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Subject: DOMESTIC EMPLOYEE TELEWORKING OVERSEAS (DETO) POLICY GUIDANCE FOR
CHIEFS OF MISSION

1. Purpose: This cable provides guidance to Chiefs of Mission (COMs) who are evaluating requests related to overseas remote work arrangements, called DETOs (Domestic Employees Teleworking Overseas), from Executive Agencies (including but not limited to the State Department and its bureaus).
2. This guidance applies to all DETO arrangements, which are defined as an overseas remote work arrangement for only federal Executive Branch employees performing the requirements and duties of a domestic Civil Service or Foreign Service position remotely from an approved overseas duty station/location. Telework does not include any part of work done while on official travel or mobile work.
3. Background: On June 7, 2016, the Department distributed an Executive Secretary Memorandum to all executive branch agencies regarding updated overseas requirements for Executive Branch employees teleworking in foreign locations. These updated requirements apply to all Federal Executive Branch agencies considering establishing Domestic Employees Teleworking Overseas (DETOs). Unless exempted by Presidential directive or legislation, Executive Branch DETOs fall under COM authority and security responsibility. **DETO opportunities should not be construed as an entitlement.**

4. TYPES OF DETOs:

- A sponsored DETO is a direct hire federal employee who is on the official orders as a spouse or partner of another USG employee on an official overseas assignment under the authority of a COM; or
- An independent DETO is an employee not addressed on orders of a USG spouse or partner. For example, a federal employee whose spouse is employed by a private company, or a federal employee who is unmarried (single). Due to the expanded risks of independent DETO arrangements, Department of State policy does not allow independent DETOs for its employees. However, policies of other Executive Branch agencies may allow for both sponsored and independent DETO arrangements as long as they comply with requirements related to security standards, passports/visas, privileges and immunities, local labor and tax laws, contingency planning, and other issues elaborated below.
- Non-Executive Branch employees, which include grantees, certain fellows, and third-party (commercial) contractors, are not eligible for DETO employment arrangements.

REQUEST TYPES: The approval process for DETOs to work overseas varies depending on the duration of the overseas telework arrangement, as described below. Agencies must consult with the relevant State Department Regional Bureau's Executive Office prior to submission of NSDD 38 or Electronic Country Clearance (eCC) requests. Depending on the location, a briefing from Diplomatic Security or successful completion of FACT or HTSOS training may be mandatory before arrival at the DETO location. Detailed guidance and procedures for the submission of NSDD 38 and eCC requests can be found in the Executive Secretary Memorandum dated June 6, 2016 available at the following link:

[https://intranet.hr.state.sbu/Workforce/WorkSchedulesFlexibilities/Pages/DomesticEmployeesTeleworkingOverseas\(DETO\).aspx](https://intranet.hr.state.sbu/Workforce/WorkSchedulesFlexibilities/Pages/DomesticEmployeesTeleworkingOverseas(DETO).aspx)

- **Less than one year:** Agencies intending to establish an overseas telework arrangement for a period of less than 1 year must obtain COM approval through the country clearance process. Unclassified country clearance requests must be sent through the State Department's automated eCC system at <http://ecc.state.sbu>. Extensions of these arrangements such that the total duration of the telework arrangement would be more than one year will require a NSDD 38 request (see below).

- One year or more: Activities that require or envision an executive branch employee conducting official business in a foreign country for one year or more are treated as permanent, even for DETO arrangements which are necessarily temporary. If a bureau/agency intends to establish a telework arrangement for one year or more, it must follow procedures outlined in the National Security Decision Directive 38 (NSDD 38). NSDD 38 requests must be submitted via the online application at <https://nsdd38.state.gov/>. Requests should be submitted by the bureau/agency for which the potential DETO works, and approved by the bureau/agency official responsible for funding the arrangement, on behalf of the employee in the requesting bureau/agency. Note that approval of an NSDD-38 for a DETO does not establish a new position overseas but rather is intended to confirm that the employee is under COM authority and document approval of the telework arrangement and any support services.

