the 149 missions that submitted a policy to the Bureau of Human Resources, 131 failed to incorporate all the minimum requirements of 3 FAM 4128 and Department cable 16 State 20748.⁷ These mission policy submissions lacked one or more of the required elements as outlined in the chart below. Failure to issue policies that conform to all Department requirements risks employees being unaware of their obligations and Department expectations when employing personal domestic workers. This, in turn, could result in violation of local labor laws or mistreatment of domestic workers.

3 FAM 4128 Requirements in Embassy Policies on Hiring Personal Domestic Workers for Executive Branch Staff Assigned Abroad	Number of Missions With Policies Missing Requirement*
Chief of Mission Approval	103
Statement Requiring Employees to Read and Comply With Guidelines	65
Statement on Salary/Wage Deductions for Food	35
Statement on Salary/Wage Deductions for U.S. Government Paid Lodging	34
Statement for the Inclusion of Overtime Hours in the Contract	22
Statement for the Inclusion of Stand-By/On-Call Hours in the Contract	34
Statement for the Inclusion of Days Off in the Contract	23
Statement for the Inclusion of Paid Leave in the Contract	21
Statement on the Payment of Salaries and Wages	46
Requirement for a Contract for Employment of Greater than 20 Hours	13
Reference to Host Country Local Labor Law	7
Reference to 3 FAM 4128 or Department Cable 16 State 20748	4
No Distinction Made between Third-Country National Domestic Workers and Local Resident Workers	9

* **Source:** OIG analysis of Embassy policies posted on Department internal websites and/or provided by the Bureau of Human Resources.

Recommendation 2: The Bureau of Human Resources, in coordination with the Bureaus of African Affairs, East Asian and Pacific Affairs, European and Eurasian Affairs, Near Eastern Affairs, South and Central Asian Affairs, and Western Hemisphere Affairs, should require missions not fully in compliance to revise and resubmit, before the end of fiscal year 2017, their policy on hiring personal domestic workers in accordance with Department guidelines. (Action: DGHR, in coordination with AF, EAP, EUR, NEA, SCA, and WHA).

⁷ See Appendix C.

RECOMMENDATIONS

OIG provided a draft of this report to Department stakeholders for their review and comment on the findings and recommendations. OIG issued the following recommendations to the Bureau of Human Resources. Their complete responses can be found in Appendix B. The Department also provided technical comments that OIG incorporated, as appropriate, into this report.

Recommendation 1: The Bureau of Human Resources, in coordination with the Bureaus of African Affairs, European and Eurasian Affairs, Near Eastern Affairs, and Western Hemisphere Affairs, should require all delinquent missions to submit their personal domestic worker employment policy before the end of fiscal year 2017. (Action: DGHR, in coordination with AF, EUR, NEA, and WHA).

Management Response: In its March 13, 2017 response, the Bureau of Human Resources concurred with this recommendation. It noted that it would ask relevant regional bureaus (AF, EUR, NEA and WHA) to direct missions that have not done so to submit their personal domestic worker employment policy statement by September 30, 2017.

OIG Reply: OIG considers this recommendation resolved. The recommendation can be closed when OIG receives and accepts documentation of mission policies submitted by their respective bureaus to the Bureau of Human Resources.

Recommendation 2: The Bureau of Human Resources, in coordination with the Bureaus of African Affairs, East Asian and Pacific Affairs, European and Eurasian Affairs, Near Eastern Affairs, South and Central Asian Affairs, and Western Hemisphere Affairs, should require missions not fully in compliance to revise and resubmit, before the end of fiscal year 2017, their policy on hiring personal domestic workers in accordance with Department guidelines. (Action: DGHR, in coordination with AF, EAP, EUR, NEA, SCA, and WHA).

Management Response: In its March 13, 2017 response, the Bureau of Human Resources concurred with this recommendation. It noted that it will ask the regional bureaus to direct missions to revise their policy statements on hiring domestic workers to fully reflect Department guidelines and submit them by September 30, 2017.

OIG Reply: OIG considers this recommendation resolved. The recommendation can be closed when OIG receives and accepts documentation that the missions have updated their policy on hiring domestic personal workers and submitted them by their respective bureaus to the Bureau of Human Resources.

APPENDIX A: OBJECTIVES, SCOPE, AND METHODOLOGY

This inspection was conducted in accordance with the Quality Standards for Inspection and Evaluation, as issued in 2012 by the Council of the Inspectors General on Integrity and Efficiency, and the Inspector's Handbook, as issued by OIG for the Department and the Broadcasting Board of Governors.

The Office of Inspections provides the Secretary of State, the Chairman of the Broadcasting Board of Governors, and Congress with systematic and independent evaluations of the operations of the Department and the Broadcasting Board of Governors. Consistent with Section 209 of the Foreign Service Act of 1980, this inspection focused on the Department's policy implementation—whether policy goals and objectives are being effectively achieved; whether U.S. interests are being accurately and effectively represented; and whether all elements of an office or mission are being adequately coordinated.

OIG's specific inspection objective was to determine whether 177 overseas missions incorporated the new requirements of 3 FAM 4128 into post-specific personal domestic workers employment policies and submitted those policies to the Department by the required deadline.

