

# **3 FAM 8900**

## **CONSULAR AGENT HUMAN RESOURCES ADMINISTRATION**

### **3 FAM 8910**

#### **GENERAL**

*(TL:PER-405; 06-12-2001)*  
*(Effective Date: 04-08-2001)*

### **3 FAM 8911 APPOINTMENT AUTHORITIES**

*(TL:PER-404; 05-25-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

a. Section 303 of the Foreign Service Act of 1980 (the Act) (22 U.S.C. 3943) provides general authority for the Secretary of State (the Secretary) to appoint certain members of the Foreign Service, including consular agents, under such regulations as the Secretary may prescribe.

b. New consular agents are appointed as intermittent employees for an initial temporary appointment that may not exceed one year under section 309 of the Act (22 U.S.C. 3949) and the regulations contained in this subchapter. Service as an acting consular agent or temporary consular agent may be counted towards the initial one-year limitation. Subsequent limited appointments (i.e., extensions) as intermittent employees may be made upon expiration of the initial temporary appointment in any amount of time that is not in excess of three years although a three-year extension will be typical.

c. Section 309 of the Act provides that limited appointments for consular agents may be extended so that cumulative service may exceed five years. The consular agent appointment authority is retained in the Department under the procedures of this regulation and has not been delegated to post.

d. Consular agents (including acting and temporary consular agents) are appointed by the Secretary to assist the post having territorial jurisdiction (the supervisory post) in the performance of limited consular services, which are defined and authorized by certain international agreements (primarily The Vienna Convention on Consular Relations), statutes and regulations. (See sections 72.1(b), 72.17 and 92.4(e) of Title 22 of the Code of Federal Regulations.)

e. Consular agents work under the direct supervision of the principal consular officer at the supervisory post. In countries that have a countrywide consular coordinator, such officer may provide countrywide policy management and procedural guidance.

f. Consular agents are not transferable and are appointed for specific duties at specific locations.

g. Consular agents, including citizens of the United States and noncitizens, are members of the Foreign Service as defined under section 103(7) of the Act (22 U.S.C. 3903).

## **3 FAM 8912 APPOINTMENT OF CONSULAR AGENTS**

### **3 FAM 8912.1 Request for Recommendation**

*(TL:PER-404; 05-25-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

When it is determined that a consular agent is to be appointed for a specific purpose at a specific place, the appropriate regional bureau executive director requests the supervisory post, with the concurrence of the supervisory consular officer in a country where such an officer is present, to recommend a suitable candidate for the position (see 2 FAM 422.1-4). Individuals are designated as acting consular agents until all the requirements for designation as a full consular agent are met. See 3 FAM 8912.4.

### **3 FAM 8912.2 Standards for Employment and Ethics Requirements**

*(TL:PER-404; 05-25-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

The following standards shall be applied by supervisory posts in making recommendations to the Department for appointment of consular agents:

(1) A properly qualified U.S. citizen is preferred for appointment over a noncitizen. If a properly qualified U.S. citizen is not available for appointment, the post may recommend a properly qualified noncitizen for the position;

(2) The person recommended for the position of consular agent must be of good reputation in the community, capable and reliable, with a clear concept of the nature of the work for which the consular agent will be responsible. The supervisory post should review the candidate's other business, affiliations, and interests, and ensure that the candidate would not benefit as a result of his or her service as a consular agent, as well as determine whether such service could create any appearance of conflict of interest;

(3) A person already employed in any other capacity by the United States, or who holds an office under a foreign government or any other public office, may not be appointed as consular agent while so employed. A Foreign Service national employee may not be employed concurrently as a consular agent; and

(4) The person selected must receive the new entrant ethics orientation as provided in 5 CFR 2638.703(a)(3).

