

**TITLE: CIB 98-02A Latest ES-06/FS-1 Maximum Pay Rate (ADDENDUM)**

**February 17,1998**

**MEMORANDUM FOR ALL CONTRACTING OFFICERS AND NEGOTIATORS**

TO: Distribution List FAC  
FROM: M/OP, Marcus L. Stevenson, Procurement Executive  
SUBJECT: Latest ES-06/FS-1 Maximum Pay Rate

**CONTRACT INFORMATION BULLETIN 98 - 2 (ADDENDUM)**

Because M/OP/P has received numerous questions regarding the change in the method for calculating the hourly and daily rates, we are issuing this addendum to clarify how these rates were calculated and why, and to further explain how these threshold salary rates are to be implemented. The hourly and daily rates in CIB 98-2 were calculated using 2080 work hours per year, as opposed to 2087 which had been the case.

The Federal pay system uses 2087 work hours per year when dividing annual salaries to determine hourly rates (purportedly to maintain the same annual salary level in leap years). However, very few institutional contractors have personnel/pay systems based on the Federal formula; rather, they generally use some kind of methodology based on 260 possible workdays per year; with an 8 hour workday, this results in a 2080 hour workyear. These are the numbers used for determining the daily and hourly rates stated in the CIB, and these rates, when applied to this 260 day workyear, still result in salaries below the threshold annual salary ( $\$455.36/\text{day} \times 260 = \$118,393.60$ , which is \$6.40 less than the ES 6 max). A contractor's actual methodology may use a different number of workdays/year, depending on the number of paid holidays, how much vacation or sick leave they provide to their employees, and how they account for all of it.

Why did we change this methodology this year after using the Federal method of 2087 hours/year since 1990? We hope to continue the move away from the appearance of trying to impose Government systems and procedures on private sector businesses and other entities, to encourage the use of fixed price contracts in appropriate circumstances (particularly when performance-based contracts are being used), and finally to address the inequity to contractors since the difference to them is almost a full day's pay per year, which they then need to account for somehow in their payroll/accounting systems.

Nothing in the FAR or AIDAR authorizes the imposition of the Federal pay system onto our contractors, and in fact, the cost principle at FAR 31.205-6 Compensation for personal services doesn't refer to the Federal system for comparison at all; any comparisons are to compensation practices of "other firms of the same size, ... in the same industry, ... in the same geographic area, ...engaged in predominantly non-Government work, and..obtainable from outside sources". See specifically paragraphs (a)(3) and (b) of this cost principle.

USAID's salary policy (now found in ADS Ch. 302) is based on using the ES 6 annual salary as the threshold for additional review and approval. The wording of the annual CIB has said for the past few years that the hourly and daily rates are provided for your convenience and the annual salary is the determining rate. This distinction is made because of the different but perfectly legitimate methods for calculating hourly or daily rates that contractors may be using. We don't want to force contractors to use the federal pay system in their own payroll systems; at the same time, different methods present opportunities for circumventing the salary threshold, and it is important that the intent of the salary policy be maintained and its implementation be consistent.

Therefore, the policy is to be implemented under institutional or non-personal services contracts as follows:

- For individuals working on a long-term assignment (i.e., one year or more), the annual salary shall be the basis for applying the salary threshold.
- For individuals working for less than a year under a USAID contract, and regardless of the contractor's methodology, the hourly or daily rates in CIB 98-2 shall be the threshold used to apply the USAID salary policy in ADS 302, although in the case of a regular employee of the contractor\*, the annual salary must also be at or below the ES 6 level.

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\* "regular employee" in this context means an employee who works on an annual basis for the contractor and is not hired specifically for the USAID contract in question. It does not mean the same as in the definition of "regular employee" found in AIDAR 752.202-1, Alt. 72.

Personal services contractors (PSCs) are considered employees for most purposes, and the method for calculating PSC daily or hourly rates is the Federal method of 2087 hours/year. Consequently, at the ES 6 level, the maximum daily rate for PSCs is \$453.84, and the maximum hourly rate is \$56.73. Since the FS 1 rates are provided in the CIB only for those contracts which predate the 1994 change in the salary policy, the FS 1 rates are not relevant for PSCs.