

ARMY PROCUREMENT POLICY ALERT BULLETIN

NO. 99-001

November 2, 1998

The following documents contain the latest policy related to various acquisition topics. Immediate implementation and compliance with these policies is required.

1. SARD-PS Memorandum, Subject: Short-term Contractor Temporary Duty (TDY) in Germany, dated 9 Oct 98.

2. DDP Memorandum, Subject: Contracts to be Performed in the Federal Republic of Germany (Germany). (See PPAB 98-008* for additional information on this topic).

*PPAB 98-008 can be found in the library at URL: <http://acqnet.sarda.army.mil>

This bulletin is issued by the Office of the Deputy Assistant Secretary of the Army (Procurement). Comments or questions should be referred to Headquarters, Department of the Army, ATTN: SARD-PP, Skyline 6, Suite 916, 5109 Leesburg Pike, Falls Church, VA 22041-3201.

Telephone: (703) 681-1042/DSN 761-1042 Fax: (703) 681-7580/DSN 761-7580
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DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
RESEARCH DEVELOPMENT AND ACQUISITION
103 ARMY PENTAGON
WASHINGTON DC 20310-0103

REPLY TO
ATTENTION OF

09 OCT 1998

SARD-PS

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Short-term Contractor Temporary Duty (TDY) in Germany

In order for a contractor to send personnel to Germany under the auspice of an Army contract, that person must either (in order of preference):

a. Be identified by the German Government as Technical Experts (TE) or Troop Care (TC) personnel in accordance with Paragraph 72 and 73 of Supplemental Agreement to the NATO Status of Forces Agreement (SOFA) (reference OUSD-A&T-DP/FC memorandum dated May 22, 1998, subject: Contracts to be Performed in the Federal Republic of Germany (Germany) as published in U.S. Army Procurement Policy Alert Bulletin No. 98-008, dated June 16, 1998, and posted to the SARDA Web Site).

b. Obtain a German work permit.

c. Be exempted from the provisions of the German Work Permit Ordinance (GWPO) from attaining a German work permit. If the personnel are granted an exemption, it must be stressed they have no SOFA status and therefore are not entitled to any tax-free logistic support.

Note: Due to the anticipated delay (up to 20 weeks estimate) in getting TE or TC status approved, the German Ministry of Labor has agreed to a short-term TDY (up to 90 days) arrangement. This is the maximum time which the GWPO will allow an exemption to be granted. Working one day after a 90 day exemption has been granted makes the individual subject to prosecution by the German authorities and subject to payment of applicable taxes for the entire period.

The United States contractor personnel status should be determined prior to departure for Germany. The contractor should datafax appropriate information contained on attached "Request for Confirmation of Exemption from the Requirement to Obtain a Work Permit" to the State Labor Office (Landesarbeitsamt (LAA) Baden-Wuerttemberg in Stuttgart. The fax number for LAA (from CONUS) is 011-49-711-941-1525. The "Purpose of the Visit" will



be a short explanation, in a minimum of detail and in German, on what the individual will be specifically doing to contribute to a mission critical contractual requirement (for example: install, repair or maintain a communication system). This will be used to establish the legal basis for exemption. The Contracting Officer's Representatives (CORs) can be asked to assist in drafting the German language explanation. Note: The German LAA Office should respond within seven working days from receipt of requested datafax.

The German Government would like to keep the number of exemption requests to a minimum. If an individual can qualify as a TE under Article 73, that avenue must be pursued, time permitting. Therefore, qualified TEs who will require intermittent TDY periods in Germany should be processed for their TE designation by submitting the required accreditation packages through the DOCPER.

Individual contractor personnel can use a less-than-90-day TDY on more than one occasion even if the total period exceeds 90 days. However, it should be stressed that the German Ministry of Labor has determined that periods in excess of 180 days would probably result in denial of exemption.

Agreement was reached permitting potential contractors to travel to Germany to determine interest in future bidding on Government contracts. "Pre-contractual negotiations" will not be covered under the GWPO.

