



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS AIR FORCE SPACE COMMAND

MEMORANDUM FOR SEE DISTRIBUTION

01 OCT 1998

FROM: HQ AFSPC/LGCP
150 Vandenberg St Ste 1105
Peterson AFB CO 80914-4350

SUBJECT: INFO.LTR 99-03, Guidance for Placement of Contracts for
Performance in Germany

1. This information letter, INFO.LTR 99-03, is guidance in nature for all AFSPC contracting offices and is issued under the Special Publication System, AFSPCI 64-101, for Specialized Contracting Publications.
2. This INFO.LTR replaces INFO.LTRs 96-34 and 97-41 and consolidates current guidance related to performance of DoD contracts in the Federal Republic of Germany.
3. The attached HQ USAFE/LGC letter provides guidance on procedures for awarding contracts with performance in Germany requiring individual logistics support. Individual logistics support is when contract employees receive base benefits such as use of the commissary and BX, etc. Additional guidance is provided by the Office of the Undersecretary of Defense regarding specific procedures that must be followed prior to release of solicitation and before contract award if employees of DoD contractors will be performing work in Germany.
4. If you have questions, contact Maj. Jernigan, HQ AFSPC/LGCP, DSN 692-5307.


ERIC M. HODGES, Lt Col, USAF
Chief, Policy/Clearance Branch

2 Attachments

1. HQ USAFE/LGC memo, undated
2. SAF/AQCP Memo, 20 Mar 97

cc:
AFSPC/IGI
N-SPJ4P

DISTRIBUTION:
Same as AFSPCFARS

GUARDIANS OF THE HIGH FRONTIER



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS UNITED STATES AIR FORCES IN EUROPE

MEMORANDUM FOR HQ ACC/LGC
HQ AETC/LGC
HQ AFMC/PK
HQ AFRES/LGC
HQ AFSPC/LGC
HQ AFSOC/PK
HQ AMC/LGC
HQ AIA/LGC
HQ PACAF/LGC

FROM: HQ USAFE/LGC
Unit 3050 Box 110
APO AE 09094-0110

SUBJECT: Guidance for Contracts for Performance in Germany Requiring Individual Logistic Support

1. The issue of individual logistic support (ILS) for contractor personnel has become a sensitive issue here in Germany. The German Foreign Office through our Embassy in Bonn has challenged Army and Air Force implementation of Article 73 of the NATO Status of Forces Agreement (SOFA) Supplementary Agreement. The purpose of this letter is to inform USAF contracting officers awarding contracts with performance in Germany of the new procedures required to grant ILS to contractor employees.

2. The FAR, as supplemented in DOD FAR Supplement 225.802 and 225.802-70 does not reflect the most recent changes with regard to granting technical expert status (TES) and authorizing ILS. An agreement between the Federal Republic of Germany (FRG) and the United States of America signed 13 Jul 95 requires the US Government to inform the German government of the nature and scope of contract activities expected to be performed in the FRG by US citizen contractor employees classified as "technical experts" by Article 73 of the SOFA. The agreement also allows the German government to review the professional background and job descriptions of personnel proposed as technical experts.

3. When a contracting organization processes a contract for performance in the FRG and the contract employs technical experts who want individual logistics support, the contracting activity must comply with the 13 Jul 95 agreement between the US and Germany. This agreement establishes two new procedural requirements: First, a notification to the German government of the nature and scope of the contract activities expected to be performed by technical experts, and second, allowing German government review of job descriptions and professional background of contractor personnel proposed as technical experts.

Atch 1 to HQ AFSPC INFO.LTR 99-03

a. To satisfy the first requirement, contracting officers, simultaneously with their submission to the Commerce Business Daily (CBD), will provide the text of their CBD notice to HQ USAFE/LGCO, Unit 3050 Box 110, APO AE 09094, for forwarding to the appropriate Federal German Ministry (see attachment 1 for sample cover letter). Contracting officers should continue with their planned acquisition schedule.

