

# **3 FAM 7340 DIRECT BENEFIT PAYMENTS**

## **3 FAM 7341 POLICY**

*(TL:PER-237; 1-1-95)*  
*(Uniform State/USAID/USIA/Commerce/Agriculture)*  
*(Applies to Foreign Service Nationals Only)*

Where feasible and consistent with 3 FAM 7312, benefits which are customarily provided by employers in the post locality may be provided directly to FSN employees.

In instances where it is not feasible to grant a prevailing benefit directly, the cost or value of the benefit may be monetized and included in employees pay in accordance with section H-227 of 3 FAH-2 H-0227, Chapter 2.

All direct benefits to FSN employees require prior PER/FSN and interagency approval (see 3 FAM 7313, sections 3 FAM 7344.1 and 3 FAM 7344.2, and interagency memorandum in 3 FAH-2H, Chapter 3).

## **3 FAM 7342 GENERAL PROCEDURES**

*(TL:PER-237; 1-1-95)*  
*(Uniform State/USAID/USIA/Commerce/Agriculture)*  
*(Applies to Foreign Service Nationals Only)*

See 3 FAH-2H, Chapter 2.

## **3 FAM 7343 DEVELOPMENT OF DIRECT BENEFIT PLANS**

*(TL:PER-237; 1-1-95)*  
*(Uniform State/USAID/USIA/Commerce/Agriculture)*  
*(Applies to Foreign Service Nationals Only)*

a. If the COM or the designate determines that separate payment of a benefit is desirable and feasible, this person should develop, jointly with other U.S. Government agencies in the area, a plan for direct payment of the benefit incorporating detailed rules for administering the plan.

b. Rules governing the administration of compensation plans must be coordinated between all agencies at all posts within a country. Such rules must adhere to these regulations, and conflicts are adjudicated by the chief of mission.

c. The amount of payments and circumstances under which employees become eligible for payments, as prescribed in the plan, should conform to local law or custom, unless there are compelling reasons to the contrary, including the contravention of U.S. law. Where such compelling reasons exist, benefit plans may be developed which provide less than those prescribed under local law or custom or which provide the benefit in a different manner, but in no case may they exceed benefits under local law or custom.

d. Procedures and guidelines are published in 3 FAH-2H, Chapter 2.

## **3 FAM 7344 SUBMISSION OF PLANS FOR APPROVAL**

### **3 FAM 7344.1 Submission of Proposed New Plan**

*(TL:PER-237; 1-1-95)*

*(Uniform State/USAID/USIA/Commerce/Agriculture)*

*(Applies to Foreign Service Nationals Only)*

Missions should submit plans for direct payment of benefits to the Department (PER/FSN) for interagency approval prior to installation, with the following:

- (1) Full description of the benefit, including translation of pertinent law, regulations, or ordinances upon which payment is based;
- (2) Joint interagency recommendation for and concurrences in adoption of the benefit;
- (3) Estimates by agency of the per annum increase in costs or in personnel requirements, if any, which implementation will necessitate;
- (4) Estimate by agency of the percentage of increased costs, if any, which can be met from each Agency's current allotment;
- (5) Statement whether the local compensation plan now includes an adjustment for the benefit and, if so, how much;
- (6) Explanation and justification of any discrepancy between the mission's proposed plan and local law or custom; and
- (7) An explanation of any legal, political, or other problems that might arise through installation of the plan, or that might arise if the plan is not installed.

### **3 FAM 7344.2 Submission of Proposed Revision of Existing Benefit Plan**

*(TL:PER-237; 1-1-95)*

*(Uniform State/USAID/USIA/Commerce/Agriculture)*

*(Applies to Foreign Service Nationals Only)*

Proposed revisions of existing direct benefit plans should be submitted to the Department (PER/FSN with copies to other affected headquarters agencies) for approval prior to implementation. Submit the following supporting documentation:

- (1) A copy of the current benefit plan;
- (2) A copy of the proposed benefit plan;
- (3) An explanation of the change and the need therefore; for example, to conform to new law or survey results;
- (4) Documentation supporting change; for example, copy of law or detailed survey results; and
- (5) Estimate of increased annual cost by agency and amounts which can be absorbed within current allotments.