### **3 FAM 8912.3 Forms Required**

*(TL:PER-404; 05-25-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

When recommending a candidate for appointment as consular agent, the supervisory post submits the following forms to the appropriate regional bureau executive director:

- (1) Form OF-612, Optional Application for Federal Employment (3 copies);
- (2) Form SF-85P, (Questionnaire for Public Trust Positions—3 copies, and Form SF-85P-S, Supplemental Questionnaire for Selected Positions for Moderate Risk Public Trust Certification—3 copies);
- (3) Form FD-258, FBI Fingerprint Card (2 copies)—(with DOS in ORI Block);
- (4) Form DS-1143, Request for Security Clearance (to be completed by the regional bureau executive office upon receipt of the security and employment forms from post);
- (5) Verification of birth (copy of passport data page or birth certificate);
- (6) Consumer Credit Release (available from DS/ICI/PSS);
- (7) Form DSP-80, Statement Regarding Actions on Behalf of Foreign Principals (3 copies);
- (8) Form SF-144, Statement of Prior Federal Service;

(9) Form SF-181, Race and National Origin Identification; and

(10) Form SF-256, Self Identification of Reportable Handicap.

### **3 FAM 8912.4 Acting Appointments Pending Completion of Security Processing**

*(TL:PER-404; 05-25-2001)*

*(Effective Date: 04-08-2001)*

*(State Only)*

When the supervisory post has complied with the requirements of 3 FAM 8912.2 and 3 FAM 8912.3, the appropriate regional bureau, with the concurrence of the Bureau of Consular Affairs, may authorize an appointment as acting consular agent by initiating and approving a personnel action, pending a conversion to a full consular agent appointment. The appropriate regional bureau, at its option, may require the supervisory post to draft and submit the Form SF-52 electronically. At that point, the acting consular agent may enter on duty as set forth in section 3 FAM 8912.7. Upon notification by the Bureau of Diplomatic Security that appropriate security and suitability processing have been favorably completed, the regional bureau may advise the supervisory post that the appointee may be converted to a consular agent in accordance with 3 FAM 8912.6.

### **3 FAM 8912.5 Approval, Commission, and Exequatur**

*(TL:PER-404; 05-25-2001)*

*(Effective Date: 04-08-2001)*

*(State Only)*

a. After the approval of the recommendation for appointment and the satisfactory completion of the necessary security and suitability investigation, the appropriate regional bureau will initiate a second Form SF-52, Request for Personnel Action, to convert the acting consular agent to a full consular agent appointment. The appropriate regional bureau, at its option, may require the supervisory post to draft and submit the Form SF-52 electronically. The Department will transmit Form SF-50, Notification of Personnel Action, to the supervisory post and the consular agent's assignment commission to the embassy.

b. After receipt of the commission, the embassy's chief of mission applies for an exequatur or comparable Government document, which, upon receipt, is forwarded with the commission to the consular agent through the supervisory post.

c. Once the acting consular agent has been converted to a full consular agent appointment, the supervisory post may annotate (passport endorsement code 15) the regular, fee-paid passport of a U.S. citizen agent to read: "The bearer is a Consular Agent of the United States in (location)."

### **3 FAM 8912.6 Effective Dates of Employment, Termination and Length of Appointments**

#### **3 FAM 8912.6-1 Employment**

*(TL:PER-404; 05-25-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

Upon notification of approval from the Department and notice of the provisional recognition of the consular agent's accreditation, the post should notify the acting consular agent that duties may be assumed as a full consular agent but not on or prior to one of the following dates, as applicable:

(1) If the consular agency is being established upon the closure of a consulate, the closing date of that consulate; or

(2) If the incoming agent is taking over the duties from another consular agent or acting consular agent, the date of relinquishment of duties by the agent on duty.

See 2 FAM 422.1-4.

#### **3 FAM 8912.6-2 Termination**

*(TL:PER-404; 05-25-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

The period of official duty of a consular agent terminates at the close of business on one of the following dates, as applicable:

(1) The closing date of the consular agency or the date the agent is relieved of duties by the supervisory post, whichever is sooner; or

(2) The date the agent relinquishes duties to another consular agent or acting consular agent; or

(3) Upon expiration or termination of a temporary or limited appointment that is not extended.