Contractor personnel, who are not qualified, formally recognized as TEs, TCs or formally exempted, must apply for German Work Permit before they begin work. Such personnel depart for Germany at their own risk.

The GWPO recognizes a specific exemption for senior contractor personnel ("leitende Angestellte"). A senior contractor personnel is defined as one who is empowered to bind the contractor to business agreements/arrangements (possessing a general power of attorney referred to as "Prokura" or "Generalvollmacht"). Such a senior company executive should possess a letter, on company letterhead, identifying the individual, his/her title, the purpose of the visit, the period of the visit and a statement to the effect that the individual "has the authority to legally bind the company in matters concerning why the company executive is visiting company employees in Germany."

USAREUR will be monitoring the process for the short-term TDY program through the Office of the Staff Judge Advocate, Chief, Foreign Law Branch, HQ USAREUR/7A.

My staff point of contact is Mr. C. Riley, telephone (703)681-6700 or DSN 761-6700, fax (703)681-7580 or DSN 761-6700, email "rileyc@sarda.army.mil."



Kenneth J. Oscar
Deputy Assistant Secretary of the Army
(Procurement)

DISTRIBUTION:

PRINCIPAL ASSISTANTS RESPONSIBLE FOR CONTRACTING
HQ, U.S. Army Materiel Command, ATTN: AMCRDA-AC (PARC), 5001
Eisenhower Avenue, Alexandria, VA 22333-0001
U.S. Army Aviation and Missile Command, ATTN: AMSAM-AC,
Redstone Arsenal, AL 35898-5280
U.S. Army Materiel Command Acquisition Center, ATTN: STEAA-AE,
4118 Susquehanna Avenue, Aberdeen Proving Ground, MD
21005-5002
U.S. Army Communications-Electronics Command, ATTN:
AMSEL-AC, Fort Monmouth, NJ 07703-5000
U.S. Army Industrial Operations Command, ATTN: AMSIO-AC, Rock
Island, IL 61299-6000
U.S. Army Soldier Systems Command, ATTN: AMSSC-AC, Kansas
Street, Natick, MA 01760-5011
U.S. Army Tank-automotive and Armaments Command, ATTN:
AMSTA-AQ, Warren, MI 48397-5000
U.S. Army Research Laboratory, ATTN: AMSRL-CS-PR, 2800 Powder
Mill Road, Building #601, Room 132, Adelphi, MD 20783-1197
Defense Supply Service - Washington, 5200 Army Pentagon,
Washington, D.C. 20310-5200
Headquarters Forces Command, ATTN: AFLG-PR, 1777 Hardee
Avenue S.W., Fort McPherson, GA 30330-1062
Third United States Army/U.S. Army Forces Central Command, 1301
Anderson Way S.W., Fort McPherson, GA 30330-1064

DISTRIBUTION: (CONT)

U.S. Army Medical Command, ATTN: MCAA-PARC, 2107 17th Street,
Building 4197, Suite 69, Fort Sam Houston, TX 78234-5069
U.S. Army Intelligence & Security Command, ATTN: IAPC, Fort
Belvoir, VA 22060-5246
U.S. Army Medical Research and Materiel Command, ATTN:
MCMR-AAZ-A, 820 Chandler Street, Fort Detrick, MD 21702-5014
U.S. Army Military District of Washington, Fort Lesley J. McNair,
ATTN: ANPC, 103 Third Avenue, Washington, D.C. 20319-5058
Military Traffic Management Command, ATTN: MTAQ, 5611 Columbia
Pike, Falls Church, VA 22041-5050
U.S. Army Space and Missile Defense Command, ATTN: SMDC-CM
(PARC), P.O. Box 1500, Huntsville, AL 35807-3801
U.S. Army Training and Doctrine Command, DCSBOS, ATTN:
ATBO-A, Building 5, Room F306, 5 North Gate Road, Fort Monroe,
VA 23651-1048
U.S. Army Contracting Command, Europe, ATTN: AEAPR-PA (PARC),
Unit 29331, APO AE 09266
Headquarters, Eighth United States Army, ATTN: FKAQ/EAAQ, Unit
15237, APO AP 96205-0010
U.S. Army, Pacific, ATTN: APAM, Fort Shafter, HI 96858-5100
U.S. Army South, ATTN: SOCS-CO, Unit 7101, APO AA 34004-5000
U.S. Army Corps of Engineers, ATTN: CEPR-ZA, 20 Massachusetts
Avenue, N.W., Washington, D.C. 20314-1000
National Guard Bureau, ATTN: NGB-AQ, Skyline Building Six, Suite
401A, 5109 Leesburg Pike, Falls Church, VA 22041-3201

