



OIG

Office of Inspector General

U.S. Department of State • Broadcasting Board of Governors

ISP-C-17-32

Office of Inspections

August 2017

**Compliance Follow-up Review:
Department of State Has Not
Implemented Recommendations
Pertaining to Official Residence Expense
Staff Salaries**

Summary of Review

OIG conducted a compliance follow-up review (CFR) of the Department of State's (Department) implementation of the two recommendations issued in OIG's 2014 Management Assistance Report: Direct Payment of Official Residence Expenses Staff Salaries.¹ The report identified two sets of guidance that prohibit cashiers at overseas missions from directly paying Official Residence Expense (ORE) staff. OIG recommended that the Department: a) publish a directive prohibiting direct payment by the Department to ORE staff, and b) clarify Department guidance that ORE staff are employees of the principal representatives,² who are responsible for paying salary and benefits in accordance with local laws and practices. For more than two years, the Department told OIG that it would conduct a comprehensive review of existing procedures and regulations relating to ORE staff status that would result in worldwide guidance on ORE staff payment. However, the Department provided no evidence of any such efforts. In September 2016, the Department sent a survey of ORE practices to all overseas missions and told OIG that guidance would be issued once it had analyzed the responses, but it did not provide a timeframe for doing so. Most recently, the Department told OIG that it was still in the process of analyzing the responses.

In its overseas post inspections since 2014, OIG continues to regularly find embassies directly paying ORE staff in violation of Department guidance. Because of this, as well as the Department's lack of progress in clarifying and resolving this issue, in early 2017, OIG closed the two 2014 recommendations and initiated this CFR. This report recommends that the Department issue, within 30 days, consistent guidance on paying ORE staff salaries and that it revise and reissue consistent Foreign Affairs Manual (FAM) and Foreign Affairs Handbook (FAH) guidance within 6 months. In its comments on the draft report the Bureau of the Comptroller and Global Financial Services (CGFS) did not explicitly agree or disagree with the two recommendations addressed to it, but described actions that it had taken or would take to implement the recommendations. OIG therefore considers the two recommendations resolved. The bureau's response to the recommendations and OIG's reply can be found in the Recommendations Section of this report. CGFS's formal written response is reprinted in its entirety in Appendix C.

BACKGROUND

The 2014 Management Assistance Report, Direct Payment of Official Residence Expenses Staff Salaries, stated that four 2014 inspections³ found that the overseas missions, rather than the principal representative, paid ORE staff salaries. This process contradicted guidance in 3 FAM 3257a, issued by the Bureau of Human Resources, and 4 FAH-3 H394.2-4b, issued by the Bureau of the

¹ OIG, *Management Assistance Report: Direct Payment of Official Residence Expenses Staff Salaries* (ISP-I-14-08, April 2014).

² For the purpose of this CFR, principal representatives include chiefs of mission, deputy chiefs of mission, and principal officers.

³ The four inspection reports were: Embassy Sofia, Bulgaria, ISP-I-14-02; Embassy Budapest, Hungary, ISP-I-14-03; Embassy Manama, Bahrain, ISP-I-14-07; and, Embassy Abu Dhabi, United Arab Emirates, ISP-I-14-11.

CGFS.⁴ OIG issued recommendations to the Department to publish a directive prohibiting direct payment to ORE staff and to clarify Department guidance that ORE staff are employees of the principal representatives rather than employees of the U.S. Government.

In response to the 2014 Management Assistance Report, the Department concurred with OIG's two recommendations, stating that it would conduct a comprehensive review of existing ORE procedures and regulations and would distribute worldwide guidance on ORE payments. For more than two years, the Department provided no evidence of any efforts to implement the two recommendations. In September 2016, the Department issued a survey to overseas missions to gain an understanding of the various ORE practices and processes used overseas. The Department told OIG that it would publish guidance on ORE procedures, including payments to staff, after reviewing the survey responses. At the conclusion of this CFR in March 2017, the Department's analysis of the 175 survey responses was not completed.