### **3 FAM 8912.6-3 Length of Appointments**

*(TL:PER-404; 05-25-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

All consular agent appointments are limited Foreign Service appointments. The initial limited appointment is a temporary appointment that may be made for a period up to but not in excess of one year. One-year initial limited appointments will be typical. Service as an acting consular agent or temporary consular agent may be counted towards the initial one-year limitation. At the request of the supervisory consular post, and with the approval of the Executive Director of the appropriate regional bureau and the Bureau of Consular Affairs, the initial temporary appointment may be extended by a limited appointment for any period of up to three years. A three-year extension will be typical. Thereafter, additional extensions of limited appointments may be made for any periods of up to three years each. Again, three-year extensions are typical. The appropriate regional bureau will initiate a Form SF-52 for each extension. The appropriate regional bureau, at its option, may require the supervisory post to draft and submit the Form SF-52 electronically. There is no statutory or regulatory limit on the number of limited appointment extensions.

### **3 FAM 8912.7 Forms Executed Upon Entry on Duty**

*(TL:PER-404; 05-25-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

a. Immediately upon entry on duty, the acting consular agent must execute the Form SF-61, Appointment Affidavit, and Form OF-306, Declaration of Appointee. The Form SF-61 must be executed before any salary payments will be made (see 3 FAM 8914.4a). The effective dates shown on Form SF-61, Form OF-306 and Form SF-50 should all be the same. Noncitizens appointed as consular agents are not required to complete the Oath of Office (Part A of the Form SF-61). When not used, this part should be stricken.

b. Form PPT/FO 97, Passport Agent Signature Card, is available from CA/EX.

# **3 FAM 8913 APPOINTMENT OF TEMPORARY CONSULAR AGENTS**

## **3 FAM 8913.1 Recommendation**

*(TL:PER-404; 05-25-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

a. Temporary consular agents are appointed in unusual circumstances:

(1) An emergency situation requiring the temporary services of a consular agent; or

(2) To provide for continuity of services during an extended absence of a consular agent.

A temporary consular agent may be appointed by the Department by the same procedure as outlined in 3 FAM 8912.1 through 8912.3.

b. In the event of an emergency in which there is insufficient time for submission of the necessary appointment forms, and pending such submission, the supervisory post may make an electronic recommendation to the Department for appointment of the temporary consular agent. The recommendation includes information on any prior residence or employment in the United States of the person proposed for appointment and all other available basic investigative information. The appropriate regional bureau will initiate a Form SF-52 to appoint the temporary consular agent. The appropriate regional bureau, at its option, may require the supervisory post to draft and submit the Form SF-52 electronically.

## **3 FAM 8913.2 Approval and Provisional Recognition**

*(TL:PER-404; 05-25-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

a. Upon approval of the recommendation for temporary appointment, the Department notifies the supervisory post promptly and transmits the Form SF-50, Notification of Personnel Action, to the supervisory post.

b. The supervisory post, if other than a diplomatic mission, immediately informs the diplomatic mission in the host country of the appointment of a temporary consular agent in order that the mission may request provisional recognition.

c. A temporary consular agent does not receive an exequatur, and is not commissioned by the Department.

### **3 FAM 8913.3 Forms To Be Executed Upon Entry on Duty**

*(TL:PER-404; 05-25-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

Temporary consular agents complete the forms required under 3 FAM 8912.7 upon entry on duty.

### **3 FAM 8913.4 Effective Dates of Employment and Termination**

*(TL:PER-404; 05-25-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

Upon receipt by the post of the Department's approval of the temporary appointment and notice from the diplomatic mission that provisional recognition has been obtained, the appointee may assume duties as a temporary consular agent. The official duty dates of employment and termination are the same as in the case of consular agents, as set forth in 3 FAM 8912.6.

### **3 FAM 8913.5 Forms Required if a Temporary Consular Agent is Appointed as a Consular Agent**

*(TL:PER-404; 05-25-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

If in a rare circumstance the appointment of a temporary consular agent is later converted to a full consular agent (see 3 FAM 8912.5), the post should ensure that all forms required under 3 FAM 8912.7 have been executed and transmitted to the Department

# **3 FAM 8914 CLASSIFICATION AND COMPENSATION**

## **3 FAM 8914.1 Classification**

*(TL:PER-404; 05-25-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

All consular agent positions are classified at class 06 of the Foreign Service Schedule. The pay plan "FZ" is used for consular agents. On official personnel documents, such as Form SF-52 and Form SF-50, class 06 will not be shown in the grade/class blocks. Instead, the percentage, which represents the average weekly workload, as calculated in 3 FAM 8914.3-1 below, will be shown.

