



Topics of Interest 15 MAY 2024

DOCPER Topics of Interest Briefing

Task

Provide major program updates to CORs and VREPs on the SOFA accreditation process

Purpose












To inform CORs and VREPs of major program changes and discuss key SOFA accreditation topics

End State

Shared understanding of the NATO SOFA accreditation process for contractors in Germany and Italy



Topics of Interest

-   DOCPER Website
-  Article 72 Updates
-  Incumbency Standards & MFA Timelines
-   Resetting Ordinarily Residence (OR) Status
-   Temporary Duty
-  New USSSO Directive, TR standards
-   Common Issues to Avoid



UNCLASSIFIED

DOCPER Website

- Discussion on new and upcoming products located @ <https://www.europeafrica.army.mil/contractor/>



Article 72 Updates

- Retroactive NATO SOFA status granted for over 1,500+ contractors working on 150+ contracts thru:
 - R-NV 199 granted retroactive status recognition for 54 expired contracts w/out approvals
 - R-NV 451 granted retroactive status recognition for 102 with delayed NV approvals
 - Offset over \$50+ million in potential back taxes
- Increased number of contracts with Note Verbales (NVs) being processed
- Expect a minimum of 4-5 months to process
- 10-15 NVs are usually exchanged per month



German MFA Timelines



Incumbent protection with pending NVs-

- E-10 weeks: DOCPER sends notifies the contracting officer through the COR
- **E- 8 weeks:** receive KO/PM response (**key timeline**)
- E- 7 weeks: DOCPER forwards a draft NV to the Embassy for review at Embassy and Department of State, as required
- E- 2 weeks: approved and completed draft NV is transmitted by the Embassy to the MFA
- < E+2 Weeks: within 2 weeks of the NV expiration, **provide the actual contract documentation to DOCPER (key timeline)**



Incumbency Standards



What is an incumbent qualifying for SOFA extension?

An incumbent is an individual employed under a previous contract whose employment will remain in place for the new contract.

Incumbency determination and criteria:

An employee working under an AS or TC contract (Article 72 NATO SOFA SA) can be considered for conditional SOFA extension if following criteria are met:

- (1) Same services are extended under a contract extension or follow-on contract effort
- (2) Employee continues working in the same job, under the same position title, in the same duty location, for the same organization
- (3) Timely submission of the subsequent contract action to DOC PER via ECOPS (8 weeks prior to current contract expiration)
- (4) Timely submission of related Note Verbale to the German Ministry of Foreign Affairs (2 weeks prior to contract expiration)



Resetting OR Status



Ordinarily Resident (OR) factors are outlined in our bilateral agreements (see DOCPER website)

- Persons who have departed and spent at least **2-years** outside of Germany will be presumed to **not** be OR
 - **All ties** must be broken
- A recent “**major**” change is the OR reset can be done in other countries within the Schengen Area
- The German Authorities are the decision authority to determine whether extraordinary circumstances exist that affect OR status



Resetting OR Status




Ordinarily Resident (OR) factors are outlined in the USSSO Instruction 2010.01 (see DOCPER website)

- Persons who have departed and spent at least **1-year** outside of Italy will be presumed to **not** be OR
 - unless the facts and circumstances demonstrate otherwise
- USSSO is the decision authority to determine whether extraordinary circumstances exist that affect OR status in Italy



Temporary Duty

- Bilateral Agreements take precedence over travel orders/ Letters of Authorization (LOA)
- Contractors are not authorized Individual Logistics Support (ILS) thru LOAs or CONUS based DD-1172-2s
-  Contractors can work TDY in Italy for up to 90 days on their tourist passport
 - Italy has no SOFA based TDY provisions
 - ILS is not authorized
 - Registration is not required in contrast to the requirements in Germany



Temporary Duty



Two options: SOFA based TDY and BACO-90

- SOFA based TDY for Technical Expert (TE) & Analytical Support (AS) positions
 - Contractor employee can work in TDY status not to exceed 3 months in a 12-month period
 - Contractors are eligible for ILS and tax exemptions
 - Contract must be approved
 - Application must be initiated as a “TESA/ ASSA TDY” in ECOPS
- SOFA based TDY not available for Troop Care (TC)



Temporary Duty



BACO-90 is a German process (not DOCPER process)

- Short-hand term for "Request for Confirmation of Exemption from the Requirement to Obtain a Work Permit" in Germany
- Contractor employee can work in TDY status not to exceed 3 months in a 12-month period
- Allows contractors independent base access
- Does NOT authorize ILS (e.g., PX, fuel card), only tax exceptions
- Process: Between Company and the German authority
 - Initiated by contractor (the company), scanned and emailed to the Bundesagentur für Arbeit (BA) in Stuttgart
 - The BA signs + stamps with the German eagle, emails back to company
 - Contractor employee retains the signed form



Temporary Duty



BACO-90 continued:

- **Do not** use to support civilians on TDY, military or dependents already in Germany
- All rules explained on the addendum to the form
- Count on up to 10 business days for the BA to process
- Form is on DOCPER web-page:

<https://www.europeafrica.army.mil/contractor/>

- BACO-90 confirmation (signed by the BA) is required from the first day of work
- BA will NOT approve with a begin date earlier than the date of approval



New USSSO Directive



Civilian Component (CP) and Technical Representative (TR) status and accreditation procedures- revised 2024

- Replaces the annex to the Tri-Component Directive from 2004
- Updates to the Tri-component Directive (TBD)
- Reflects current processes, procedures, and references ECOPS and MP ICAM
- Provides updates to TR qualifications standards





New TR Standards

Technical Representative (TR) standards:



- Bachelor's degree in a related field; or
- Associate degree in a related field and four years of recent specialized experience; or
- **A major certification and six years of recent specialized experience; or**
- A high school diploma and eight years of recent specialized experience; or
- **For Aircraft Mechanics: An A&P (airframe and powerplant) license or FCC Radio operator license and five years of specialized experience**



Common Issues to Avoid

  SOFA accreditation is specifically tied to a job position and location (city and state), **do not** move contractors around without notifying DOCPER

  Don't employ contractors prior to receiving SOFA accreditation

  Don't create the contractor's MP ICAM profile prior to receiving the DOCPER generated DD-1172-2 form. Their DD-1172-2 eligibility date (block 33) must be used in MP ICAM. Please don't reverse the order



Common Issues to Avoid



N/A or blank entries in the “Social Relations” section of Germany applications will be rejected. Applicants must respond to this question



Applications missing copies of certifications, degrees and/or transcripts will be returned. We must verify these to confirm eligibility



Military/ GS employees cannot have dual SOFA status while transitioning to contractor employment. SOFA forms will be generated 1-2 weeks prior to their transition date. We need to see a DD-214 or SF-50/SF-52 for civilian employees