In FY 2015, OIG issued four additional overseas post inspection reports that included recommendations related to the prohibition of direct mission payments to ORE staff.⁵ In response, one embassy cited 4 FAM 446.3a, issued by CGFS, which allows the embassy to pay ORE "providers of services" directly.⁶ Given the three contradictory FAM citations,⁷ OIG determined a CFR was necessary to evaluate the Department's implementation of the 2014 recommendations.

CONTRADICTIONARY GUIDANCE ON PAYMENT OF ORE STAFF NEEDS TO BE RESOLVED

During this CFR, CGFS officials confirmed to OIG that it had not taken any actions on the 2014 recommendations before issuing the September 2016 survey to overseas missions. The majority of the survey responses were received in October 2016. As noted previously, the Department had yet to complete an analysis of the 175 responses to the survey's 44 questions by the conclusion of this CFR in March 2017. However, OIG reviewed the preliminary results of one survey question, which asked respondents to identify which of seven payment methods were used to pay ORE staff. OIG's review indicated that approximately one-third of the responding missions stated that ORE staff salaries were paid directly, either through electronic funds transfer to a bank account or in cash, rather than by the principal representative.

⁴ The FAM, 3 FAM 3257a (dated 08/02/2002), states, "...the principal representative (or household manager) will disburse the pay to these employees. In the absence of the ambassador, the charge d'affaires should arrange for payment." Similarly, 4 FAH-3 H394.2-4b (dated 06/07/2007), provides "When approved by the principal officer, official residence expenses (ORE), as authorized in the Department of State Standardized Regulations (DSSR) 400, may be reimbursed from a cashier's advance. A certified voucher must support the payment by the cashier....Reimbursement payments for ORE expenses may be paid only to the Principal Representative (as defined in Chapter 400 of the Standardized Regulations) or to vendors, not ORE staff."

⁵ The four inspections include: Embassy Yerevan, Armenia, ISP-I-15-07; Embassy Tallinn, Estonia, ISP-I-15-23; Embassy Mexico City, Mexico, ISP-I-15-28; and Embassy Amman, Jordan, ISP-I-15-29.

⁶ 4 FAM 446.3a, (dated 09/20/2010, revised 04/2016): "ORE may be paid directly to the provider of the service or reimbursed to the officer..."

⁷ 4 FAM 446.3a, 3 FAM 3257a and 4 FAH-3 H394.2-4b.

OIG also reviewed all Department guidance pertaining to the payment of ORE staff salaries. In addition to the three sets of guidance identified above, OIG identified a fourth set of guidance in 4 FAM 446.5 (issued by CGFS and revised September 2013) that contains wording identical to that in 4 FAM 446.3: "ORE may be paid directly to the provider of the service or reimbursed to the officer..." Officials in CGFS and the Bureau of Human Resources told OIG that they had not discussed the conflicting guidance issued by their respective bureaus. The contradictory guidance in the three FAM cites and the one FAH cite leaves overseas missions unclear of the proper way to pay ORE staff salaries.

Recommendation 1: The Bureau of the Comptroller and Global Financial Services, in coordination with the Bureau of Human Resources, should issue consistent guidance to overseas missions on the proper procedures for paying Official Residence Expense staff salaries within 30 days of the issuance of this report. (Action: CGFS, in coordination with DGHR)

Recommendation 2: The Bureau of the Comptroller and Global Financial Services, in coordination with the Bureau of Human Resources, should revise and reissue consistent Foreign Affairs Manual and Foreign Affairs Handbook guidance on paying Official Residence Expense staff salaries within 6 months of the issuance of this report. (Action: CGFS, in coordination with DGHR)

RECOMMENDATIONS

OIG provided a draft of this report to Department stakeholders for their review and comment on the findings and recommendations. OIG issued the following recommendations to the Bureau of the Comptroller and Global Financial Services. Its complete response can be found in Appendix B.

