



Administration
& Management

OFFICE OF THE SECRETARY OF DEFENSE

1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

May 23, 1989

ADMINISTRATIVE INSTRUCTION NO. 96

SUBJECT: Compliance with Host Nation Human Immunodeficiency Virus (HIV)
Screening Requirements for OSD Component Civilian Employees

- References:
- (a) DoD Instruction 1438.4, "Compliance with Host Nation Human Immunodeficiency Virus (HIV) Screening Requirements for DoD Civilian Employees," December 5, 1988
 - (b) Secretary of Defense Memorandum, "Policy on Identification, Surveillance, and Administration of Personnel Infected with Human Immunodeficiency Virus (HIV)," August 4, 1988
 - (c) Assistant Secretary of Defense (Force Management and Personnel) Memorandum, "Information and Guidance on Human Immunodeficiency Virus (HIV)," January 22, 1988
 - (d) Federal Personnel Manual (FPM) Bulletin 792-42, "AIDS in the Workplace," March 24, 1988
 - (e) through (g), see enclosure 1

1. PURPOSE

This Instruction establishes policy and procedures for screening OSD Component civilian employees in compliance with host nation HIV screening requirements and for the use of screening results as required by reference (a).

2. APPLICABILITY AND SCOPE

2.1. This Instruction applies to the Office of the Secretary of Defense (OSD), the Joint Staff, and all other activities receiving administrative support from Washington Headquarters Services (WHS) (hereafter referred to collectively as "OSD Components").

2.2. It applies to all civilian employees assigned, detailed, or on temporary duty to a foreign nation that requires HIV screening. It also covers applicants for employment in such nations.

3. DEFINITIONS

Terms used in this Instruction are defined in enclosure 2.

4. POLICY

4.1. The OSD Components shall comply with host-nation requirements for HIV screening of employees.

4.2. Tests shall be provided at no cost to employees or applicants for employment.

4.3. Employees infected with HIV shall be counseled in accordance with Secretary of Defense Memorandum (reference (b)).

5. RESPONSIBILITIES

5.1. The Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)) shall establish policies governing HIV screening of DoD civilian employees assigned to, performing official travel in, or deployed on ships with ports of call at host nations, in coordination with the Assistant Secretary of Defense (Health Affairs) (ASD(HA)), the Assistant Secretary of Defense (International Security Affairs) (ASD(ISA)), and the General Counsel, Department of Defense (GC, DoD).

5.2. The Assistant Secretary of Defense (International Security Affairs) (ASD(ISA)) shall identify or confirm host-nation HIV screening requirements for DoD civilian employees, and coordinate requests for screening with the Department of State.

5.3. The Director, Administration and Management (DA&M) shall:

5.3.1. Develop and distribute policy implementing instructions.

5.3.2. Establish procedures to notify individuals who are evaluated as HIV seropositive and provide for counseling.

5.4. The Heads of the OSD Components shall:

5.4.1. Implement HIV screening policies and procedures for employees.

5.4.2. Report newly established host-nation HIV screening requirements of the ASD(FM&P) through the DA&M and provide sufficient background information to support a decision.

5.4.3. Determine the proper personnel action to be taken for an employee who:

5.4.3.1. Refuses to cooperate with the screening requirements.

5.4.3.2. Tests seropositive for HIV and the host nation bars entry.

5.4.3.3. Tests seropositive for HIV and the host nation does not bar entry. Inform such employees of any required reporting requirements of the host nation.

6. PROCEDURES

6.1. Requests for authority to screen employees for HIV shall be directed by the OSD Component Head to the ASD(FM&P) through the DA&M. Only requests that are based on host nation HIV screening requirement shall be accepted. Approvals shall be provided in writing and shall apply to all DoD Components that may have activities located in the host nation as prescribed by DoD Instruction 1438.4 (reference (a)).

6.2. Specific HIV screening requirements may apply to employees currently assigned to positions in the host nation, and to prospective employees. When applied to prospective employees, HIV screening shall be considered as an employment requirement imposed by another nation that must be met before the final decision to select the individual for a position, or before approval of temporary duty or detail to the host nation. Therefore, individuals who refuse to cooperate with the screening requirement, or those diagnosed as HIV seropositive, will be denied employment in such host nation.