CF:

Assistant Deputy Chief of Staff for Research, Development and
Acquisition (Acquisition, Contracting and Program Management),
HQ, U.S. Army Materiel Command, ATTN: AMCRDA-A, 5001
Eisenhower Avenue, Alexandria, VA 22333-0001
Chief, Contract Policy Team, Headquarters, U.S. Army Materiel
Command, ATTN: AMCRDA-AP, 5001 Eisenhower Avenue,
Alexandria, VA 22333-0001
Chief, Program Management and Acquisition Support Office,
Headquarters, U.S. Army Materiel Command, ATTN: AMCRDA-AM,
5001 Eisenhower Avenue, Alexandria, VA 22333-0001

DISTRIBUTION: (CONT)

PROGRAM EXECUTIVE OFFICERS

Systems Modernization, ATTN: SFAE-ASM, Warren, MI 48397-5000
Aviation, ATTN: SFAE-AV, 4300 Goodfellow Boulevard, St. Louis, MO
63120-1798

Command, Control and Communications Systems, ATTN: SFAE-C3S-
PMO, Fort Monmouth, NJ 07703-5401

Field Artillery Systems, ATTN: SFAE-FAS, Picatinny Arsenal, NJ
07806-5000

Standard Army Management Information Systems, ATTN: SFAE-PS,
9350 Hall Road, Suite 142, Fort Belvoir, VA 22060-5895

Tactical Missiles, ATTN: SFAE-MSL, Redstone Arsenal, AL 35898-8000

Tactical Wheeled Vehicles, ATTN: SFAE-TWV, Warren, MI 48397-5000

Missile Defense, ATTN: SFAE-MD-DP-R, P.O. Box 1500, (D. Tritt),
Huntsville, AL 35807-3801

Intelligence and Electronic Warfare, ATTN: SFAE-IEW, Fort Monmouth,
NJ 07703-5000

Cruise Missiles Project and Unmanned Aerial Vehicles, 1213 Jefferson
Davis Highway, Arlington, VA 22246

Combat Support Systems, ATTN: AF-PEO-CB, 1090 Air Force Pentagon,
Washington, D.C. 20330-1090

PROGRAM MANAGERS

Headquarters, United States Army Materiel Command, 5001
Eisenhower Avenue, Alexandria, VA 22333-0001

United States Army Information Systems Command, Building 61801,
Greely Hall, Fort Huachuca, AZ 85613-5000

United States Army Space and Strategic Defense Command, P.O.
Box 1500, Huntsville, AL 35807-3801

Army Information Systems Management Activity, ATTN: ASQM-PO,
Fort Monmouth, NJ 07703-5605

**Request for Confirmation of Exemption from the
Requirement to Obtain a Work Permit**

Antrag auf Bestätigung einer Arbeitserlaubnisfreien Tätigkeit

Name/Name: _____

SSN/Sozialversicherungsnummer: _____

Date & Place of Birth/ Geburts-datum/-ort: _____

Firm/Firma: _____

Contract #/Vertragsnummer: _____

Place of Work/Ort der Beschäftigung: _____

Purpose of Visit/Zweck des Besuchs: _____

Estimated Dates of Visit/Voraussichtliche Zeiten des Besuchs:

from/von _____

until/bis _____

FAX Number of Firm/FAX-Nr. der Firma: 001- _____

Signature of Representative of the Firm/Unterschrift des Bevollmächtigten der Firma:

Ort, Datum/Place, Date

Firma/Firm

Antrag auf Bestätigung einer arbeitserlaubnisfreien Tätigkeit

Request for Confirmation of Exemption from the Requirement to Obtain a Work Permit

Name/Name:

SSN/Sozialversicherungsnummer:

Date & Place of Birth/ Geburtsdatum/-ort:

Firm/Firma:

Contract #/Vertragsnummer:

Place of Work/Ort der Beschäftigung:

Purpose of Visit/Zweck des Besuchs:

evtl. weitere Beschreibung auf Beiblatt/
if appropriate, see further explanation
on attached sheet

Estimated Dates of Visit/

Voraussichtliche Zeiten des Besuchs:

from/von

until/bis

FAX Number of Firm/FAX-Nr. der Firma:

001-

Signature of Representative of the Firm/

Unterschrift des Bevollmächtigten der Firma:

Landesarbeitsamt Baden-Wuerttemberg

Stuttgart, den

AZ.: _____

Bestätigung

Es wird nach Prüfung des vorstehenden Antrages bestätigt, daß die Tätigkeit des/der genannten Arbeitnehmers/

Arbeitnehmerin bei der beantragenden Firma im Sinne der bezeichneten Vorschrift (x) des

Arbeitsgenehmigungsrechts eine arbeitsgenehmigungsfreie Beschäftigung darstellt.

() § 9 Nr. 1 Arbeitserlaubnisverordnung (AEVO) (*)

() § 9 Nr. 3a Arbeitserlaubnisverordnung (AEVO) (*)

LS () § 9 Nr. 3d Arbeitserlaubnisverordnung (AEVO) (*)

Unterschrift

(*) zutreffende Fallgestaltung ankreuzen

Es wird hiermit bestätigt, dass die Tätigkeit des Herrn/Frau

(Name)

(Geburtstag/Date of Birth)

(Firma/Firm)

(FAX-Nr./FAX #)

____ **im Sinne von Paragraph 9, Nr. 1 Arbeitserlaubnisverordnung**

____ **im Sinne von Paragraph 9, Nr. 3a Arbeitserlaubnisverordnung**

____ **im Sinne von Paragraph 9, Nr. 3d Arbeitserlaubnisverordnung**

eine Arbeitserlaubnisfreie Beschäftigung darstellt.



ACQUISITION AND
TECHNOLOGY

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

September 1, 1998

DP/FC

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
ATTN: SERVICE ACQUISITION EXECUTIVES
DIRECTORS OF THE DEFENSE AGENCIES

SUBJECT: Contracts to be Performed in the Federal Republic of
Germany (Germany)

My policy memorandum of May 22, 1998, provides that contracts involving performance in Germany by technical expert (TE) or troop care (TC) personnel require two determinations for the portion of the contract to be performed in Germany: approval of the TE and/or TC positions to be utilized in contract performance, and accreditation of persons to fill approved positions. Authority for both determinations rests with Headquarters, US Army, Europe and Seventh Army, ATTN: DOCPER. In making these determinations, DOCPER acts for all Military Departments and Defense Agencies. The policy covers employees of contractors at any level, prime or subcontract. Contractor personnel performing under Foreign Military Sales contracts to fulfill German requirements are not eligible for TE or TC status.

The May 22 policy requires contracting activities to provide copies of correspondence with DOCPER to Defense Contract Management Command (DCMC) Southern Europe. Contracting activities should provide DOCPER with e-mail addresses and telephone and fax numbers of contracting officers whose contracts are affected by the policy.

Questions involving interpretation of contract provisions involving contractor employees in Germany should be referred to DCMC Southern Germany. Questions that cannot be resolved by DCMC should be referred to the contracting officer who awarded the contract.

Eleanor R. Spector
Director, Defense Procurement