## **3 FAM 8914.2 Salary Structure**

*(TL:PER-405; 06-12-2001)*  
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*(State Only)*

Taking into account local prevailing wage rates and the workload of the consular agent, consular agents will be paid between 20 percent and 95 percent of one of the 14 step rates of class 06 of the Foreign Service Schedule. (See 3 FAM 8914.3-1, paragraph B for a possible exception to the 95 percent limitation.)

## **3 FAM 8914.3 Determining Individual Pay Rates**

*(TL:PER-404; 05-25-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

A three-step procedure is used to set pay for individual consular agents.

### **3 FAM 8914.3-1 Step One: Determine Average Weekly Workload**

*(TL:PER-404; 05-25-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

#### **A. Workload Percentage**

a. First, the supervisory consular officer determines a percentage, which represents the consular agent's approximate average weekly workload. This percentage is calculated by determining the actual average number of hours worked per week in the past year and/or by estimating the

number of hours expected to be worked per week in the coming year. The weekly average number of hours is further divided by 40 to determine the percentage of full-time work performed. All percentage calculations should be expressed as a multiple of 5 percent. Amounts falling between a 5 percent interval should be increased to the next higher increment of 5 percent (e.g., 46 percent should be increased to 50 percent).

b. In calculating the consular agent's approximate average weekly workload, the supervisory consular officer should take into account the hours to be worked by the agent, not solely the hours that the consular agency is open to the public. However, activities of a primarily representational nature such as attending national day receptions and/or cocktail/dinner parties shall not be included when calculating the workload of a consular agent.

c. For example, if over the course of a year, taking into account seasonal variations, a consular agent works approximately 25 hours per week, 25 hours, divided by 40 hours, equals .625 (62.5 percent) or, rounded up, .65 percent. Thus, the result calculated for step one will be 65 or .65 percent.

## **B. Workload Limitations**

It is Department policy that no appointment will be approved for a consular agent to work for an average of less than 8 hours per week (i.e., 20 percent) or for more than 38 hours per week (i.e., 95 percent). However, under extraordinary circumstances warranting a 40 hour average workweek, the supervisory post may request an exception. If approved by CA/EX and the appropriate regional bureau, such approval will be noted in the remarks section of the Form SF-50.

### **3 FAM 8914.3-2 Step Two: Determine Step Rate**

*(TL:PER-404; 05-25-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

a. The second step is to determine the appropriate step rate of class 06 of the Foreign Service Schedule. Class 06, step 1, will be used for initial appointments. However, a higher annual salary may be granted when the prevailing wage rates in the locality where the consular agency is located are such that a higher annual salary rate is necessary to properly recruit, retain or otherwise compensate the services of consular agents.

b. In such a case, the supervisory post should recommend and justify an appropriate higher step to the Department. In consultation with the regional bureau and HR/RMA, CA/EX will advise the supervisory post of the appropriate step rate. The post should note on the Form SF-50 that "step x is authorized on the basis of local prevailing wage rates."

c. The following also may be relevant in determining the appropriate step rate:

(1) Fair Labor Standards Act Minimum Wage: A higher annual salary must be granted when the average hourly rate paid to a consular agent who is a U.S. citizen would otherwise be less than the U.S. minimum hourly wage rate paid under the Fair Labor Standards Act as adjusted periodically; and

(2) A highest previous rate (HPR) because of prior U.S. government service does not apply to consular agent appointments.

### **3 FAM 8914.3-3 Step Three: Calculate Per Annum Rate**

*(TL:PER-404; 05-25-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

a. A consular agent's final per annum pay rate is calculated by multiplying the percentage of the full-time work week times the appropriate step rate of class 06 (e.g., 65% of step 3 of class 06). This information must be recorded in the grade/level and step/rate blocks of the Form SF-50 (e.g., FZ-65-03). The resulting per annum rate is entered in the salary block of the Form SF-50. Therefore, the supervisory post and regional bureau should pay particular attention to these sections when documenting the Form SF-52, Request for Personnel Action.

b. For payroll purposes, the per annum salary rate is divided by 2087 (i.e., the standard payroll divisor) and the consular agents are paid on a biweekly basis as if 80 hours of work were performed. Note, however, that since the per annum salary rate has been adjusted by a percentage of the full-time workweek, the actual biweekly pay represents the average consular agent workweek and not a full-time workweek.

