

MS 744 Personal Services Contracts with Non-Host Country Residents

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Responsible Office: Office of Acquisitions and Contract Management

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1.0 Purpose

This Manual Section establishes policies for the award and administration of personal services contracts issued by Peace Corps posts and Peace Corps Washington to non-residents of the host country where the services are to be performed. See MS 743 for personal service contracts with residents of the host country. See MS 261 for personal service contracts with Peace Corps Medical Officers. Procedures implementing this Manual Section are contained in the Overseas Contracting Handbook, Personal Services Handbook: 744 (Procedures).

2.0 Authorities

Section 10(a) (5) of the Peace Corps Act, and the Federal Acquisition Regulations (FAR), 48 CFR 1, et seq., provide authority for the Peace Corps to acquire personal services by contract. Peace Corps does not rely on or award personal services contracts under the authority of other agencies, such as the Department of State and USAID, which have their own similar but distinctly different personal services contract authorities. Peace Corps contractors should not follow, nor be confused by other agencies' authorities and policies. However, provisions in this Manual Section and the Procedures are similar to those in 3 FAM 7260. Peace Corps personal services contracts with non-host country residents may be awarded and administered only under Peace Corps authorities and policies as set out in this Manual Section.

Under Section 10(a) (5) of the Peace Corps Act, Peace Corps Personal Services Contractors are not considered employees of the Peace Corps for any purpose.

3.0 Policy

The policy of the Peace Corps is to contract, under certain circumstances, with non-host country residents to perform personal services in the country under personal services contracts subject to the following conditions:

- (a) A personal services contract may only be used when adequate supervision is available and will be committed to manage the work performed under the contract.
- (b) Unless specifically authorized by the Director, personal services contractors may not be assigned inherently governmental functions. See Procedures.
- (c) Contracts must comply with the procedures and standards established by the Chief Acquisitions Officer (CAO), who directs the Office of Acquisitions and Contract Management (OACM). See Procedures.
- (d) Contracts will only be awarded and administered under this Manual Section and the Procedures. The policies and procedures of other agencies, such as the Department of State and USAID, do not apply to Peace Corps personal services contracts.

4.0 Roles and Responsibilities

A personal services contract can only be negotiated and executed by a Peace Corps employee (Contracting Officer) who has received the written authority from the CAO to enter into, administer, and terminate contracts and make related determinations and findings. The Contracting Officer is responsible for ensuring performance of all necessary actions in the contracting process and safeguarding the interests of the Peace Corps in its contractual relationship. It is the responsibility of the Contracting Officer to assure that:

- (a) The monetary amount of the contract (base year plus all option periods) does not exceed the amount of procurement authority that has been delegated to the Contracting Officer. In calculating the procurement authority required to award a contract, the value of a contract must include all potential option periods.
- (b) The U.S. Government conflict of interest requirements are satisfied.
- (c) Funds for the contract are available prior to award and are properly obligated via a contract to preclude violation of the Anti-Deficiency Act, 31 U.S.C. 1341.

4.1 Personal Services Contractor in Host Country

When the prospective personal services contractor is in the country where the personal services contract will be performed, the contract is normally negotiated and executed by the Contracting Officer assigned to the post. The Contracting Officer must follow the approval process outlined in OACM contracting procedures and, if necessary, request additional delegation of procurement authority in writing from the CAO.

4.2 Personal Services Contractor in United States

When the prospective personal services contractor is in the United States, the contract may only be negotiated and executed by a Contracting Officer assigned to OACM in Washington.

4.3 Personal Services Contractor in a Third Country

When the prospective personal services contractor is in a third country, the Contracting Officer at post or OACM may handle the negotiation and contract execution. If contracted by post, the Contracting Officer must follow the approval process outlined in OACM contracting procedures and, if necessary, request additional delegation of procurement authority in writing from the CAO.

5.0 Contract Term

Personal services contracts may be awarded for up to five years, subject to the availability of funds for obligation at the time of contract execution.

5.1 Personal Services Contracts Crossing Fiscal Years

Pursuant to the Peace Corps Act, personal services contracts may start in one fiscal year and extend into the following fiscal year.

5.2 Contract Type and Options

Contracting Officers must issue fixed price contracts with options that define a set of extension periods at an agreed upon price.

6.0 Personal Services Contracts Awarded by OACM

Contracts awarded by OACM may not be modified by a post Contracting Officer unless the CAO has specifically delegated this authority to the Contracting Officer.

7.0 Returned Peace Corps Volunteers

Returned Peace Corps Volunteers, who are candidates for personal services contracts at post after close of service, are considered to be non-host country residents and contracts with such individuals are governed by this Manual Section and the Procedures.

8.0 Training

Training of a personal services contractor may be authorized only if directly related to assigned responsibilities. For further guidance see Procedures.

9.0 Suitability and Security Investigations

Each non-resident personal services contractor must undergo suitability and security investigation and the contract must be contingent upon successful completion of the investigation.

10.0 Fraternalization

Personal services contractors are subject to the Peace Corps fraternization policy in MS 644. This policy must be included in the standard personal services contract and must apply to personal services contractors by the terms of such contract.

11.0 Standards of Conduct

Personal services contractors must adhere to the Standards of Ethical Conduct for Employees of the Executive Branch (Standards of Conduct) set forth at 5 CFR 2635. While personal services contractors are not employees of the Peace Corps and they do not supervise Peace Corps employees, the requirement for compliance with the Standards of Conduct must be included in all personal services contracts. A written copy is available at the following internet site http://www.usoge.gov/ethics_docs/publications/reference_publications/rfsoc.pdf

12.0 Incentive Awards

Incentive awards for personal services contractors are permitted. See Procedures.

13.0 Prevention and Elimination of Harassment, Including Sexual Harassment

Personal services contractors are subject to the Peace Corps harassment policy in MS 645. This policy must be included in the standard personal services contract and must apply to personal services contractors by the terms of such contract.

14.0 Effective date

The effective date is the date of issuance.