b. The second requirement mandates that contracting officers ensure the solicitation contains a specific notice to all offerors of the review requirement. It should also emphasize that job descriptions for proposed TES positions must accurately describe the duties, skills, knowledge, and/or experience that qualifies the job for TES, and the personnel proposed in their offer must be able to withstand scrutiny as to whether their education, training, and/or experience is commensurate with that of TES. Potential offerors should also be advised that failure of an employee to qualify for TES means that a potential employee who does not otherwise have NATO SOFA status (e.g., as a family member of a U.S. Forces member stationed in Germany), will not be eligible for ILS in Germany; will be required to obtain a work permit from the FRG; and will be subject to German tax laws.

c. Simultaneously with contract award, or as soon thereafter as possible, contracting officers will forward documentation outlined below to HQ USAFE/LGCK, Unit 3050 Box 110, APO AE 09094-0110. Documentation will be marked "For Official Use Only," and appropriate handling procedures will apply.

(1) Application for TES signed by the administrative contracting officer (ACO) (Attachment 2).

(2) A copy of the "Certificate of Employee TES" signed by the contractor, (Attachment 3).

(3) A copy of the "ILS Questionnaire" signed by the employee who is submitted for accreditation as a technical expert, (Attachment 4).

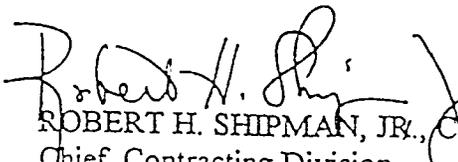
4. We are notifying Defense Contract Management Command of these changes in a separate letter. Administrative contracting officers (ACOs) within your command who are responsible for contracts authorizing ILS, must notify HQ USAFE/LGCO in writing whenever a contractor employee is no longer employed by the contractor and to the best of the contractor's knowledge the employee has either left the FRG or is seeking employment elsewhere within the FRG (Attachment 5). ACOs must provide the above listed information and documentation to HQ USAFE/LGCO whenever a contractor employee, who is accredited as a technical expert:

(1) starts working for a different contractor or the same contractor under a different contract;

(2) or changes position under the same contract.

5. In summary, based on the revised US-German agreement, a new review process has been implemented. Contracting officers must understand that they do not have sole authority to grant TES and the ensuing logistical support into contracts. Contractor employees may be denied logistical support upon their arrival in country. This in turn may impact contract price and could possibly jeopardize contract performance. Please pass this information to your field activities.

6. Our point of contact is Ms Deborah Holt, USAFE/LGCO, DSN 480-5713, Commercial 011-49-6371-47-5713; FAX 011-49-6371-47-2025 or DSN 480-2025.


ROBERT H. SHIPMAN, JR., Colonel, USAF
Chief, Contracting Division
Directorate of Logistics

Attachments:

1. Notification Letter
2. Application for TES
3. Certificate of Employee TES
4. ILS Questionnaire
5. Termination Letter

cc:

SAF/AQCO
SAF/AQCF
ASD/PK, WRAFB
ASD/OL-PK, Eglin AFB
WL/PK, WRAFB
AFDTC/PK, Eglin AFB
ATTTC/TK, Edwards AFB
AFOSR/PK, Bolling AFB
AEDC/PK, Arnold AFB
ESC/PK, Hanscom AFB
38 LG/LGC, Tinker AFB
MSG/PK, WRAFB
RL/PK, Griffiss AFB
SSG/PK, Maxwell AFB
HSC/PK, Brooks AFB
OO-ALC/PK, Hill AFB
OC-ALC/PK, Tinker AFB
SM-ALC/PK, McClellan AFB
SA-ALC/PK, Kelly AFB
SMC/PK, Los Angeles AFB
PL/PK, Kirtland AFB
WR-ALC/PK, Robins AFB



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS UNITED STATES AIR FORCES IN EUROPE

MEMORANDUM FOR HQ USAFE/LGCO

FROM: (enter your unit name and address here)

SUBJECT:

1. The following information is submitted as requested in USAFE TES procedures. The contract described below is an upcoming contract in which the possibility exists in the employment of technical experts.

a. Name and nature of the project:

b. Scope of work to be performed:

c. Location:

d. Number of TES positions expected:

2. Questions concerning this project may be addressed to the responsible contracting officer (CO name and phone number) or the responsible project officer (project officer and phone number).

