

MS 732 Peace Corps Overseas Acquisition System

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Overseas Contracting Council Charter

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1.0 Purpose

This Manual Section establishes the policies for the Peace Corps Overseas Acquisition System, which involves the acquisition of supplies and services delivered or performed outside of the United States in support of Peace Corps posts' requirements and is administered by the Sub-Office of Acquisition and Contract Management within the Office of the Chief Financial Officer (OCFO/ACM).

2.0 Authority

- (a) The Peace Corps Act, specifically sections 15(a) and 10(d)
- (b) 40 U.S.C. 113(e)

2.1 Related Peace Corps Manual Sections and Documents

- (a) MS 114 *Delegation of Authority*, Attachment B – Contracts and Agreements
- (b) MS 731 *Peace Corps Purchase Card Program*
- (c) Overseas Contracting Council Charter and By-Laws
- (d) Overseas Contracting Handbook (OCH)

3.0 Scope and Applicability

This Manual Section applies to all Peace Corps staff which utilize the Overseas Acquisition System in the acquisition of supplies and services delivered or performed outside of the United States in support of a Peace Corps post's requirements including, but not limited to, Overseas Contracting Officers (OCOs), Purchase Cardholders (at post), Approving Officials/Alternate Approving Officials (at post), and OCFO/ACM staff.

This Manual Section does not apply to the acquisition of supplies or services delivered or performed within the United States. For additional information on domestic acquisition, see MS 733 *Peace Corps Domestic Acquisition*.

4.0 Definitions

- (a) **Acquisition** means the acquiring by contract with appropriated funds of supplies or services (including construction) by and for the use of the Peace Corps through purchase or lease, whether the supplies or services are already in existence or must be created, developed, demonstrated, and evaluated.
- (a) **Construction Contract** means a contract that carries out the construction, alteration, or repair of buildings, structures, or other real property which touch upon a major system of the structure, including, but not limited to: (i) foundations, (ii) underpinnings, (iii) load bearing walls, (iv) roofs, (v) stairs, (vi) plumbing systems, and (vii) electrical systems.
- (b) A **Contract** is a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate the Government to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. Contracts include, but are not limited to (i) supplies and services contracts, (ii) conference contracts, (iii) personal services contracts, (iv) leases, (v) micro-purchase forms, (vi) purchase orders, and (vii) orders under blanket purchase agreements. Contracts do not include (i) grants and/or (ii) cooperative agreements.
- (c) **Contracting** means the purchasing, renting, leasing, or otherwise obtaining supplies or services from non-Federal sources which includes a description (but not determination) of the supplies and services required, selection and solicitation of sources, preparation and award of contracts, and all phases of contract administration. Contracting does not include providing grants or establishing cooperative agreements.
- (d) A **Delegation of Additional Procurement Authority (DOPA)** is a document issued by the SPE or his/her designee to an OCO describing the authority provided to the OCO(s) at post to execute a procurement that exceeds their OCO warrant authority.
- (e) **Emergency Contract** means a contract to purchase supplies and/or services to mitigate an imminent loss of life, limb, or property. For example, a contract to immediately purchase supplies or services following an earthquake (e.g. flashlights, batteries, radios, tents, temporary lodging at a hotel, search and rescue services, etc.).
- (f) **Independent Government Cost Estimate (IGCE)** is a document prepared on behalf of the requesting office which, based on comprehensive market research, contains the Government's best estimate of a contract's potential costs.
- (g) **Inherently Governmental Function (IGF)** is a function so intimately related to the public interest as to mandate performance by a Federal government employee.
- (h) **Micro-Purchase Threshold (MPT)** means the aggregate amount (i.e. total dollar value) limitation for any single purchase which utilize streamlined acquisition procedures.