### **3 FAM 8914.3-4 Personnel Actions and Official Personnel Folder**

*(TL:PER-404; 05-25-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

a. When a consular agent's pay level is approved by CA/EX, the regional bureau, and HR/RMA, a Form SF-50 will be authorized to establish a consular agent's rate of pay. The executive director's office of the appropriate regional bureau is responsible for preparing all personnel actions needed to carry out any pay or personnel changes unless automatically done as a systems change by HR/EX/SOD. The regional bureau, at its option, may require the supervisory post to draft and submit a Form SF-52 electronically.

b. An Official Personnel Folder (OPF) for each consular agent is established and maintained in the Records and Communications Staff (HR/EX/RR/RC). All personnel information initiated at posts and by bureaus must be sent to HR/EX/RR/RC for insertion in the OPF. If a consular agent has prior service, HR/EX/RR/RC will request documentation to verify and credit service. The OPF is held for one year after termination of the appointment. If not reappointed within the year, the OPF is transferred to the National Personnel Records Center (NPRC) in St. Louis.

### **3 FAM 8914.3-5 Consular Agent Pay Adjustments**

*(TL:PER-404; 05-25-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

After the initial annual salary is established, consular agents may later receive pay adjustments as follows.

#### **A. Individual Pay Adjustments**

a. Consular agents may receive periodic pay adjustments through step 14. CA/EX will approve such increases upon receipt of an annual performance appraisal (see 3 FAM 8917.2) that is “satisfactory” or higher. The minimum waiting period for a pay adjustment is 52 consecutive weeks in employment status up to step 10. Thereafter, the minimum waiting period is 104 consecutive weeks.

b. If the average workload changes for a significant period of time and is expected to continue to change or stabilize at a rate at least 10 percent above or below the currently authorized rate, the consular agent’s average weekly workload percentage should be adjusted to reflect the changing work situation. This is done when the current appointment expires or by converting the current appointment before it expires, thus creating a new appointment with a new rate of pay. Supervisory posts should forward requests to adjust a consular agent’s percentage to CA/EX, with a copy to the appropriate regional bureau for review and approval, if appropriate. See 3 FAM 8915.

c. When appropriate in rare circumstances after the initial appointment, the supervisory post may recommend to CA/EX and the appropriate regional bureau an adjustment in step level within class 06 of the Foreign Service Schedule in order to adjust for changes in the prevailing wage rates in the respective country of the consular agency. In consultation with the regional bureau, HR/RMA and HR/OE, CA/EX will determine whether a step level adjustment is warranted.

## **B. Automatic Pay Schedule Adjustments**

Consular agent pay rates are automatically adjusted at the same time and by the same percentage as other Foreign Service Schedule pay rates for class 06. HR/EX/SOD will make these changes to the personnel system without further action from the post or regional bureaus.

### **3 FAM 8914.3-6 Obligation of Funds and Local Tax Obligations**

*(TL:PER-405; 06-12-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

The salaries of both citizen and noncitizen consular agents are charged against allotments for the salaries of U.S. citizen employees. U.S. citizen agents and permanent resident alien agents (if any) are subject to Federal and state *income tax withholdings as required by law. Consular agents may have tax obligations under local law, and they are individually responsible for the payment of any taxes imposed by the government of the host country. (Also see 4 FAH-3 H 540)*

### **3 FAM 8914.4 Effective Dates for Salary**

*(TL:PER-404; 05-25-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

a. Salary is paid as of the official date the consular agent assumes duty, as established by 3 FAM 8912.6, or as otherwise determined by the principal officer of the supervisory post under the provisions of 3 FAM 8915, provided that no salary is paid until the Form SF-61 has been executed. (See 3 FAM 8914.7 regarding acting or temporary consular agents.) On initial appointments or conversions, this date and the effective date shown on the Form SF-50 should be the same. (See 3 FAM 8912.7.)