Contracting Officer Signature

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Atch 1



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS UNITED STATES AIR FORCES IN EUROPE

MEMORANDUM FOR HQ USAFE/LGCO

FROM: (enter your office symbol and address here)

SUBJECT: Application for Technical Expert Status

1. I have reviewed the application for technical expert status and individual logistic support submitted by:

Employee Name:

Contract Number:

Position:

Period of Performance:

2. The above individual meets the requirements for a technical expert found in Article 73 of the German Supplementary Agreement to the NATO Status of Forces Agreement. I recommend he/she be approved as a technical expert and granted available logistic support.

Contracting Officer Signature

Phone Number: _____

Attachment:

Application Package

FOR OFFICIAL USE ONLY

Atch 2

CERTIFICATE OF EMPLOYEE TECHNICAL EXPERT STATUS
(Contracts Performed in Germany)

This is to certify that the following individual is a Technical Expert as provided in Article 73, NATO Supplemental Agreement.

a. He/She is a technical expert since _____
(day) (month) (year)

as defined by Article 73, NATO Supplemental Agreement, who will exclusively serve the U. S. Forces.

b. Will serve either in an advisory capacity in technical matters or to setup, operate or maintain equipment.

NAME OF EMPLOYEE

SSAN AND PP#

No additional fee or cost will be charged by the contractor, should either the conclusion or any part of the data here stated be determined by a U. S. contracting officer to be so erroneous, inaccurate, or non-current as to disqualify the above employee for Article 73 "technical expert" status.

CONTRACT:

COMPANY:

JOB TITLE:

JOB DESCRIPTION: (attach if necessary)

GEOGRAPHIC DUTY LOCATION:

DATE OF EXECUTION:

PHONE NUMBER:

(Signature of Contractor or his/her Representative)

Atch 3

FOR OFFICIAL USE ONLY

INDIVIDUAL LOGISTIC SUPPORT QUESTIONNAIRE
(Contracts Performed in Germany)

The purpose of this questionnaire is to provide information concerning your work history and educational background for the purpose of establishing logistical privileges in Germany.

PRIVACY ACT STATEMENT: Information provided will be used as the basis for determination of eligibility for individual logistic support and to provide information to officials of the Host Nation on your status under the NATO Status of Forces Agreement. Furnishing your SSAN or any other data required is voluntary. However, failure to provide any of the required information may result in your being ineligible for individual logistic support.

Contract Number: _____ Position: _____
Location: _____ Security Clearance: _____
Employment Contract Duration: _____

NAME: _____ SSAN: _____
Address: _____ Citizenship: _____
Passport No: _____
Number of Dependents: _____ Phone Number: _____
Have you ever had a German work permit? _____ If yes, provide dates and positions held:

EDUCATION: (attach additional sheets as necessary)

PAST WORK EXPERIENCE: (attach additional sheets as necessary)

Signature of Contracted Employee

FOR OFFICIAL USE ONLY

Atch 4



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS UNITED STATES AIR FORCES IN EUROPE

MEMORANDUM FOR HQ USAFE/LGCO

FROM: (enter your office symbol and address here)

SUBJECT: Termination of Individual Logistic Support (ILS)

1. The following individual(s) have terminated employment with (contract company name) and are no longer authorized ILS.

<u>NAME</u>	<u>SSAN</u>	<u>CONTRACT #</u>	<u>EFFECTIVE DATE</u>
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2. Please update your records accordingly.

3. I hereby certify that the ID card, ration card, and vehicle registration held by the employee and any family member were surrendered.

Signature of Contracting Officer

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Atch 5



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

Office of the Assistant Secretary

20 MAR 1997

MEMORANDUM FOR ALMAJCOM-FOA-DRU (CONTRACTING)

FROM: SAF/AQCP
1060 AIR FORCE PENTAGON
WASHINGTON DC 20330-1060

SUBJECT: (a) Application of Berry Amendment; (b) Contracts to be Performed in the Federal Republic of Germany (Germany); (c) Automatic Data Processing Equipment Leasing Costs; (d) Earned Value Management Systems

References: ~~(a) DDP Memo dated Feb 7, 1997, DFARS Case 96-D333, D.L. 97-009~~

(b) DDP Memo dated Feb 26, 1997

~~(c) DDP Memo dated Mar 3, 1997, DFARS Case 96-D011, D.L. 97-010~~

~~(d) DDP Memo dated Mar 5, 1997, DFARS Case 96-D024, D.L. 97-011~~

Please distribute the attached memos to all appropriate offices in your organization using the most expedient means available. The memos will be provided on SAF/AQC's Home Page on the World Wide Web. Please refer questions to (a) Maj Carolyn Blalock, (703) 614-1650; (b) J. P. McCusker, (703) 614-1648; (c) Lt Col Ken Truesdale, (703) 695-3859; and (d) Dan Mabey (703) 695-1836. DSN for all numbers is 22X-XXXX.