Recommendation 1: The Bureau of the Comptroller and Global Financial Services, in coordination with the Bureau of Human Resources, should issue consistent guidance to overseas missions on the proper procedures for paying Official Residence Expense staff salaries within 30 days of the issuance of this report. (Action: CGFS, in coordination with DGHR)

Management Response: In its August 4, 2017, response, the Bureau of the Comptroller and Global Financial Services noted that based on its extensive review of its survey on the practices of Official Residence Expenses and advisement from the Office of Legal Adviser, it would issue an All Diplomatic and Consular Post (ALDAC) message. The ALDAC will contain guidance stating that direct payments to Official Residence Expenses staff – via post cashier, electronic funds transfers, and/or in cash directly from a post cashier – are to be discontinued. Post management will also be instructed to discontinue practices that are non-compliant with 3 Foreign Affairs Manual 3257.

OIG Reply: OIG considers the recommendation resolved. The recommendation can be closed when OIG receives and accepts documentation of consistent guidance to overseas missions on the proper procedures for paying Official Residence Expense staff salaries.

Recommendation 2: The Bureau of the Comptroller and Global Financial Services, in coordination with the Bureau of Human Resources, should revise and reissue consistent Foreign Affairs Manual and Foreign Affairs Handbook guidance on paying Official Residence Expense staff salaries within 6 months of the issuance of this report. (Action: CGFS, in coordination with DGHR)

Management Response: In its August 4, 2017, response, the Bureau of the Comptroller and Global Financial Services noted that it, in coordination with the Bureau of Human Resources, would review and synchronize any policy guidance in the Foreign Affairs Manual and the Foreign Affairs Handbook affected by the updated guidance provided in the ALDAC.

OIG Reply: OIG considers the recommendation resolved. The recommendation can be closed when OIG receives and accepts documentation of consistent guidance reissued in the Foreign Affairs Manual and Foreign Affairs Handbook on paying Official Residence Expense staff salaries.

APPENDIX A: OBJECTIVE, SCOPE, AND METHODOLOGY

This CFR was conducted in accordance with the Quality Standards for Inspection and Evaluation, as issued in 2012 by the Council of the Inspectors General on Integrity and Efficiency, and the Inspector's Handbook, as issued by OIG for the Department and the Broadcasting Board of Governors.

The Office of Inspections provides the Secretary of State, the Chairman of Broadcasting Board of Governors, and Congress with systematic and independent evaluations of the operations of the Department and the Broadcasting Board of Governors. CFRs assess the inspected entities' compliance with recommendations made in previous inspections and verify whether agreed-upon corrective actions for recommendations issued in previous reports were fully and properly implemented.

During the course of this CFR, the inspectors: 1) reviewed recommendations issued in the original inspection report; 2) collected and reviewed documentation on reported corrective actions; 3) conducted four documented interviews to substantiate reported corrective actions; and 4) reviewed the substance of this report and its findings and recommendations with offices, individuals, and activities impacted by this review.

Alexandra Vega and Deborah Taylor conducted this CFR.

APPENDIX B: STATUS OF 2014 INSPECTION RECOMMENDATIONS

Recommendation 1: The Bureau of the Comptroller and Global Financial Affairs should publish a directive prohibiting the direct payment by cashiers or by electronic funds transfer to Official Residence Expenses staff and clarifying acceptable procedures. (Action: CGFS)

Pre-CFR Status: Open

CFR Status: Closed

Recommendation 2: The Bureau of Comptroller General and Global Financial Affairs should clarify in Department of State regulations and periodically send reminders to emphasize that Official Residence Expenses staff are employees of the principal representatives, who are responsible for salary and benefit payments in accordance with local laws and practices. (Action: CGFS)