### **3 FAM 7344.3 Submission of Justification for Severance Plans With Immediate Annuity**

*(TL:PER-237; 1-1-95)*

*(Uniform State/USAID/USIA/Commerce/Agriculture)*

*(Applies to Foreign Service Nationals Only)*

Missions should submit justification for plans which authorize severance payment for foreign national employees eligible for an immediate annuity to the Department (PER/FSN) for interagency approval. The justification should be based on data developed by the last full salary survey. Severance plans from posts which contain justified provision for payment of severance and immediate annuity from a retirement system to which the U.S. Government has contributed requires interagency approval for installation, and will be reviewed during subsequent full-scale salary surveys. The justification should include specific information on the following:

- (1) The various age and length of service provisions of the host government systems for retirement eligibility, both for men and women.

(2) A complete explanation of the benefits payable, that is, annuities/lump-sum payments and the benefits provided (for example, health and medical coverage after retirement).

(3) The supplemental retirement benefits, if any, provided by local employers through company plans or private insurers, and their costs.

(4) The amount of severance payments provided to employees eligible for host government and/or private employer retirement benefits.

(5) Copies (with English translation) of all pertinent laws and implementing rules and regulations governing retirement and severance pay benefits.

### **3 FAM 7345 REVIEW AND APPROVAL**

*(TL:PER-237; 1-1-95)*

*(Uniform State/USAID/USIA/Commerce/Agriculture)*

*(Applies to Foreign Service Nationals Only)*

Interested offices in the Department and other agencies will review direct benefit plans and related material submitted by the mission. PER/FSN will review, approve, and authorize implementation of these direct benefit plans and any revisions thereto, subject to appropriate agency and regional bureau concurrence.

#### **3 FAM 7345.1 Local Social Security Systems**

*(TL:PER-237; 1-1-95)*

*(Uniform State/USAID/USIA/Commerce/Agriculture)*

*(Applies to Foreign Service Nationals Only)*

If PER/FSN approves the mission's plan, PER/FSN in consultation and with the approval of affected headquarters agencies will authorize the mission to enroll its FSN employees who are not covered by CSR under the host country social security system through normal social security procedures. Previously, posts were required to negotiate an executive agreement with the host government in order to participate in its insurance system. This requirement no longer exists except in special circumstances, such as the host government tending to exercise too much control over the post's FSN personnel.

#### **3 FAM 7345.2 Local Insurance**

*(TL:PER-237; 1-1-95)*

*(Uniform State/USAID/USIA/Commerce/Agriculture)*

*(Applies to Foreign Service Nationals Only)*

Reputable local insurance carriers should be requested to provide, for informational purposes only, sample policies and rates for the types and scope of benefits specified in the outline as prevailing in the area. The sample policies should be reviewed and the carrier offering the coverage generally provided by other employers at the best price normally should be selected (for special problems, see the Federal Acquisition Regulations and the Department of State Acquisition Regulations (FAR and DOSAR). In no instance may the benefits to be contracted for exceed the benefits generally provided by other employers in the post locality. In some foreign areas, it is the general practice of local employers to provide health protection to their employees by means other than through private insurance carriers or the host government social security system. For example, employers in some post localities may contract with a doctor, a group of doctors, or a hospital for various medical and hospitalization benefits. If a post located in such an area determines that adoption of a similar benefit plan is feasible and desirable, it should conduct a study of prevailing local practices, prepare a proposed contract, and submit it to PER/FSN for approval in accordance with guidelines set forth in section 3 FAM 7349.2-3, with appropriate modification for the difference in the means of obtaining the benefit.

### **3 FAM 7346 INSTALLATION OF PLANS**

*(TL:PER-237; 1-1-95)*

*(Uniform State/USAID/USIA/Commerce/Agriculture)*

*(Applies to Foreign Service Nationals Only)*

a. A direct benefit payment plan approved in accordance with 3 FAM 7313.3 may be installed as of the effective date authorized by the Department and other affected agencies or on a later date as determined by heads of overseas establishments.

b. The mission assures that distribution of the amended or revised compensation plan is made according to 3 FAM 7325.8.

