



**DEPARTMENT OF THE ARMY**  
HUNTSVILLE CENTER, CORPS OF ENGINEERS  
P.O. BOX 1600  
HUNTSVILLE, ALABAMA 35807-4301

REPLY TO  
ATTENTION OF

CEHNC-OE-CX

**AUG 30 2004**

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Waiver of U.S. Training Requirements for Unexploded Ordnance (UXO) Personnel for Hiring Non-U.S. Citizens, Military Munitions Center of Expertise (MM-CX), Interim Guidance Document 04-05

1. **PURPOSE:** To provide implementing instructions for the waiver of certain U.S. training requirements for UXO personnel to enable Military Munitions Response Program (MMRP) contractors to hire non-U.S. citizens in these labor categories.
2. **APPLICABILITY:** This guidance is applicable to all U.S. Army Corps of Engineers (USACE) Commands having responsibility for performing MMRP actions.
3. **REFERENCES:**
  - a. EP 1110-1-18, Ordnance and Explosives (OE) Response, 24 April 2000.
  - b. EM 1110-1-4009, Engineering and Design - Ordnance and Explosives Response, 23 June 2000.
  - c. Memorandum, CESO-E, 25 March 2003, subject: Headquarters, Corps of Engineers Delegation of Authority.
  - d. Memorandum, CEHNC-OE-CX, 17 November 2003, subject: Request for Waiver to EP 1110-1-18, Ordnance and Explosives (OE) Response.
  - e. North Atlantic Treaty Organization (NATO) Standardized Agreement (STANAG) 2389, Minimum Standards of Proficiency for Trained Explosive Ordnance Disposal Personnel, Edition 1, 14 December 1987, with Amendment 4, 1 November 2000, (<http://www.hnd.usace.army.mil/oew/interimguid.asp>).
4. **BACKGROUND:** The Huntsville Center Commander, under the authority delegated by reference 1c, has granted a waiver to the U.S. training requirements for UXO personnel specified in reference 1a, paragraph 20-4(b) including the attachment, and paragraph 24. Waiver of these

AUG 3 0 2004

CEHNC-OE-CX

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training requirements, in turn, makes it possible for MMRP contractors to hire UXO personnel who are not U.S. citizens when the requirements specified in paragraph 5 below can be satisfied.

#### 5. PROCEDURES:

a. USACE Commands that anticipate a need to invoke this waiver provision should modify their existing MMRP contracts to incorporate this provision. Contracts must be modified before contractors can use UXO Personnel who are non-U.S. citizens. Enclosure 1 provides the recommended language for inclusion in the basic contracts.

b. Contractors must demonstrate, in writing, that all efforts to obtain the required number of qualified U.S. workers have been unsuccessful. The documentation should reflect the extent of recruitment activities that were undertaken (e.g., nationwide recruitment notices or announcements) and include the results achieved (i.e., number of qualified U.S. applicants available for the position(s) to be filled, number of offers extended, number of declinations, rationale for not extending an offer to a qualified applicant, etc.). This documentation will be submitted to the Contracting Officer for the contract file.

c. Contractors will certify the training and experience of each non-U.S. worker to be hired. This certification will be provided to the Contracting Officer for a determination of acceptance or rejection. The certification will include a risk-based analysis of the work or activities to be performed and demonstrate that the proposed worker has the necessary training and experience to perform the work. The contractor is responsible for ensuring the following standards are maintained when identifying the different UXO positions for which these personnel are being considered:

(1) Completion of Explosive Ordnance Disposal (EOD) training in foreign nations that is comparable to the U.S. EOD training and in accordance with the requisite training outlined in reference e, STANAG 2389.

(2) Comparable training and experience as identified in EP 1110-1-18, paragraph 20-4(b) including the attachment, and paragraph 24.

(3) Non-U.S. citizens must have completed the Hazardous Waste Operations and Emergency Response (HAZWOPER) training required by the Occupational Safety and Health Administration (OSHA).

AUG 3 0 2004

CEHNC-OE-CX

SUBJECT: Waiver of U.S. Training Requirements for Unexploded Ordnance (UXO) Personnel for Hiring Non-U. S. Citizens, Military Munitions Center of Expertise (MM-CX), Interim Guidance Document 04-05

d. The Contracting Officer will coordinate all contractor certifications with the appropriate MM Design Center, who will review the certification and provide a recommendation for the acceptance, or rejection, to the Contracting Officer. Contracting Officers in executing Remedial Action Districts who do not have an MM Design Center within their Major Subordinate Command will coordinate with the MM-CX for a recommendation.

e. Non-U.S. workers hired by contractors must meet other legal requirements for working in the U.S.

f. Contractors will ensure that non-U.S. workers do not have access to the classified portions of the TM-60 series publications. The proponent of the TM-60 series publications has directed all classified material from these publications will have the "NOFORN" (No Foreign Dissemination) special handling markings. When contractors are determining which personnel they need, this should be one of the major considerations, as this information could be critical in the performance of the contract. Additionally, the contractor must have personnel on staff who are knowledgeable of Department of Defense (DoD) policy and federal, State, and local health and safety regulations and codes.