Pre-CFR Status: Open

CFR Status: Closed

APPENDIX C: MANAGEMENT RESPONSE



United States Department of State
 Comptroller
 Washington, DC 20520

August 4, 2017

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MEMORANDUM

TO: OIG – Steve A. Linick

FROM: CGFS – Christopher H. Flaggs *Chris H. Flaggs*

SUBJECT: OIG Compliance Follow-up Review: Department of State Has Not Implemented Recommendations Pertaining to Official Residence Expense Staff Salaries (ISP-C-17-32, June 2017)

The Bureau of the Comptroller and Global Financial Services (CGFS) appreciates the opportunity to review the OIG Compliance Follow-up Review: Department of State Has Not Implemented Recommendations Pertaining to Official Residence Expense Staff Salaries. We provide the following comments in response to recommendations 1 and 2 provided by OIG:

Recommendation 1 states: “The Bureau of the Comptroller and Global Financial Services, in coordination with the Bureau of Human Resources, should issue consistent guidance to overseas missions on the proper procedures for paying Official Residence Expense staff salaries within 30 days of the issuance of this report.” (Action: CGFS, in coordination with DGHR)

Recommendation 2 states: “The Bureau of the Comptroller and Global Financial Services, in coordination with the Bureau of Human Resources, should revise and reissue consistent Foreign Affairs Manual and Foreign Affairs Handbook guidance on paying Official Residence Expense staff salaries within 6 months of the issuance of this report.” (Action: CGFS, in coordination with DGHR).”

Response: The Bureau of the Comptroller and Global Financial Services (CGFS), in coordination with the Office of the Legal Adviser (L) and the Office of Overseas Employment (HR/OE), conducted a comprehensive survey of the practices and processes used by all posts to manage Official Residence Expense (ORE). The reference “may be paid directly to the provider of the service” has been in the 4 FAM policy guidance since the early 1990’s. In the past decade, the interpretation

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of this phrase and its application to ORE employees as “service providers” emerged as an option that would streamline an increasingly complicated burden associated with paying ORE staff.

The survey was comprehensive and potentially provided the most accurate picture of ORE operations ever assembled by the Department. While the OIG draft report notes that there were only 44 questions, a number of questions had multiple parts and because ORE is an extremely complex matter when applied to a global environment, supplemental information and clarifications were required to put overseas post operating conditions into context. The volume of data to be analyzed was further compounded by the fact that each post (and consulates where applicable) were requested to provide information on (but not limited to) the number and cost of ORE staff, locally published ORE policies, and copies (actual or pro-forma) of contract terms used to employ ORE staff. When an individual survey was incomplete or confusing, follow-up questions were initiated. In addition, the survey requested posts to submit where funds were available, local counsel assessments of local laws and codes that could be reviewed by the Office of the Legal Adviser. These third party items often followed well after the survey questions were submitted by a post.

In regard to payment practices by our overseas locations which operate in economically stressed locations where weak currencies and banking structures are fragile or non-existent as well as in sophisticated locations where electronic transfers are available or required, CGFS needed a clear understanding of local conditions, and the challenges our principal representatives encounter when assuming the responsibility for directly paying ORE staff. This included local taxation and social insurance situations and compliance with host government rules for such payments. In some locations, CGFS found that host governments even required registration of the employer and the responsibility for making payments to local ministries.

After reviewing the survey information and following extensive discussions between stakeholders on alternatives, L advised in June 2017, that absent any changes in Department ORE policies that ORE staffs are the personal employees of the PR; they are not employees of the U.S. government. As such, U.S. government employees must not provide support for this personal employment relationship or otherwise take actions that could establish an employment relationship between the ORE staff and the U.S. government. This includes the payment of ORE staff by U.S. government employees and via processes that

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directly link the payment to a U.S. government appropriation or cashier operation. ORE staffs are the personal employees of the PR, and ORE staffs are not service providers to the Department; therefore, the Department cannot directly pay ORE staff.