John L. Robuck
JOHN L. ROBUCK
Deputy, Contract Policy Division
Deputy Assistant Secretary (Contracting)

Attachment:
Four Referenced Memos

cc:
SAF/AQC
SAF/AQC Divisions
SAF/GC
SAF/SB

Atch 2 to HQ AFSPC INFO.LTR 99-03



OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000



FEB 26, 1997

ACQUISITION AND
TECHNOLOGY

DP/FC

MEMORANDUM FOR DIRECTORS OF DEFENSE AGENCIES
DEPUTY FOR ACQUISITION AND BUSINESS MANAGEMENT,
ASN(RD&A)/ABM
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING), SAF/AQC
DIRECTOR FOR CONTRACTING, ASSISTANT DASA(P)/RD&A;
DEPUTY DIRECTOR (ACQUISITION), DEFENSE LOGISTICS AGENCY

SUBJECT: Contracts To Be Performed in the Federal Republic
of Germany (Germany)

An employee of a U.S. Department of Defense contractor expected to perform duties under the contract in Germany may, under certain conditions, be characterized as a technical expert pursuant to Article 73 of the NATO Status of Forces Supplementary Agreement. Unlike other employees, a technical expert is not subject to German labor laws, German income taxation, and other related German regulations. To avoid disputes over affirmative Article 73 determinations, the Department has agreed to coordinate its review for such determinations with German authorities when a contractor's billet and employee are nominated, or are likely to be nominated, for performance in Germany with technical expert status.

Effective immediately, ensure that each purchasing activity complies with the enclosed guidance when it anticipates placement of a contract that will involve performance in Germany by a technical expert. This guidance supplements the procedures under Defense Federal Acquisition Regulation Supplement (DFARS) 225.802-70. After we assess the effectiveness of these procedures, we will make appropriate revisions to the DFARS.

Eleanor R. Spector
Director, Defense Procurement

Enclosure

cc: DSMC, DLA



Atch 2
pg 1 of 6 pgs

GUIDANCE ON UTILIZATION OF EMPLOYEES OF DEPARTMENT OF
DEFENSE CONTRACTORS IN THE FEDERAL REPUBLIC OF GERMANY

1. Employees of Department of Defense (DoD) contractors may not work in the Federal Republic of Germany (Germany) unless:

- a. They have work permits issued by German authorities in which case they are subject to German labor legislation; German income taxation; and German social insurance contributions, and they are ineligible for individual and family logistics support; or
- b. They are determined to be technical experts pursuant to Article 73 of the NATO Status of Forces Supplementary Agreement (Article 73) in which case they are exempt from German labor legislation; German income taxation; and German social insurance contributions, and they are eligible for individual and family logistics support.

2. An Article 73 determination of technical expert status is required only when a purchasing activity anticipates placement of a contract that will involve performance in German territory by at least one technical expert. Article 73 determinations of technical expert status can be made only by Headquarters U.S. Air Force Europe (HQ USAFE) for any contract action of the Air Force and HQ U.S. Army, Europe (HQ USAREUR) for any other contract action of the U.S. government. Their addresses are:

HQ USAREUR: HQ USAREUR/7A, ODCSPER (ATTN: AEAGA-C)
Unit 29531, APO AE 09104
Phone: 011-49-6221-573947
Fax: 011-49-6221-390359
Email: techex@cpd.hqusareur.army.mil

HQ USAFE HQ USAFE/LGC
Unit 3050, Box 110, APO AE 09094-0110
Phone: 011-49-6371-47-5551/DSN 480-5551
Fax: 011-49-6371-47-2025
Email: usafe.lgc.tes@ramstein.af.mil