6. EFFECTIVE DATES: These procedures are effective immediately and will remain in effect until cancelled or superseded.

7. If you have any questions or need additional information, please contact Ms. Toni Hamley, 256-895-1761.



CAROL A. YOUKEY, P.E.  
Chief, Military Munitions Center  
of Expertise for Ordnance and Explosives  
Directorate

2 Encls

1. as

2. STANAG 2389

Recommended Language for Modification  
Of Basic Contracts  
Enclosure 1

4.0 Exception to U.S. Citizenship Requirement. The contractor may hire non-U.S. citizens to fill UXO personnel positions provided all of the following conditions are met:

4.1. Before hiring UXO Personnel who are not U.S. citizens, the contractor shall be required to demonstrate that all efforts to obtain the required number of U.S. workers have been exhausted. The documentation should reflect the extent of recruitment activities that were undertaken (e.g., nationwide recruitment notices or announcements) and include the results achieved (i.e., number of qualified U.S. applicants available for the position(s) to be filled, number of offers extended, number of declinations, rationale for not extending an offer to a qualified applicant, etc.).

4.2. The contractor shall be prohibited from hiring any worker whose training does not qualify the worker for doing the job for which he/she is hired. The contractor shall be required to provide a certification for each non-U.S. worker to be hired. The certification shall include a risk-based analysis of the work or activities to be performed and shall demonstrate that the proposed worker has received adequate training and experience to qualify him/her for the specific position. Completion of Explosive Ordnance Disposal (EOD) training in foreign nations that is comparable to the U.S. EOD training and in accordance with the requisite training outlined in the Minimum Standards of Proficiency for Trained Explosives Ordnance Disposal Personnel (STANAG) 2389, (<http://www.hnd.usace.army.mil/oew/interimguid.asp>), and identified in EP 1110-1-18, Ordnance and Explosives (OE) Response, 24 April 2000, paragraphs 20 (including the attachment) and 24, shall be used to demonstrate the training for proposed workers. These workers must have completed the HAZWOPER training required by OSHA. The contractor's certification shall be provided to the Contracting Officer for a determination of acceptance or rejection.

4.3. The non-U.S. workers hired by contractors must also meet other legal requirements for working in the U.S.

4.4. The contractor shall ensure that non-U.S. citizens do not have access to the classified portions of the TM-60 publications. When contractors are determining which personnel they need, this should be one of the major considerations, as this information could be critical in the performance of the contract. Additionally, the contractor must have personnel on staff who are knowledgeable of DoD policy and federal, State, and local health and safety regulations and codes.

FACT SHEET  
STANAG 2389  
Minimum Standards of Proficiency for Trained  
Explosive Ordnance Disposal Personnel  
Enclosure 2

1. Document published on 14 December 1987.
2. Document last amended on 1 November 2000. This document can be located on the Military Munitions Center of Expertise website at:  
(<http://www.hnd.usace.army.mil/oew/interinguid.asp>).
3. Ratified by all NATO countries (as of the date of publication) except for Spain.
4. The following countries have ratified the STANAG: Belgium, Canada, Denmark, France, Germany, Italy, Luxemburg, Netherlands, Norway, Portugal, Turkey, United Kingdom, United States.
5. See page iv of the STANAG for implementation reservations and comments. (In this instance, reservations means there were certain areas of the STANAG that the countries either couldn't or wouldn't comply with.) For example, in the United States, our country didn't feel the level of training in the STANAG for Explosive Ordnance Reconnaissance was necessary.
6. Not all explosive ordnance disposal operators need to be proficient in all the categories shown at Annexes A thru D of the STANAG, but where any operator is trained in a specific category that training should meet the minimum standard of proficiency shown in the respective annex, (page 1, paragraph 3, STANAG 2389).
7. UXO personnel working on USACE projects are required to meet the minimum standards identified in Annex B (Minimum Standards of Proficiency for a Conventional Ammunition Disposal Operator (including the disposal of Biological and Chemical Ammunition)), of the STANAG.
8. Once this training has been certified by the contractor and accepted by the Contracting Officer, it will be up to the contractor to devise a method, and to transmit this method to USACE, to identify the level of experience of the UXO Personnel commensurate with those established by USACE in EP 1110-1-18.