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**Personnel**

**SECURITY REVIEW BOARDS AND INTERNAL  
ADMINISTRATIVE PROCEDURES FOR MLC  
AND IHA SECURITY CASES**

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This instruction sets forth the Fifth Air Force (5 AF) policies and internal administrative process pertaining to processing security cases of Japanese national employees employed under the terms of the Master Labor Contract (MLC) and the Indirect Hire Agreement (IHA); establishes the functions of the 5 AF Security Review and Appeals Board (SRAB) and local security review boards (SRB) in making determinations on security cases; and implements the procedural requirements of the MLC (Chapter 9, Security Risks) and the IHA (Supplement 17, Security). It applies to all organizations serviced by the 5 AF Civilian Personnel Flight (CPF) (5 AF/DP) or an Army and Air Force Exchange Service (AAFES) personnel office in Japan using MLC or IHA employees.

**SUMMARY OF REVISIONS**

Updates organization designations and office symbols for Security Forces. Updates organization designations of the local Government of Japan representative. A bar ( | ) indicates revision from the previous edition.

**1. Policy:**

- 1.1. Air Force policy for employment of non-United States (US) citizens is that no person shall be employed nor retained in employment if his or her employment is not clearly consistent with US national security interests.
- 1.2. Air Force policy concerning security aspects in the employment of non-US citizens is to ensure individual cases will be fully, impartially, and carefully considered prior to restricting employees from Air Force facilities and areas or suspending them from duty. It is also Air Force policy to process cases promptly in accordance with (IAW) the procedures specified in this instruction.

1.3. Policies and special procedures concerning certain aspects of Japanese national security cases as outlined in confidential (C) 5 AFI 36-203, *Local National Security Cases in Japan (U)*, will be complied with.

## 2. Establishment of 5 AF SRAB and Local SRBs:

2.1. 5 AF SRAB. Incumbents of the following positions within Headquarters (HQ) 5 AF are appointed to the 5 AF SRAB:

2.1.1. Director of Civilian Personnel (5 AF/DPC) – Chairperson.

2.1.2. Director of Security Forces (5 AF/SF) – Member.

2.1.3. Chief, Civil Law, Office of the Staff Judge Advocate (SJA) (5 AF/JAC) – Member.

2.2. Local SRB:

2.2.1. Incumbents of the following positions are appointed to the local SRB:

2.2.1.1. Civilian personnel officer (CPO) of Yokota, Kadena, or Misawa Air Base – Chairperson.

2.2.1.2. Representative of the base SJA – Member.

2.2.1.3. Base chief of Security Forces – Member.

2.2.1.4. Personnel manager, AAFES (when AAFES IHA employees are involved) – Member.

2.3. Local SRBs will review evidence and recommend action to be taken in cases involving MLC and IHA employees suspected of being security risks.

2.3.1. Local SRBs will process all cases of MLC and IHA employees suspected of being security risks to ensure each case is impartially decided and carefully documented.

2.3.2. Recommendations of the local SRB are subject to the concurrence of the installation commander.

**3. Criteria for Security Risks.** A person is considered a security risk when there is evidence that one or more of the following conditions exist:

3.1. He or she commits an act of sabotage or espionage, violates instructions for safeguarding military information, or attempts or prepares for the same.

3.2. He or she holds membership in an organization or association which adopts or supports policies considered directly inimical to the security of the US.

3.3. He or she associates habitually or closely with a person or persons engaged in activities referred to paragraph 3.1., or members of organizations or associations referred to paragraph 3.2., to an extent which would justify a conclusion that he or she is likely to act against security interests of the command.

## 4. Local SRB Action:

4.1. Whenever a local SRB receives from any official source evidence indicating that any of the criteria in paragraph 3. applies to an MLC or IHA employee, the SRB chairperson will convene the members for an immediate review and evaluation of the case. The SRB will:

- 4.1.1. Establish which of the criteria applies to the individual.
- 4.1.2. Establish the sensitivity of the position to which the individual is assigned.
- 4.1.3. Establish, if necessary, any other job or area to which the individual could be assigned until completion of the investigation and final action. Since the employee is normally retained in work status during the period of review of the case by the 5 AF SRAB, the chairperson of the local SRB, in conjunction with appropriate staff agencies, will establish interim control measures for maintaining close surveillance over the subject's conduct and activities. If retention of the employee in duty status in any position will have such a materially adverse effect on the security of the installation that his or her presence constitutes an immediate danger, take suspension action and submit the report required by paragraph 7. Emergency suspension action will be taken only in rare instances.
- 4.1.4. Coordinate with the local SJA the findings required in this paragraph for legal sufficiency.
- 4.1.5. Comply with provisions of 5 AFI 36-203 (confidential).
- 4.2. The chairperson of the local SRB will then:
  - 4.2.1. Assemble and tab the case file, and forward it to the installation commander for concurrence. The minutes of board proceedings will be classified "Confidential" unless they contain information of a higher classification, in which case the higher classification will be assigned. The case file will contain the minutes of the board's proceedings; signed specific findings of the majority of the board; signed minority findings, if any; criterion designation; recommendation of the local SRB; and all pertinent evidence and information considered in the case.
  - 4.2.2. If an adverse personnel action based on security reasons is determined to be appropriate, transmit the case file by letter addressed to 5 AF/DPC (Chairperson, 5 AF SRAB), APO AP 96328-5123.

## 5. 5 AF SRAB Action and Compliance with Its Decision:

- 5.1. Explanation of Terms:
  - 5.1.1. *Confirmatory Decision.* A decision rendered by the 5 AF SRAB which sustains the local SRB's recommendation that an adverse personnel action based on security reasons is considered appropriate.
  - 5.1.2. *Nonconfirmatory Decision.* A decision rendered by the 5 AF SRAB which reverses the local SRB's recommendation and rules that an adverse personnel action based on security reasons is not appropriate.
- 5.2. MLC Cases:
  - 5.2.1. Each case will be processed IAW this instruction and 5 AFI 36-203 (confidential), and a confirmatory or nonconfirmatory decision will be rendered as to the local SRB's recommended decision. Specific requests for further information or investigation are authorized when necessary.
  - 5.2.2. Decisions reached by the 5 AF SRAB and approved by the 5 AF Vice Commander (5 AF/CV) will be immediately forwarded by the chairperson of the 5 AF SRAB to the chairperson of the local SRB for action as required below:
    - 5.2.2.1. If the decision is nonconfirmatory, the records of all cases will be filed and retained

by the chairperson of the local SRB.

5.2.2.2. If the decision is confirmatory, the installation CPO will initiate temporary suspension action under MLC, Chapter 9, paragraph 3b. Where termination action is considered warranted, the civilian personnel officer will advise the Defense Facilities Administration Office (DFAO) IAW MLC, Chapter 9, paragraph 3d(1), and obtain their comments.

5.2.2.3. Upon receipt of the DFAO's comments, the chairperson of the local SRB will convene its members to consider the comments. Full consideration will be given any evidence, information, or opinions submitted by the DFAO. Board minutes will include an opinion of the local SRB regarding the DFAO's comments.

5.2.2.4. The chairperson will forward the case file with the findings and recommendations of the SRB to the installation commander for concurrence. The chairperson will then submit the case file to 5 AF/DPC (Chairperson, 5 AF SRAB), APO AP 96328-5123. The file will include investigative reports, records of the first SRB action, information on suspension action, comments and any supporting evidence or information from the DFAO, records of the second SRB action, and any other pertinent supporting records and information.

5.2.2.5. Upon receipt of the case file, the Contracting Officer's Representative (COR) for Security, HQ 5 AF, will request, in writing, an opinion from the Defense Facilities Administration Agency (DFAA), as required in MLC, Chapter 9, paragraph 3d(2).

5.2.2.6. Upon receipt of the DFAA's comments, the chairperson of the 5 AF SRAB will convene its members. The board will strictly follow the review procedures as established by the provisions of MLC, Chapter 9, paragraph 3e. A summary of the board review will be prepared, coordinated with the SJA (5 AF/JA), and forwarded to 5 AF/CV. After 5 AF/CV concurrence, the COR for Security will advise the DFAA, in writing, of the command decision. When requested by the DFAA, the COR for Security will also make necessary arrangements for negotiations to reconcile differences of opinion, as required in MLC, Chapter 9, paragraph 3f.

5.2.2.7. After either of the final actions as stated in MLC, Chapter 9, paragraph 3g, the 5 AF COR for Security will prepare an appropriate memorandum for dispatch to the installation CPO. The case file will be retained by the chairperson of the 5 AF SRAB.