b. Consular agents' salaries shall be adjusted automatically by statutory adjustments authorized for class 06 of the Foreign Service salary schedule.

c. Salary terminates on one of the following dates, as appropriate:

- (1) In event of death in service, on the date of death;
- (2) In event of separation, on the last day of active duty, as stated in the appropriate Form SF-50, Notification of Personnel Action;

(3) In event of absence from duty, without immediate replacement by an acting consular agent, on the last day of duty prior to the period of absence, unless otherwise determined by the principal officer of the supervisory post under 3 FAM 8915;

(4) In event of relinquishment of duties to another consular agent or acting consular agent, on the date of such relinquishment; or

(5) Upon expiration of a temporary or limited Foreign Service appointment that is not extended.

### **3 FAM 8914.5 Social Security Coverage**

*(TL:PER-404; 05-25-2001)*

*(Effective Date: 04-08-2001)*

*(State Only)*

a. U.S. citizen and U.S. permanent resident alien consular agents are subject to FICA tax deductions and earn eligibility for Social Security Retirement, Survivors, Disability and Health Insurance (RSDHI) benefits. Noncitizen agents who are not U.S. permanent resident aliens are not eligible for such benefits. (See 3 FAM 6100, Appendix B, Old 3 FAM 679.)

b. The Vienna Convention on Consular Relations does not exempt consular agents from the social security provisions in force in the host country. Therefore, consular agents may be required to participate in the host country social security system.

### **3 FAM 8914.6 Limitations on Compensation and Benefits**

*(TL:PER-405; 06-12-2001)*

*(Effective Date: 04-08-2001)*

*(State Only)*

Due to the nature of their temporary or limited appointments, intermittent work schedules, recruitment at posts abroad, authorization of pay based on local prevailing rates, etc., consular agents are usually exempt from additional Federal compensation and benefits programs. The following summarizes entitlements to benefits:

(1) **Annuitants**—If a retired U.S. Government employee is appointed as a consular agent, he or she becomes a reemployed annuitant and is subject to the requirements of the retirement system from which retired and to all laws relating to dual compensation or other similar prohibitions;

(2) **Health Insurance**—Consular agents are not eligible to participate in the Federal Employee Health Benefits Program (FEHBP) due to their intermittent work status *except for a former Federal employee who was covered by the health insurance program and then hired as a consular agent without a break in Federal service of more than three calendar days.*

*However, the Department (CA/EX) will reimburse consular agents a percentage of premiums of health insurance up to a maximum specified amount. The percentage set for calendar year 2001 is 70 percent with the maximum amount set at \$2,000 for a self-only policy and at \$5,000 for a family policy. These amounts will be adjusted each calendar year for inflation.* Consular agents should present to the supervisory post's financial management office a paid receipt indicating the amount paid for a full-year policy together with a copy of the policy;

(3) **Allowances**—Consular agents are not eligible to receive allowances and post differentials authorized by the Standardized Regulations, per 3 FAM 3211.2-2;

(4) **Incentive Awards**—Consular agents are covered by the Incentive Awards Program described in 3 FAM 4800. Supervisory posts should follow the guidance and procedures outlined in that regulation;

(5) **Leave—Consular** agents do not accrue and are not charged annual leave, sick leave, etc. because they are neither full-time employees nor part-time employees with an established regular tour of duty. [See 3 FAM 3300 and 5 U.S.C. 6301];

(6) **Life Insurance**—Consular agents are not eligible to participate in the Federal Employees Group Life Insurance Program (FEGLI) due to their intermittent work status except for a former Federal employee who was covered by the life insurance program and then hired as a consular agent with a break in Federal service of less than three days and who is expected to return to the former position. See 5 CFR 870.302(b)(3);

(7) **Premium pay**—Consular agents are not covered by either the premium pay (e.g., overtime, compensatory time off, night pay, Sunday pay, holiday pay) benefits of Title 5, U.S.C., nor by the overtime provisions of the Fair Labor Standards Act (see 3 FAM 3130);