5. AGENCY REQUESTS: The burden of justifying an overseas DETO arrangement remains the sole responsibility of the requesting agency. The COM should carefully review the requests to ensure that all pertinent issues have been adequately addressed. COMs are not under any obligation to approve DETO requests. COMs should disapprove requests that, in their view, will expose the USG to unnecessary risks or will place an unsustainable burden on post. COMs should also disapprove requests that do not adequately address critical issues listed below:

- a. Security Requirements and Standards: Requesting agencies should explicitly confirm that the DETO will follow all COM security policies and directives and commit to funding all security costs related to the telework arrangement. Requesting agencies should also confirm that the information systems, residence and physical work location that the employee will use meet all required security standards for use in foreign locations. (Security standards applicable to Executive Branch agencies are addressed in the Overseas Security Policy Board Handbook (12 FAH-6)). Costs associated with meeting security standards will be the responsibility of the agency and addressed through procedures addressed in the Foreign Affairs Handbook (6 FAH-5 H- 352). If, in the view of the COM, required security standards cannot be met for the DETO, post should disapprove the country clearance or NSDD 38 request.
- b. Passport/Visa Type: Requesting agencies must ensure that the DETO has the proper documentation, such as passports, visas or any additional work permits required to perform work in the foreign location. Copies of the relevant work visas must be sent to the post or relevant regional bureau for confirmation that the

documents are accurate/correct. If, in the view of the COM, passport/visa issues are not adequately addressed, post should disapprove the country clearance or NSDD 38 request. **Independent DETOs cannot use diplomatic or official passports** in connection with travel to or residency in their approved telework location. The embassy should not assist with visas or any other issues that would indicate that the independent DETO is a member of the U.S. mission.

- c. Privileges and Immunities (Ps&Is): The USG does not have agreements with foreign governments that specifically address DETOs or the work that they perform. Sponsored DETOs may derive certain Ps & Is based on their relationship with their spouse or partner. **If the work location is not within U.S. diplomatic facilities and unless specifically approved by the host government, for independent DETOs, their physical work location, and work materials will be subject to the jurisdiction of the host government.** In their requests, requesting agencies must explicitly confirm the level of Ps&Is the employee will enjoy, after consulting with the relevant Department of State regional bureau or directly with post. If no Ps & Is are available for the arrangements, the agency must explicitly state that both the employee and work will be fully subject to the jurisdiction of the host government. If, in the view of the COM, the level of Ps & Is is not sufficient, post should disapprove the country clearance or NSDD 38 request.
- d. Local Labor and Tax Laws: Local labor and tax laws may apply to the employee's work. The requesting agency and employee must ensure appropriate compliance. In the request, the requesting agency should confirm whether or not local labor and/or tax laws apply. The requesting agency must confirm that the DETO arrangement complies with all local labor and tax laws, after consulting with the relevant Department of State regional bureau or post. If, in the view of the COM, the agency does not sufficiently address local labor and tax laws, post should disapprove the country clearance or NSDD 38 request.
- e. Contingency Planning: The requesting agency must confirm in the telework agreement that **all evacuation costs for the employee will be paid by the agency.** If the COM orders an employee to depart post, the Department of State will not be responsible for funding the employee's travel, unless the employee is a Department of State employee or is an eligible family member of a Department of State employee and paying such expenses is authorized consistent with Department travel rules and regulations. In all other cases, the travel costs will be borne by the employing agency or the employee. If the requesting agency does not confirm its responsibility for funding evacuation costs in the telework agreement and provide a

signed copy of the agreement to post, post should disapprove the country clearance or NSDD 38 request.

