

MS 744a Personal Services Contracts with Non-Host Country Residents

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Responsible Office: Office of the Chief Financial Officer/Office of Acquisition and Contract Management

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MS 744a *Personal Services Contracts with Non-Host Country Residents Procedures*

MS 744 *Non-Host Country Resident Personal Services Contracts* (Archived)

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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 for contracts awarded or substantively modified after November 21, 2011. See MS 743a for personal services contracts with residents of the host country awarded or substantively modified after November 21, 2011. See MS 261 for additional policies regarding personal

services contracts with Peace Corps Medical Officers. Procedures implementing this Manual Section are contained in MS 744a Procedures, Personal Services Contracts with Non-Host Country Residents (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 personal services contracts 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 “the purposes of any law administered by the Office of Personnel Management (except that the President may determine the applicability to such individuals of provisions of the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.))”.

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 host 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) Personal services contractors may be assigned the following inherently governmental functions as listed below:
 - (1) supervising of other personal services contractors;
 - (2) cashier and other financial management duties as approved by the Chief Financial Officer;
 - (3) receiving officer duties;
 - (4) contracting officer duties; and
 - (5) property officer duties.

Unless specifically authorized by the Director, personal services contractors may not be assigned any other inherently governmental functions.

For further details on assignment of inherently governmental functions to personal services contractors, 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 relevant 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 unless explicitly stated otherwise.
- (e) Personal services contractors are not eligible for benefits under (i) laws administered by the Office of Personnel Management (primarily federal retirement and health and life insurance) and (ii) laws that specifically exclude personal services contractors.

For other benefits, it is Peace Corps policy that U.S. citizen personal services contractors be provided benefits that are the same or comparable to the benefits provided to similarly situated U.S. direct hire employees (including, to the extent applicable, allowances and differentials under the Department of State Standardized Regulations).

The specific benefits that a personal services contractor receives must be set forth in the personal services contract.

4.0 Roles and Responsibilities

A personal services contract can only be negotiated and executed by a Peace Corps 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 ensure 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; and
- (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 country other than the country where services will be performed or the United States, 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 expressly delegated this authority to the Contracting Officer in writing.

7.0 Returned Peace Corps Volunteers

Returned Peace Corps Volunteers, who are candidates for personal services contracts at post immediately 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 please 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 Medical Clearance

U.S. citizens contracted in the U.S. and their dependents must be medically cleared. The Peace Corps' medical clearance program is administered by the Department of State's Office of Medical Services. See 3 FAM 684 for details of the medical clearance program. Also see Procedures.

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. The requirement for compliance with the Standards of Conduct must be included in all personal services contracts.

12.0 Incentive Awards

Personal services contractors who are U.S. citizens may be considered for incentive awards on the same basis as similarly situated U.S. direct hire employees. See Procedures.

13.0 Application of Manual Sections

All Manual Sections apply to personal services contractors awarded contracts under this Manual Section unless otherwise stated. Any reference in the Manual or Procedures to Peace Corps "staff" or "employees" includes personal service contractors unless otherwise stated. See Procedures.

14.0 Procedures

Implementing procedures and attachments to this Manual Section are effective when they have been approved by the Office of Acquisition and Contract Management and the Overseas Contracting Issues Council.

15.0 Effective Date

The effective date is the date of issuance.