(8) **Retirement**—Consular agents are not eligible to contribute to or earn credit toward the Foreign Service Retirement and Disability System, the Foreign Service Pension System, the Civil Service Retirement and Disability System 89, or the Federal Employees Retirement System, or to participate in the Thrift Savings Plan (TSP) except those who are U.S. citizens whose appointments as consular agents are made without a break in continuity of service of more than three days from positions in which they were covered by the Civil Service Retirement and Disability System or the Federal Employees Retirement System. See 22 U.S.C. 4043, 22 U.S.C. 4071b and 5 CFR 891.201(a)(2);

(9) **Work Injuries**—Consular agents are covered by the Federal Employees' Compensation Act (FECA) for compensation for injuries sustained in the performance of duty, including disability and death benefits. This program is administered by the Office of Workers' Compensation Programs (OWCP), Employment Standards Administration, U.S. Department of Labor. In the event of a work injury, the consular agent should immediately contact the supervisory post which, in turn, should immediately contact the appropriate regional bureau executive director (see 3 FAM 3630 and 3 FAH-1 H-3630, and 5 U.S.C. 8101, et. seq.); and

(10) **Death Gratuity**—Survivors of consular agents who die as a result of injuries sustained in the performance of duty outside the United States are eligible for payment of a death gratuity, in accordance with the provisions of 3 FAM 3650 and 3 FAH-1 H-3650.

### **3 FAM 8914.7 Compensation for Acting and Temporary Consular Agents**

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An appointed acting consular agent awaiting full consular agent status or an appointed temporary consular agent receives compensation at the annual rate under the same rules that govern the payment of consular agents. Compensation for acting and temporary consular agents begins and terminates in accordance with the dates of official duty and termination under the provisions of 3 FAM 8912.6.

### **3 FAM 8915 HOURS OF WORK AND ABSENCE FROM DUTY**

*(TL:PER-405; 06-12-2001)*  
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*(State Only)*

a. Consular agent positions are not intended to be full-time permanent positions and the salary schedule established by the Department clearly contemplates intermittent work schedules with seasonal variations that average less than full-time work performance. It is Department policy that no appointment will be approved for a consular agent to work for an average of less than 8 hours per week (i.e., 20 percent) or for more than 38 hours per work (i.e., 95 percent). *However, under extraordinary circumstances warranting a 40-hour average workweek, the supervisory post may request an exception. If approved by CA/EX and the appropriate regional bureau, such approval will be noted in the remarks section of the SF-50.*

b. Any claims by consular agents that an average work week of more than 30 hours (i.e., 75 percent category) is required on a continuous basis must be continuously documented and carefully justified by the supervisory consular officer. In addition, supervisory posts must evaluate the need for a consular agent with an average workweek of more than 30 hours at least six months prior to the expiration of the consular agent's appointment. Such evaluation should include a summary of the actual work hours worked by the respective consular agent over the previous appointment period. The evaluation should be forwarded to CA/EX (with a copy to the regional executive office) for review and approval before renewal of an appointment. Activities of a primarily representational nature such as attending national day receptions and/or cocktail/dinner parties shall not be included when calculating the workload of an agent.

c. As intermittent employees, consular agents are not required to adhere to regularly scheduled office hours or a fixed schedule of days or hours of duty. The nature of their work requires attention at irregular times beyond the control of the Department and the individual consular agent. Thus, consular agents' salaries are fixed on a per annum basis.

d. Nothing in these regulations shall be interpreted as limiting the number of hours, which may be spent by a consular agent in providing urgently required protection for the rights and welfare of U.S. citizens in distress or precluding assistance in an emergency. No separate additional compensation beyond the per annum salary (such as allowances, night-pay differentials, overtime, Sunday, or holiday pay) is paid to consular agents.

e. Significant absences from the agency must be reported (in advance, if possible) by the consular agent to the supervisory post.

f. If the consular agent is absent for a significant period of time (and whether or not a temporary consular agent is available and appointed by the Department to provide continuity of service), the regular consular agent's salary must be discontinued during the prolonged absence. In the discretion of the principal officer at the supervisory post, the consular agent's salary may be withheld for a part or for all of the period of such absence.

g. The supervisory post must notify the appropriate regional bureau and CA/EX of the consular agent's absence in a non-pay status; report the number of days absent for purposes of discontinuing salary; and report the agent's return to duty. The appropriate regional bureau shall initiate a Form SF-52 to discontinue pay and later will also initiate a second Form SF-52 to adjust the consular agent's service computation date (SCD) to reflect the period of absence.