As a result of the above , CGFS is in the process of issuing an ALDAC message with clearance by L, HR/OE, Bureau of International Organizations, and regional bureau Executive Directors. This guidance will require discontinuance of direct payments to ORE staff via post cashier, electronic funds transfers or in cash directly from a post cashier. Similarly, CGFS will instruct Post Support Units and Global Financial Service Centers that they will no longer be authorized to process vouchered salary payments directly to ORE employee bank accounts via EFT or by issuing U.S. Treasury checks for ORE staff payments. Post management will be instructed to discontinue current practices if non-compliant with Department 3 FAM 3257 Payment policy and to adopt a Department compliant option consistent with options described in the message. CGFS and HR will review and synchronize any policy guidance in FAM/FAH to this end.

The operational points of contact are William Davisson or Paul McVicker. They may be reached by email at davissonwb@state.gov or by phone at (843) 746-0559 and mcvickerpj@state.gov or by phone at (843) 202-3858.

CC: Ms. Sandra Lewis - Assistant Inspector General for Inspections

APPENDIX D: INSPECTION TERMS AND DEFINITIONS

Compliance Response: A written response from the action office to which a recommendation has been assigned for action, informing OIG of agreement or disagreement with the recommendation. Comments indicating agreement shall include planned corrective actions and, where appropriate, the actual or proposed target dates for achieving these actions. The reasons for any disagreement with a recommendation must be explained fully. Where disagreement is based on interpretation of law, regulation, or the authority of officials to take or not take action, the response must include the legal basis.

Final Action: The completion of all actions that the management of an action office, in its management decision, has concluded is necessary to address the findings and recommendations in OIG reports.

Finding: A conclusion drawn from facts and information about the propriety, efficiency, effectiveness, or economy of operation of a post, unit, or activity.

Management Decision: When the management of an action office for an OIG recommendation informs OIG of its intended course of action in response to a recommendation. If OIG accepts the management decision, the recommendation is considered resolved. If OIG does not accept the management decision and the issue cannot be resolved after a reasonable effort to achieve agreement, the Inspector General may choose to take it to impasse.

Open Recommendation: An open recommendation is either resolved or unresolved (see definitions of recommendation status below).

Recommendation: A statement in an OIG report requiring action by the addressee organizations or officials to correct a deficiency or need for change or improvement identified in the report.

Recommendation Status:

- **Resolved:** Resolution of a recommendation occurs when:
 - The action office concurs with the recommendation (a management decision has been accepted by OIG), but the action office has not presented satisfactory evidence that it has implemented the recommendation or some alternative course of action acceptable to OIG;
 - The action office informs OIG that it disagrees with all or part of the recommendation, and OIG agrees to accept partial compliance or noncompliance; or
 - Impasse procedures have led to a positive or negative final management decision.

- **Unresolved:** An unresolved recommendation occurs when the action office:

- Has not responded to OIG;
 - Has failed to address the recommendation in a manner satisfactory to OIG;
 - Disagrees with the recommendation and did not suggest an alternative acceptable to OIG; or
 - Requests OIG refer the matter to impasse, and the impasse official has not yet issued a decision.
- **Closed:** A recommendation is closed when one of the following situations applies:
 - OIG formally notifies the action office that satisfactory evidence of final action (i.e., information provided by the action office that confirms or attests to implementation) on an OIG recommendation has been accepted. The closing of a recommendation from an OIG report does not relieve the responsible manager of the obligation to report to OIG any changed circumstances substantially affecting the problem areas addressed in the recommendation or report and the effectiveness of agreed actions to correct these problems;
 - OIG acknowledges to the action office that an alternative course of action to the action proposed in the recommendation will satisfy the intent of the recommendation and satisfactory evidence showing that the alternative action has been completed is provided to OIG;
 - OIG agrees partial implementation is acceptable and has been completed; or
 - OIG agrees that noncompliance is acceptable.

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