- one copy of the rules governing benefit payments is submitted to the Department (PER/FSN);
- one copy to the appropriate Departmental regional bureau;
- one copy to USIA; M/PN;
- one copy to USAID; M/HR/POD/PMC;
- one copy to Commerce; (ITA/FCS/OPA);
- one copy to Agriculture; (USDA/FAS/PD),;and
- one copy to Peace Corps: (Personnel Operations).

c. If an adjustment is included in the joint local salary schedule for the value of the benefit to be adopted as a direct benefit payment (see section 3 FAH-2 H-0227, Chapter 2) the adjustment normally should be withdrawn as of the date the direct plan is installed or not later than the effective date of the next revision of the joint local salary schedule.

### **3 FAM 7347 ADMINISTRATION OF PLANS**

*(TL:PER-237; 1-1-95)*

*(Uniform State/USAID/USIA/Commerce/Agriculture)*

*(Applies to Foreign Service Nationals Only)*

a. A direct benefit payment plan is administered in accordance with rules approved by headquarters agencies and the mission, and by pertinent payrolling or other financial regulations.

b. Civil Service retirement deductions will not be made from severance payments.

c. Employees should be informed of where a copy of the approved regulations governing the benefit plan and of where procedures for appealing direct benefit payment decisions may be examined. Should questions arise as to the adequacy of the benefit received in relation to local law and custom, overseas establishments may advise employees that, although the rules governing the direct benefit plans conform to local law or custom to the maximum extent practicable, the U.S. Government may only make payments authorized by U.S. law (see 3 FAM 7224.)

d. Grievances concerning direct benefit payments should be handled in accordance with FSN employee grievance procedures established under 3 FAM 7290.

### **3 FAM 7348 OVERSIGHT OF DIRECT BENEFIT PLANS**

*(TL:PER-237; 1-1-95)*

*(Uniform State/USAID/USIA/Commerce/Agriculture)*

*(Applies to Foreign Service Nationals Only)*

Existing benefit plans are monitored periodically by headquarters agencies to insure adherence to provisions of local law and/or custom. Where the audit shows that the benefit plan varies from local law and/or custom, a revised plan reflecting the more appropriate level of benefits or benefit provision is developed by PER/FSN in consultation with the appropriate regional bureau and other headquarters agencies for installation by the mission.

## **3 FAM 7349 SPECIFIC BENEFITS**

### **3 FAM 7349.1 Severance Pay**

#### **3 FAM 7349.1-1 Policy**

*(TL:PER-237; 1-1-95)*

*(Uniform State/USAID/USIA/Commerce/Agriculture)*

*(Applies to Foreign Service Nationals Only)*

A severance pay plan should prescribe appropriate rules for administering the plan in strict compliance with local law and/or custom. If local law and custom differ, a full explanation of the differences should be given in the submission of a plan for approval as outlined in section 7344. The rules should cover employee eligibility, creditable service, amount of payment, notice period required for separation, and specific circumstances of separation under which payment is or is not granted, as well as other provisions applicable to prevailing practice in a given country.

#### **3 FAM 7349.1-2 Creditable Service**

*(TL:PER-237; 1-1-95)*

*(Uniform State/USAID/USIA/Commerce/Agriculture)*

*(Applies to Foreign Service Nationals Only)*

a. All periods of continuous service performed as a direct-hire FSN employee are creditable. True nonpersonal service provided under commercial contract with an independent contractor licensed to do business in the host country who provides services to other local organizations as well as the U.S. Mission is not creditable. However, if local law requires that all periods of continuous service with the same employer be compensated in one payment at the time of separation and if the receiving state considers an in-house organization which supplies services solely to the Embassy (e.g. recreation/commissary association) to be an integral part of the Mission, the liability for severance pay will be transferred from that entity when such so-called nonpersonal services immediately precede employment with the Mission in a PSC or direct-hire status. An employee must be on the rolls in either PSC or direct-hire status on or after the effective date of the plan in order for prior continuous service to be creditable. Service for which severance payment has already been made is not creditable, and deposit may not be made to buy back such credit.

b. Periods of employment under a personal services contract, which are not recognized as creditable by the Office of Personnel Management in computation of an annuity under the Civil Service Retirement (CSR) System, may be credited to an employee and appropriate severance payment made at the time of separation, even when such separation results in an immediate or deferred CSR annuity. Personal services contract periods must be fully documented, and the separation document (e.g. SF-50 or JF-62) must certify that severance payment was not previously made.