- (i) ***Overseas Acquisition System*** means the Peace Corps-specific system utilized in the acquisition of supplies or services delivered or performed outside of the United States in support of Peace Corps posts' requirements. The Overseas Acquisition System includes, but is not limited to authorities, policies, procedures, templates, and guidance utilized while carrying out overseas contracting, and is administered by OCFO/ACM.
- (j) ***Overseas Contracting Handbook (OCH)*** is a set of procedures implementing MS 732 *Overseas Acquisition System* contained on the Peace Corps Intranet that establishes and outlines the requirements for overseas contracting by providing comprehensive guidance and links to applicable Overseas Acquisition System templates.
- (k) An ***Overseas Contracting Officer (OCO)*** is the individual with the authority to enter into, administer, and/or terminate a contract at a Peace Corps overseas post within their Overseas Contracting Officer warrant limits and authority.
- (l) ***Overseas Contracting Officer Warrant*** is the Certification of Appointment from the Senior Procurement Executive which provides clear, written instructions authorizing an individual to perform the duties of an OCO.
- (m) ***Personal Services Contract*** is a contract between the Peace Corps and an individual (i.e. Personal Services Contractor (PSC)) to fill staffing needs and human resource requirements at overseas posts. The Peace Corps manages, supervises, and directs all aspects of the contracted work being performed by the PSC, as it would the work performed by a direct hire employee. The Peace Corps awards personal services contracts to the following types of individuals:
 - (1) Permanent host country residents and nationals (i.e. 743a PSCs, based on a former MS numbered 743a); and
 - (2) Permanent residents of countries other than the host country who are not host country nationals (i.e. 744a PSCs, based on a former MS numbered 744a).
- (n) ***Senior Procurement Executive*** is the Director of Acquisition and Contract Management who is delegated the authority from the Peace Corps Director to maintain the Peace Corps procurement system, including implementation of relevant Federal laws, procurement policies, regulations, and standards applicable to the Peace Corps. (See MS 114 *Delegation of Authority* – Attachment B – Contracts and Agreements within subsection 7 of section A. Contracts.)

5.0 Roles and Responsibilities

Additional information on roles and responsibilities within the Overseas Acquisition System may be found in the OCH.

5.1 Overseas Contracting Council

For the duties and responsibilities of the Overseas Contracting Council pertaining to this Manual Section, see the *Overseas Contracting Council Charter and By-Laws*.

5.2 Senior Procurement Executive

For the duties and responsibilities of the SPE pertaining to this Manual Section, see MS 114 *Delegation of Authority* – Attachment B – Contracts and Agreements within subsection 7 of section A. Contracts.

5.3 Office of the Chief Financial Officer/Acquisition and Contract Management/Overseas Contracting Division (OCFO/ACM/Overseas Contracting Division)

The Overseas Contracting Division within OCFO/ACM is responsible for the following:

- (a) Developing policies and procedures pertaining to the Overseas Acquisition System;
- (b) Overseeing all contracting actions by OCOs, under the direction of the SPE;
- (c) Responding to requests for approvals and/or guidance regarding overseas contracting activities from OCOs.
- (d) Ensuring that OCOs comply with applicable Overseas Acquisition System policies, procedures, and any additional guidance.
- (e) When so authorized by the SPE, delegating procurement authority to OCOs in the form of Delegations of Additional Procurement Authority (DOPAs) or other procurement authorities to post staff.
- (f) Providing overseas procurement-related training to OCOs and other Peace Corps staff;
- (g) Awarding contracts to meet post requirements or to support post operations (when necessary); and
- (h) Reviewing and evaluating the contracting operations of posts.

5.4 Overseas Contracting Officers

The OCOs at post are responsible for the following:

- (a) Complying with the policies set forth in this Manual Section;
- (b) Following the procedures outlined in the OCH; and
- (c) Following any other applicable laws, regulations and guidance.

If an OCO neglects to carry out their duties in accordance with applicable laws and regulations, the Peace Corps may hold the OCO financially and/or criminally liable and/or subject them to disciplinary action.

Fraud, waste, and/or abuse by an OCO while performing their procurement duties and responsibilities must be reported to the SPE and OIG for investigation, corrective action, and/or

application of consequences, which may include but is not limited to, the revocation of the OCO's warrant authority. See MS 861 *Office of Inspector General*.