### 5.3. IHA Cases:

5.3.1. Each case will be processed IAW this instruction and 5 AFI 36-203 (confidential), and a confirmatory or nonconfirmatory decision will be rendered as to the local SRB's recommended decision. When necessary, specific requests for further information or investigation are authorized.

5.3.2. The chairperson of the 5 AF SRAB will immediately forward decisions reached by the board and approved by 5 AF/CV, to the chairperson of the local SRB for action as required below:

5.3.2.1. If the decision is nonconfirmatory, the chairperson of the local SRB will file and retain the records of the case.

5.3.2.2. If the decision is confirmatory, the installation CPO will initiate temporary suspension action under IHA, Supplement 17, paragraph 4b. The full procedures of IHA, Supplement 17, paragraph 4, will be followed. The CPO will prepare a memorandum to the employee and DFAO to inform them of the temporary security suspension. The DFAO will be requested to

acknowledge receipt of the memorandum. 5 AF/ DPC will be informed of the effective date of the suspension.

5.3.3. If termination action is considered warranted, 5 AF/DPC will forward a written request for an opinion to the DFAA as required in IHA, Supplement 17, paragraph 4d(1). Upon receipt of the DFAA's comments, the chairperson of the 5 AF SRAB will convene its members. The board will strictly follow the review procedures as established by IHA, Supplement 17, paragraph 4d(2). The summary of the board's review will be prepared, coordinated with 5 AF/JA, and forwarded to 5 AF/CV. After 5 AF/CV concurrence, 5 AF/DPC will furnish the command decision to the DFAA. If the decision is to terminate the service of the employee, 5 AF/DPC will prepare appropriate instructions to that effect to the installation CPO. The case file will be retained by the chairperson of the 5 AF SRAB.

## 6. Appeals:

### 6.1. MLC Cases:

6.1.1. Within 15 calendar days after receiving the notice of termination of employment, the employee may petition HQ 5 AF for reconsideration of the termination action under MLC, Chapter 9, paragraph 4. The employee will submit the petition, including his or her written statement and supporting documents, through the DFAO to the CPO. The case will not be reviewed again by the local SRB, but will be forwarded by the CPO to 5 AF/DPC (COR for Security), APO AP 96328-5123. Include any appropriate additional documents that would assist the 5 AF SRAB in completing the appeal review.

6.1.2. 5 AF/DPC will forward a copy of the employee's petition to the DFAA as required in MLC, Chapter 9, paragraph 4. The DFAA will be requested to furnish their opinion, in writing, within 15 calendar days. The 5 AF SRAB is authorized to request additional investigation or information from any available source necessary to reach a decision. In making its decision the board will consider the appeal and the opinion of the DFAA.

6.1.3. A summary of the board's review will be prepared and forwarded to 5 AF/CV. After 5 AF/CV concurrence, 5 AF/DPC will forward the decision to the installation CPO with a courtesy copy to the DFAA. The CPO will inform the DFAO of the decision so that the employee can be properly notified.

### 6.2. IHA Cases:

6.2.1. Within 15 calendar days after receiving the notice of separation from employment, the employee may petition HQ 5 AF for reconsideration of the separation action under IHA, Supplement 17, paragraph 5. The employee will submit the petition, including his or her written statement and supporting documents, to the installation CPO, who should then verbally inform the DFAO that such an appeal has been received. The case will not be reviewed again by the local SRB, but will be forwarded to 5 AF/DPC. Include any appropriate additional documents that would assist the 5 AF SRAB in completing the appeal review.

6.2.2. 5 AF/DPC will forward a copy of the employee's petition to the DFAA as required by IHA, Supplement 17, paragraph 5. The DFAA will be requested to furnish its opinion, in writing, within 15 calendar days. The 5 AF SRAB is authorized to request additional investigation or information from any available source necessary to reach a decision. In making its decision the board will consider the appeal and opinion of the DFAA.

6.2.3. A summary of the board's review will be prepared and forwarded to 5 AF/CV. After 5 AF/CV concurrence, 5 AF/DPC will forward the decision to the installation CPO with a courtesy copy to the DFAA. The CPO will notify the employee of the decision with an information copy to the DFAO.

**7. Reports.** No reports are required. However, in those cases where an installation considers an emergency suspension under paragraph 4.1.3. critical and necessary, it will be reported immediately by the chairperson of the local SRB to the chairperson of the 5 AF SRAB. Complete justification for the action will be furnished.

THOMAS C. WASKOW, Lieutenant General, USAF  
Commander