## **3 FAM 8916 TRAINING**

*(TL:PER-404; 05-25-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

a. Newly hired consular agents are required to take the citizens services and passport and nationality portions of the basic consular course at the Foreign Service Institute within six months of receiving their temporary appointment. The supervisory post is responsible for enrolling the consular agent at FSI, with funding provided by the regional bureau. The supervisory post is also responsible for providing newly hired consular agents with the regulations and instructions required for the consular agent to perform his or her duties.

b. In addition, supervisory posts should ensure that newly hired consular agents receive an ethics orientation. See 3 FAM 8912.2(4).

## **3 FAM 8917 PERFORMANCE EVALUATION**

### **3 FAM 8917.1 Annual Assessments**

*(TL:PER-404; 05-25-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

While more frequent visits may be appropriate and can be undertaken by other consular officers, supervisory consular officers should personally assess the operation of each consular agency under their jurisdiction at least annually. Assessments should focus on such areas as workload percentage, effectiveness of support staff (if applicable), internal controls, and appropriateness and condition of agency office space and equipment. Copies of trip reports should be sent to both CA/EX and the appropriate regional bureau.

### **3 FAM 8917.2 Written Performance Evaluations**

*(TL:PER-405; 06-12-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

Supervisory consular officers must prepare an annual performance evaluation report on each consular agent under their jurisdiction. In evaluating the performance of a consular agent, supervisory posts will consult the Consular Agents Guidebook for specific performance criteria and additional guidance established by the Bureau of Consular Affairs. The due date shall be June 30. Timeliness is important to ensure that consular agents promptly receive any periodic pay adjustments for which they may

be eligible (see 3 FAM 8914.3-5, paragraphs a and b). Form JF-57 should be used for consular agent annual appraisals and should be submitted to CA/EX, with a copy to the *appropriate regional bureau*.

## **3 FAM 8918 SEPARATION OF CONSULAR AGENTS**

### **3 FAM 8918.1 Resignation and Termination**

*(TL:PER-404; 05-25-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

The supervisory post should report the resignation or termination of an appointment of a consular agent, acting consular agent or temporary consular agent to the Department (CA/EX and regional bureau). The appropriate regional bureau will initiate Form SF-52, Request for Personnel Action, to separate the employee.

### **3 FAM 8918.2 Termination of Appointment**

*(TL:PER-404; 05-25-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

Section 613 of the Act (22 U.S.C. 4012) provides that the "Secretary of State may terminate at any time the appointment of any consular agent in light of the criteria and procedures normally followed in the locality in similar circumstances." This provision refers to unexpected termination of an existing limited appointment and does not refer to the following conditions:

- (1) The termination of a limited appointment on the expiration date that was specified as a basic condition of employment on Form SF-50 at the time the appointment was made;
- (2) Termination of salary payment based on conditions specified in 3 FAM 8915 for significant absences;
- (3) Voluntary separation of the consular agent;
- (4) An adjustment in salary due to a significant change in workload under 3 FAM 8914.3-5 paragraph a; and
- (5) Separation for cause.

### **3 FAM 8918.3 Separation for Cause**

*(TL:PER-404; 05-25-2001)*  
*(Effective Date: 04-08-2001)*  
*(State Only)*

a. The supervisory post may recommend to the Department the separation of a consular agent, acting consular agent or temporary consular agent in a case of less than fully satisfactory performance of duties, misconduct, or malfeasance.

b. The principal officer of the supervisory post may suspend the agent from further performance of the agent's duties and notify the Department (CA/EX and the appropriate regional bureau) by cable, giving complete details. The Department makes the final decision and notifies the principal officer of the supervisory post, who in turn informs the agent of dismissal or restoration to duty, as the case may be.

### **3 FAM 8919 UNASSIGNED**