6.0 Delegation of Authority from the Senior Procurement Executive

The SPE is authorized to exercise all of the duties, responsibilities, and powers of the Peace Corps Director pertaining to Peace Corps procurement activities, unless specifically reserved to the Director or otherwise delegated to another employee. (See MS 114 – *Delegation of Authority* – Attachment B – Contracts and Agreements)

Within the Overseas Acquisition System, the SPE may re-delegate procurement authority to qualified personnel within OCFO/ACM and at overseas posts. All re-delegations of any procurement authority must be made in accordance with applicable policy, laws and regulations. Re-delegations may take the following forms:

- (a) The SPE may issue an OCO warrant to any qualified Peace Corps staff member at (or working for the benefit of) an overseas post. The OCO warrant is a Certificate of Appointment which clearly defines procurement authority limits and authorizes the recipient to perform the duties of an OCO.
- (b) The SPE, or designee, may provide a DOPA or other (non-warrant) procurement authority to any qualified Peace Corps staff member at (or working for the benefit of) an overseas post. The DOPA or other procurement authority must clearly define procurement authority limits.

7.0 Overseas Acquisition System Policy

It is the policy of Peace Corps to carry out all procurement activities under the Overseas Acquisition System so they result in the award and administration of contracts which effectively meet the needs of the Peace Corps while complying with applicable laws, regulations and guidance and safeguarding the interests of the United States.

Below are rules/requirements that staff carrying out procurement activities under the Overseas Acquisition System must comply with in order to meet the policy stated above.

7.1 All Contract Types

Staff must:

- (a) Adhere to the OCH and other guidance provided by OCFO/ACM.
- (b) Successfully complete all required procurement-related training.
- (c) Promote competition in the acquisition process. Exceptions to competition and publication of contract actions are specified in the OCH.
- (d) Ensure all contracts, obligating documents, and/or modifications thereto are:

- (1) In writing;
 - (2) In English;
 - (3) Awarded using an OCFO/ACM-approved template. Procedures granting limited exceptions are detailed in the OCH;
 - (4) Signed by an individual within the limitations of their warrant or procurement authority; and
 - (5) Signed prior to beginning the period of performance or prior to the change taking effect.
- (e) Select contractors on the basis of what is in the best interests of the Peace Corps and the American taxpayer.
 - (f) Award contracts to responsible vendors who are qualified and eligible to receive an award under applicable laws and regulations. Source selection procedures are detailed in the OCH.
 - (g) Refer all procurements that are not firm-fixed-price or firm-fixed-rate with an applicable not-to-exceed (NTE) amount to Headquarters for execution.
 - (h) Ensure adequate funding is available before the signing of the contract or obligating document (See Anti-Deficiency Act, 31 U.S.C. § 1341).
 - (i) Ensure all contracts are limited to a total period of performance (base plus all option periods) of 60 months (five years) at the time of signing. Procedures for executing extensions are detailed in the OCH.
 - (j) Ensure all required documentation is in the contract file and organized in a way that it can easily be located. Records must be retained in accordance with MS 892 *Records Management*.
 - (k) Ensure that no staff member involved in the request, evaluation, award or administration of a contract has a conflict of interest with respect either to the contract or the vendor/contractor.
 - (l) Follow all requirements specified in Section 7 of MS 861 *Office of Inspector General*.

8.0 Leases

8.1 Leasing through the Local U.S. Embassy and Others

- (a) See MS 708 *International Cooperative Administrative Support Services (ICASS)* regarding whether ICASS may be used to negotiate and execute leases for use by the Peace Corps and, if allowable, instructions regarding its use.

- (b) OCOs may enter into subleases for specific properties with the Embassy if warranted by special circumstances. Such circumstances might include an offer of rent-free or reduced rent use of a property, limited property availability, or properties uniquely suited to Peace Corps' mission.
- (c) Country Directors may encourage host governments to provide properties in-country without cost to the Peace Corps whenever feasible.