- f. **Medical Evacuation:** Independent DETOs and sponsored DETOs whose spouse or domestic partner works for a USG entity that does not fund medical evacuations must provide documentation of personal medical evacuation insurance to the relevant DOS regional bureau in the request. If the agency does not adequately address medical evacuation costs in the request, post should disapprove the country clearance or NSDD 38 request.

6. OTHER CONSIDERATIONS:

- a. **Embassy Provided Services:** DETOs' access to embassy services as part of their employment, such as access to classified data handling, storage and processing, and diplomatic pouch use of official materials will be determined on a case-by-case. DETO arrangements are expected to have no (or only minimal) impact on the ICASS platform at missions overseas. Sponsored DETOs are entitled to ICASS support through their sponsor, by virtue of their status as EFMs or partners of USG employees. For purposes of support in their official capacity as a USG employee, sponsored DETOs must rely on their domestic office. There may be cases where a sponsored DETO is required, by either the sending agency or the mission, to work from an official building rather than from home. In such situations, early and frequent discussions between the Mission and the sponsoring agency will help ensure a clear understanding of the ICASS support services required for the DETO, as well as the associated costs the agency will bear to support the DETO arrangement. Further information to help guide these discussions will be provided soon via septel.
- b. **Unaccompanied or Partially Unaccompanied Posts:** DETOs are prohibited in posts and countries that are unaccompanied, partially unaccompanied, and/or where authorized or ordered departure is in effect. Exceptions to this prohibition must be requested in accordance with procedures described in Waivers of Travel Prohibitions (3 FAM 3776).
- c. **Nepotism (General):** A proposed DETO arrangement involving a DETO working from a country in which his/her relative is employed by the Department of State at post may require an anti-nepotism review.
- d. **COM/Chargé Spouses:** DETO arrangements for the spouses of COMs or Chargés

may raise nepotism concerns, including for the approval of NSDD 38 requests. If possible, NSDD 38 requests for such DETO arrangements should be transmitted to post prior to the arrival of the COM and spouse. Ideally, the preceding COM will act on the NSDD 38 request prior to departure. COM spouses should contact the relevant Regional Bureau executive office as early as possible for assistance. HR/PAS and HR/ER/WLD may also provide guidance to address the above circumstances.

- e. Non-DoD DETOs at DoD Facilities: Non-DoD employees may accompany their DoD spouse (not under COM authority) on an overseas assignment. For DETOs residing on DOD installations or DoD-provided housing overseas, the employing agency should have a local security and safety agreement with DoD in place that addresses the provision of DoD security services. Such agreements do not alter the Secretary of State's or COM's responsibilities related to safety and security. The security standards applicable to Executive Branch agencies under COM authority are laid out in the Overseas Security Policy Board Handbook (12 FAH-6).
- f. Required Training: All personnel working under a DETO program will complete all required overseas personal security training prior to their travel, to include the Foreign Affairs Counterterrorism Training course (FACT), when required, and/or the High Threat Security Overseas Seminar (HTSOS). Other Department approved programs designed to meet the requirements of all executive agencies that deploy personnel overseas is called Serving Abroad for Families and Employees (SAFE). The program consists of two modules – Security Overseas Seminar or SOS (MQ911) and Introduction to Working in an Embassy (PN113), which can be taken consecutively or separately and are offered by FSI. Refer to FSI's following link for more information:
<http://reg.fsi.state.sbu/dstc/CourseCatalog.aspx>

- 7. **RESOURCES**: Please refer to the following HR/ER/WLD Intranet comprehensive website which includes DETO SOPs, sample DETO agreement and DETO policy applicable to the Department and other Federal Executive Branch agencies.
[https://intranet.hr.state.sbu/Workforce/WorkSchedulesFlexibilities/Pages/DomesticEmployeesTeleworkingOverseas\(DETO\).aspx](https://intranet.hr.state.sbu/Workforce/WorkSchedulesFlexibilities/Pages/DomesticEmployeesTeleworkingOverseas(DETO).aspx)
- 8. **MINIMIZE CONSIDERED**.

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