OIG reviewed Department guidelines to ensure a complete understanding of the roles, responsibilities, processes, and the required documentation involved in the employment of personal domestic workers. OIG determined whether all overseas missions submitted a personal domestic workers policy by the required deadline and whether these policies incorporated the requirements of 3 FAM 4128 and Department cable 16 State 20748. OIG used professional judgment, along with physical, documentary, testimonial, and analytical evidence collected or generated, to develop findings, conclusions, and actionable recommendations.

This review was conducted by Mira Piplani (Team Leader), Michael Bosserdet, Sergio Lagares and Tim Wildy.

APPENDIX B: MANAGEMENT RESPONSES



United States Department of State

Washington, D.C. 20520

MAR 13 2017

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TO: OIG – Sandra Lewis

FROM: DGHR – Arnold A. Chacon *ku*

SUBJECT: Response to Draft OIG Report – Management Assistance Report – All Posts should Comply with New Department Requirement to Revise Policies on Hiring of Personal Domestic Workers

DGHR has reviewed the draft OIG Inspection report. We provide the following response to the recommendations provided by OIG:

OIG Recommendation 1: The Bureau of Human Resources, in coordination with the Bureaus of African Affairs, European and Eurasian Affairs, Near Eastern Affairs, and Western Hemisphere Affairs, should require all delinquent missions to submit their personal domestic worker employment policy before the end of fiscal year 2017.

Management Response: The Bureau of Human Resources concurs with this recommendation. The Bureau of Human Resources will ask relevant regional bureaus (AF, EUR, NEA, and WHA) to direct missions that have not done so to submit their personal domestic worker employment policy statement by September 30, 2017.

OIG Recommendation 2: The Bureau of Human Resources, in coordination with the Bureaus of African Affairs, East Asian and Pacific Affairs, European and Eurasian Affairs, Near Eastern Affairs, South and Central Asian Affairs, and Western Hemisphere Affairs, should require missions not fully in compliance to revise and resubmit, before the end of fiscal year 2017, their policy on hiring personal domestic workers in accordance with Department guidelines.

Management Response: The Bureau of Human Resources concurs with this recommendation. The Bureau of Human Resources will ask the regional bureaus to direct missions to revise their policy statements on hiring domestic workers to

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fully reflect Department guidelines. Missions are to submit revised statements by September 30, 2017.

The point of contact for this memorandum is Jeremy Curtin, Office of Policy Coordination, Bureau of Human Resources, curtinjf@state.gov, tel. 202 736-7005.

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Draft: DGHR/PC:JCurtin X6-7005
Clear: DGHR/PC:MEsperdy (ok)
HR/ER:GBest (OK)

APPENDIX C: POSTS DOMESTIC WORKER SUBMISSION STATUS

Posts that Submitted Complete Policy			
Algiers	Belmopan	Ljubljana	Singapore
Astana	Caracas	Managua	Tashkent
Asuncion	Colombo	Monrovia	Vilnius
Bangui	Hanoi	Praia	
Banjul	Kathmandu	Riyadh	
Posts with Submissions Missing One or More Requirements			
Abidjan	Curacao	Libreville	Quito
Abu Dhabi	Dakar	Lima	Rabat
Abuja	Dar es Salaam	London	Rangoon
Accra	Dhaka	Lusaka	Reykjavik
Amman	Dili	Madrid	Riga
Ankara	Djibouti	Majuro	Rome
Antananarivo	Doha	Malabo	San Jose
Ashgabat	Dublin	Manama	San Salvador
Athens	Dushanbe	Manila	Santiago
Baku	Gaborone	Maputo	Santo Domingo
Bamako	Geneva	Maseru	Sarajevo
Bandar Seri Begawan	Georgetown	Mbabane	Seoul
Bangkok	Guatemala	Mexico City	Skopje
Beijing	Hamilton	Montevideo	Sofia
Belgrade	Harare	Muscat	Stockholm
Berlin	Havana	Nairobi	Suva
Bern	Hong Kong	Nassau	Taipei (AIT)
Bishkek	Islamabad	N'Djamena	Tallinn
Bogota	Jakarta	New Delhi	Tbilisi
Brasilia	Jerusalem	Niamey	Tegucigalpa
Bratislava	Kabul	Nicosia	Tel Aviv
Brazzaville	Kampala	Nouakchott	The Hague
Bridgetown	Khartoum	Oslo	Tirana
Brussels	Kigali	Ouagadougou	Tokyo
Bucharest	Kingston	Panama	Tunis
Buenos Aires	Kinshasa	Paramaribo	Ulaanbaatar
Bujumbura	Kolonia	Paris	Valletta
Cairo	Koror	Phnom Penh	Vienna
Canberra	Kuala Lumpur	Podgorica	Vientiane
Chisinau	Kuwait	Port au Prince	Wellington
Conakry	Kyiv	Port Louis	Yaoundé
Copenhagen	La Paz	Port Moresby	Yerevan
Cotonou		Pretoria	Zagreb
Post that Have Not Submitted Domestic Worker Policy to Bureau			
Addis Ababa	Helsinki	Luxembourg	Prague
Asmara	Lilongwe	Minsk	Pristina
Beirut	Lisbon	Moscow	St. Georges
Budapest	Lomé	Ottawa	Warsaw
Freetown	Luanda	Port of Spain	Windhoek

Source: OIG analysis of Department provided data.

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