8.2 Leasing Security Requirements

- (a) Certain Peace Corps-leased properties (e.g. offices where staff under Chief of Mission (COM) authority are assigned to work) require the Peace Corps to request either a waiver of the Secure Embassy Construction and Counterterrorism Act of 1999 and/or an exception to the security requirements of the Overseas Security Policy Board. Once submitted, the Peace Corps must receive certification from the Regional Security Officer (RSO) that all required physical security measures have been completed, or that the exception and/or waiver has been approved, prior to occupancy. See OCH and contact the Office of Safety and Security (OSS) regarding this process.
- (b) Properties to be residences of all U.S. Citizen Direct Hire employees or U.S. Citizen PSCs who are under COM authority, assigned abroad, and residing at post at U.S. Government expense, must receive the final occupancy approval of the U.S. Embassy RSO prior to the staff member occupying the property, unless other arrangements have been documented between a post's RSO and the OSS. This requirement applies regardless of whether the property is a Peace Corps-leased property or a property Peace Corps is paying for through a housing allowance.
- (c) Peace Corps-leased properties to be residences of non-U.S. Citizen PSCs are not required to have RSO final occupancy approval or meet the security standards in 12 Foreign Affairs Handbook (FAH) 6. However, 12 FAH 6 may be used as a guide in these cases.

8.3 Peace Corps Housing for Staff through Leases or Allowances in Lieu of Housing

- (a) Peace Corps typically provides Peace Corps-leased housing for U.S. Direct Hire employees (not including Foreign Service National employees) and, when included as an allowable benefit in their contract, for non-host country resident or national PSCs and their family members during their time working at a Peace Corps post.
- (b) When it is in the best interests of Peace Corps, in lieu of offering a Peace Corps-leased property to an eligible PSC while working at post, the OCO may include an additional amount in the contract as a housing allowance. Procedures for these housing allowances are detailed in the OCH.
- (c) At no point will a housing allowance be provided to a PSC while they reside within a personally owned residence, or the residence of a family member (spouse, domestic partner, parent, grandparent, aunt, uncle, cousin, sibling (including half siblings), or child (including natural, adopted, or foster), or the residence of the family member of a spouse or domestic partner.

9.0 Personal Services Contracts

9.1 Types of Personal Services Contracts

The OCH provides procedures for determining the applicable personal services contract type to use for a particular individual (i.e. personal services contracts with permanent host country residents and nationals (i.e. 743a PSCs) as opposed to personal services contracts with permanent residents of countries other than the host country who are not host country nationals (i.e. 744a PSCs)).

9.2 Status of Personal Services Contractors

- (a) The Peace Corps considers PSCs to be employees of the U.S. Government, except under any law administered by the Office of Personnel Management. The contract entered into between the Peace Corps and an individual PSC outlines terms and conditions of an individual PSC's service to the Peace Corps, which includes their duties and responsibilities, as well as the compensation and benefits.

Furthermore, a PSC that is a Peace Corps permanent host country resident or national (i.e. 743a PSC) may be covered by the local labor law of the host country. Prior to the Peace Corps terminating or ending a personal services contract, the OCO must notify OCFO/ACM, OGC, and the appropriate Region.

- (b) Although all locally engaged PSCs are under COM authority (see FAH-2 H-112.1), Peace Corps follows its own policies and procedures regarding its PSCs, including (i) position development, (ii) position advertisement, (iii) applicant evaluation, (iv) applicant selection, (v) compensation and benefits selection and application, (vi) contract administration, (vii) performance evaluation, (viii) discipline, (viv) contract termination, and (x) contract close-out.

9.3 Personal Services Contractors Performing Inherently Governmental Functions

- (a) If a PSC has a specific IGF listed in their Statement of Work (SOW) using language provided in the OCH, the PSC may perform that IGF in accordance with guidance outlined in the OCH. IGFs that a PSC may perform are as follows:

- (1) Principal Cashier, Alternate Cashier, or Sub-Cashier;
- (2) Receiving Officer;
- (3) Property Officer;
- (4) Limited supervisory responsibilities;
- (5) Contracting Officer;
- (6) Government charge card holder; and

(7) Occasional Money Handler.

- (b) U.S. Citizen PSCs contracted by OCFO/ACM may be temporarily designated as Acting Country Director if so indicated in their SOW and they possess an active Top Secret National Security Clearance, to include performing all IGFs related to carrying out that designation. If a U.S. Citizen PSC meets the aforementioned and is temporarily designated as Acting CD at a post, their designation as Acting CD during the assignment shall be reviewed by the Office of Global Operations every 120 days.