6.3. Employees who refuse to cooperate with the screening requirement shall be treated as follows:

6.3.1. Those who volunteered for the assignment, whether permanent or temporary in nature, shall be retained in their official position without further action and without prejudice with respect to employee benefits, career progression opportunities, or other "personnel" actions to which entitled under applicable law or regulation.

6.3.2. Those who are obligated to accept assignment to the host nation under the terms of an employment agreement, regularly scheduled tour of duty or similar prior obligation, may be subjected to an appropriate adverse personnel action under the specific terms of the employment agreement or other authorities that may apply.

6.3.3. Host-nation screening requirements that apply to employees presently located in the country also must be observed. Appropriate personnel actions such as reassignment may be taken, without prejudice to employee rights and privileges, to comply with the requirement.

6.4. Individuals who are not employed in the host nation, who accept the screening and are evaluated as HIV seropositive will be denied the assignment on the basis that evidence of seronegativity is required by the host nation. If denied the assignment, such employees shall be retained in their current positions without prejudice. Appropriate personnel actions may be taken, without prejudice to employee rights and privileges, with respect to OSD Component employees currently located in the host nation. In all cases, employees shall be given proper counseling by the servicing civilian personnel office or the Employee Assistance Program and shall retain all the rights and benefits to which they are entitled including accommodations for the handicapped as provided in ASD(FM&P) Memorandum, FPM Bulletin 792-42, and 24 USC 784 (references (c), (d), and (e)). Non-OSD employees shall be referred to appropriate support service organizations.

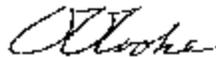
6.5. Some host nations may not bar entry to HIV seropositive employees, but may require reporting of such individuals to host nation authorities. In such cases, employees who are evaluated as HIV seropositive shall be informed of the reporting requirement. They shall be counseled and given the option of declining the assignment and being retained in their official positions without prejudice or notification to the host nation. If assignment is accepted, the requesting authority shall release the HIV seropositive result as required. Employees presently located in the host nation also may decline to have seropositive results released. In such cases, they may request and be granted early return at Government expense or other appropriate personnel action without prejudice to employee rights and privileges.

6.6. A positive confirmatory test by Western blot must be accomplished on an individual if the screening test (ELISA) is positive. An employee shall not be identified as HIV antibody positive unless the confirmatory test (Western blot) is positive. The clinical standards contained in ASD(HA) Memorandum (reference (f)) shall be observed during initial and confirmatory testing.

6.7. The confidentiality of test results for all individuals shall be protected consistent with ASD(FM&P) Memorandum and DoD Directive 5400.11 (references (c) and (g)). Information obtained from an employee, DoD healthcare facility, or private physician shall not be used against the employee in any manner inconsistent with law or regulation. Information on those who have AIDS, AIDS-Related Complex, or are HIV positive shall be held in strictest confidence except for official purposes. Questions with regard to disclosure to officials with a need to know, in counseling or assistance programs, where reasonable accommodation is required, or in other situations in the DoD community, shall be addressed to the proper legal, medical or servicing civilian personnel office, unless there is clear precedent on the particular matter.

7. EFFECTIVE DATE

This Instruction is effective immediately.



D. O. Cooke
Director

Enclosures - 2

- E1. References, continued
- E2. Definitions

E1. ENCLOSURE 1

REFERENCES, continued

- (e) Section 784 of title 29, United States Code, "Section 504 of the Rehabilitation Act of 1973," as amended
- (f) Assistant Secretary of Defense (Health Affairs) Memorandum, "Policy on Clinical Evaluation, Staging and Disease Coding of Military Personnel Infected with Human Immunodeficiency Virus (HIV)," September 11, 1987
- (g) [DoD Directive 5400.11](#), "Department of Defense Privacy Act Program," June 9, 1982

E2. ENCLOSURE 2

DEFINITIONS

E2.1.1. Host Nation. A foreign nation to which DoD U.S. civilian employees are assigned to perform their official duties.

E2.1.2. Human Immunodeficiency Virus (HIV). The virus associated with the Acquired Immune Deficiency Syndromes (AIDS).

E2.1.3. OSD Component Civilian Employees. Current and prospective OSD Component U.S. civilian employees, including appropriated and nonappropriated fund personnel. It does not include members of the family of OSD Component civilian employees, employees of or applicants for positions with contractors performing work for the Department of Defense, or their families.