### **3 FAM 7349.1-3 Transfers Between Agencies**

*(TL:PER-237; 1-1-95)*

*(Uniform State/USAID/USIA/Commerce/Agriculture)*

*(Applies to Foreign Service Nationals Only)*

Severance pay will not be paid to an employee transferring between civilian U.S. Government agencies anywhere without a break in service. Instead, at the time of final separation from such employment, severance payments will be made by the agency of employment at time of separation and at the rate in effect in the current plan. This procedure should be fully understood by both the gaining and losing agency at the time of transfer. For transfer involving military components, the interagency funding for such transfers is to be resolved on a case-by-case basis.

### **3 FAM 7349.1-4 Severance Pay With Immediate Annuity**

*(TL:PER-237; 1-1-95)*

*(Uniform State/USAID/USIA/Commerce/Agriculture)*

*(Applies to Foreign Service Nationals Only)*

a. Severance pay plans may not authorize severance payment to an employee eligible for an immediate or deferred Civil Service Retirement (CSR) annuity or other pension to which the U.S. Government has contributed, unless it can be justified as fully compatible with the types and levels of prevailing local benefit plan in the case of deferred annuity, if paid, severance compensation may not exceed an amount corresponding to salary from date of separation to date of deferred annuity eligibility based on rates in effect at the time of separation. (See section 3 FAM 7344.3). Severance payments to employees separating on immediate or deferred Civil Service Retirement annuities, to cover personal service contract periods not recognized as creditable by the Office of Personnel Management in annuity computations under the Civil Service Retirement System, may be authorized in accordance with section 3 FAM 7343.3-2.

b. As CSR is never local practice, justification of severance pay will require a comparison of CSR benefits with a combination of normal host country retirement benefits and severance payments as required by local law and prevailing practice. Normally, approval will be granted only the present value if host country retirement benefits together with severance payments are shown to be greater than the present value of CSR benefits.

c. No new or revised severance pay plan will receive headquarters approval if it is not in accord with these provisions. Existing plans, which are not in accord and have not received explicit documented Washington approval, must be revised to reflect the above provisions. Where previously approved plans providing severance payments to employees retiring with immediate or deferred CSR annuities have been superseded by plans which do not include such provisions, or have not been revised in accordance with the above provisions, entitlements previously earned shall be frozen on or before December 20, 1987 for retention and documented by personnel action (e.g. SF-50, JF-62) prepared as of the termination of the plan which made provision therefor stated in local currency amounts based on the employee's salary on that date. These frozen severance pay amounts may be paid to the employees at the time of retirement provided that the eligibility requirements of the severance plan in effect the time of separation are met in all other respects.

### **3 FAM 7349.1-5 Documenting Severance Payment**

*(TL:PER-237; 1-1-95)*

*(Uniform State/USAID/USIA/Commerce/Agriculture)*

*(Applies to Foreign Service Nationals Only)*

Posts should document any payment for severance by entering in the "Remarks" section of SF-50 or JF-62 documenting separation, the dates of service for which the payment is being made, and the total amount of the payment.

### **3 FAM 7349.2 Major Risk Benefits**

#### **3 FAM 7349.2-1 Policy**

*(TL:PER-237; 1-1-95)*

*(Uniform State/USAID/USIA/Commerce/Agriculture)*

*(Applies to Foreign Service Nationals Only)*

Under authority of section 408 of the Act, the Department of State and other U.S. agencies may, on behalf of FSN employees, if consistent with 3 FAM 7312, authorize posts to

(1) Participate in host government social insurance systems and

(2) Purchase medical and hospitalization insurance, life insurance, and pension insurance through established procurement procedures to protect FSN's from risks associated with health, life, and old age.