3. Except in cases of unusual or compelling urgency approved pursuant to the authority of 10 U.S.C. 2304(c)(2) (FAR 6.302-2), an Article 73 determination requires a two-step process, each involving German authorities. The first step (pre-solicitation coordination) evaluates technical expert billet(s) contemplated, and the second (pre-award coordination) appraises technical expert(s)

nominated. In each step, the Article 73 determination office will coordinate its decision with German authorities and render a determination approximately 30 days after it receives the prescribed information from the purchasing activity. Cases of unusual or compelling urgency shall be addressed subsequent to contract award as described below. A copy of all correspondence on this subject between purchasing activities and Article 73 determination offices should be provided to the contract administration office (CAO) assigned for Germany at:

DCMC Southern Europe
CMR 410 Box 761
APO AE 09096
Phone: 011-49-611-816-2003/DSN 314-336-2003
Fax: 011-49-611-816-2091
Email: jjeong@europe.dla.mil

a. Pre-solicitation coordination.

- (1) The purchasing activity shall furnish the following information to the Article 73 determination office when the solicitation is being drafted.
 - (a) Summary of the work to be performed and, if practical, a copy of the statement of work;
 - (b) Projected period of performance;
 - (c) Expected place(s) of performance;
 - (d) Estimated contract value;
 - (e) Anticipated contract award date;
 - (f) Likely number and nationalities of contractor employees and their planned dates of arrival in Germany;
 - (g) Estimated number of technical experts anticipated;
 - (h) Any contractor logistics support desired in support of U.S. or foreign military sales requirements; and
 - (i) Security requirements.

(2) The purchasing activity shall draft the solicitation to require an offeror to include in its proposal (i) the anticipated number of technical experts required, if any, and (ii) as summarized immediately below, the information necessary for pre-award determination coordination for each technical expert nominated.

(3) If the Article 73 determination office renders a negative determination for any technical expert positions contemplated, the purchasing activity shall so inform potential offerors by appropriately amending the solicitation.

(4) Pre-solicitation coordination actions shall be completed before issuance of a solicitation.

b. Pre-award coordination.

(1) The purchasing activity shall furnish, verify, or update all of the information described for pre-solicitation coordination and provide the following additional information to the Article 73 determination office after selection of the prospective contractor.

(a) The name of the prospective contractor, solicitation number, and (if available) the contract number;

(b) Expected contract expiration date (update after award, if necessary);

(c) A copy of that portion of the contract which describes any individual and family logistics support and privileges to be provided; and

(d) For each technical expert nominee: *1111*

(i) Full name; citizenship; social security number; passport number; number of family members, if logistics support for family members is to be authorized in the contract; and anticipated arrival date and point of arrival in-country;

(ii) Period of accreditation required (technical expert status is initially

granted for one year and can be renewed annually thereafter);

(iii) Job title, a detailed job description, and level of security clearance, if any, and salary range for the technical expert position;

(iv) A resume setting forth the nominee's job-related education, training, or experience for the technical expert position;

(v) A statement disclosing whether or not the nominee has ever held a work permit in Germany;

(vi) A statement disclosing whether or not the nominee has ever been present in Germany for more than 90 days, and, if so, the applicable dates and reason for being in Germany; and

(vii) APO address and the sponsoring activity to which the accreditation letter would be forwarded. (This will be the military organization to which the contractor will be attached for administrative and operational control).

(2) If the Article 73 determination office renders a negative determination for a technical expert nominee, the purchasing activity shall require the prospective contractor to identify another nominee or take other appropriate action.

(3) Pre-award coordination actions shall be completed before contract award.

4. If an affected contract must be awarded pursuant the authority of 10 U.S.C. 2304(c)(2) (FAR 6.302-2), the purchasing activity may proceed by so advising the cognizant Article 73 determination office in writing. In this case, the purchasing activity shall seek ratification of each technical expert position and nominee involved by supporting consultations promptly after contract award.

5. Since a technical expert is accredited to a specific position at a given location, a contract shall require

the contractor to notify the cognizant CAO if a reportable change occurs. A 'reportable change' occurs whenever a technical expert is no longer performing the duties of an accredited position, even if the technical expert has only been reassigned to another accredited position or to another geographic location under the same contract. The CAO will pass notification of a reportable change to the cognizant Article 73 determination office, which will notify German authorities.