### **3 FAM 7349.2-2 Host Government Social Insurance**

*(TL:PER-237; 1-1-95)*

*(Uniform State/USAID/USIA/Commerce/Agriculture)*

*(Applies to Foreign Service Nationals Only)*

#### **a. Feasibility of Participation**

At a mission where participation in the host government insurance system appears feasible, the chief of mission should direct a joint interagency study of the country's social security and related laws and regulations to determine if participation is possible and submit a proposal to PER/FSN.

#### **b. Required Coverage Under Mission-Adopted Plan**

Once a mission installs a social insurance plan, coverage is mandatory for all new direct-hire and personal service contract employees of all participating agencies in the area, except as provided in section c. below for plans which include retirement benefits.

#### **c. Effect of Mission-Adopted Plan on CSR Coverage**

The U.S. Government cannot contribute to two retirement systems simultaneously for the same employee, except where the total level of retirement benefits provided is clearly justified by prevailing practice.

(1) If a mission installs a social insurance plan which includes retirement benefits, an FSN employee under CSR who wishes to be covered by the U.S. Government under the local plan may be so covered provided the overseas establishment changes the employee's type of appointment so that he ceases contributing to CSR (See 3 FAM 7711). An employee who ceases contributing to CSR to participate in a social insurance plan may still be entitled to a retirement annuity under the Civil Service Retirement System. (See 3 FAM 7711.4).

(2) If an employee elects to continue participating in CSR, the overseas establishment should, if possible, cover employee in a manner which will allow them to receive any appropriate benefits under the local plan except retirement.

An employee may participate individually in a local retirement plan while continuing to participate in CSR, if host government laws and regulations permit, provided he contributes to the local plan both the employer's and employee's share. The employee may make these contributions through allotment of pay (4 FAM and USAID Handbook 26, Position Classification, Pay, and Allowances).

### **3 FAM 7349.2-3 Private Insurance Plans**

*(TL:PER-237; 1-1-95)*

*(Uniform State/USAID/USIA/Commerce/Agriculture)*

*(Applies to Foreign Service Nationals Only)*

#### **a. General Guidelines**

In countries having no host government social insurance plan, or one in which participation is not feasible, or in the U.S. public interest, or where prevailing practice is to supplement social insurance plans or to provide such in lieu, a mission should consider the feasibility of purchasing, through established procurement procedures, private medical, pension, life, and other insurance coverage to the extent consistent with 3 FAM 7312. Insurance coverage for illnesses and injuries should not overlap coverage under the provisions of the Federal Employee's Compensation Act (5 U.S.C. 8101-8150) as administered by the Department of Labor's Office of Workers' Compensation Program (OWCP)(see 3 FAM 7712 and 3 FAH-1 H, Chapter 10). Policies should be in conformance with those stipulated in sections 3 FAM 7341-7348.

#### **b. Health Insurance Plans**

—In consultation with other overseas establishments in the country, the mission should conduct a survey of prevailing health insurance practices among local employers as described in 3 FAH-2H, Chapter 2.

—Based on prevailing practice an outline of the specific types and scope of benefits generally provided by other employers should be developed. The outline should exclude all those benefits generally provided to FSN employees through the medical facilities at the overseas establishments and under 5 USC 8101-8150 (formerly the Federal Employees' Compensation Act) (also see 3 FAM 7712).

#### **c. Other Insurance Plans**

Guidelines set forth in 3 FAH-2H, Chapter 2, relating to the adoption of health insurance plans generally apply to other locally prevailing types of insurance (for example, life and pension) for FSN employees.

**d. Renewals of Approved Insurance Contracts**

The authority is delegated to the heads of overseas establishments to approve changes in the levels or types of benefits provided under a renewal or an amendment of an approved insurance contract, subject to the availability of funds. Such changes, however, must be made only upon a joint determination of the heads of overseas establishments that the changes are necessary to conform to new types of benefits or to new benefit levels provided generally by other local employers.

**e. Change of Insurer After Initial Contract Approval**

If, after approval and implementation of a contract under 3 FAM 7340, the overseas establishment elects to obtain the protection through a different insurance carrier, the contract shall be treated as a new proposal and submitted to PER/FSN for prior review and approval.