9.4 Background Checks for Personal Services Contractors

9.4.1 Security Investigation

Each PSC must undergo a suitability and security investigation by either the Regional Security Officer or OSS before a contract may be awarded. Peace Corps offers of personal services contracts and the continuation of personal services contracts following an award are contingent upon (i) successful completion of the suitability and security investigation, (ii) the receipt of a required security certification, and (iii) the maintenance of any required security certification.

For additional guidance and information, refer to the OCH which contains the *Background Checks of Overseas Staff Policy* document promulgated by the Information and Personnel Security Division within OSS.

9.4.2 Intelligence Background Information Certification

All PSCs must be in compliance with and meet the eligibility standards set forth in MS 611 *Eligibility for Peace Corps Employment or Volunteer Service of Applicants with Intelligence Backgrounds*, and conforming MS 611 procedures, concerning eligibility of applicants with intelligence backgrounds.

9.5 Medical Checks for Personal Services Contractors

Prior to awarding, or renewing, a personal services contract, the Peace Corps requires individuals to complete either a medical clearance process or undergo a physical examination, as follows:

- (a) If an individual being considered for an OCFO/ACM-awarded personal services contract is a U.S. Citizen, the individual must complete the medical clearance process prior to contract award. Peace Corps offers of personal services contracts and the continuation of personal services contracts following an award are contingent upon (i) successful completion of the medical clearance process, (ii) the receipt of a medical clearance issued at the level designated for the position, and (iii) the maintenance of any required medical clearance. Authorized dependents must be medically cleared before joining their PSC family member at their post of assignment.

The Peace Corps medical clearance program is administered by the U.S. Department of State's Bureau of Medical Services. For additional information, refer to 3 Foreign Affairs Manual 9116.1 - Eligibility and the OCH.

- (b) If an individual being considered for an OCFO/ACM-awarded or post-awarded personal services contract is a non-U.S. Citizen, the individual must undergo a physical examination prior to the award of each new or renewal personal services contract.

9.6 Standards of Conduct for Personal Services Contractors

All PSCs are subject to and must comply with either MS 641 *Standards of Conduct for Peace Corps Employees* or 5 *CFR 2635*, as specified in their contract.

9.7 Compensation and Benefits for Personal Services Contractors

- (a) OCOs must determine the appropriate range of compensation for a PSC based on the duties and responsibilities of the position and location of the services performed. To determine the range of compensation, OCOs must apply the procedures in the OCH pertaining to compensation-setting.
- (b) The Peace Corps shall compensate PSCs in accordance with the currency compensation practices of the local U.S. Embassy. However, all U.S. Citizen and U.S. Permanent Resident (i.e. Green Card Holder) PSCs shall be compensated in U.S. Dollars. Posts may request an exception to the compensation currency determination methods outlined above in accordance with procedures outlined in the OCH.
- (c) The Peace Corps requires all authorized benefits or allowances within a PSC's contract to be specifically included in their Benefits Attachment. OCOs must apply the procedures found in the OCH pertaining to benefits and allowances.

9.8 Taxation under a Personal Services Contract

The Peace Corps considers U.S. Citizen and U.S. Permanent Resident (Green Card Holder) PSCs to be U.S. Government employees and their compensation is subject to US taxes.

- (a) The Peace Corps shall deduct Federal Insurance Contribution Tax Act (FICA) and U.S. Federal Income taxes from the PSC's compensation in accordance with regulations and rulings of the Social Security Administration and the U.S. Internal Revenue Service (IRS).
- (b) The Peace Corps will issue W-2s to all U.S. Citizen and U.S. Permanent Resident (Green Card Holder) PSCs and file those W-2s with the Social Security Administration.
- (c) U.S. Citizen and U.S. Permanent Resident (Green Card Holder) PSCs are not eligible for the "foreign earned income" exclusion provided by the IRS. (For additional information, see 26 CFR 1.911-3(c)(3)).

The Peace Corps does not pay taxes or any other assessed charges of a public nature to any governmental entity besides United States FICA and Federal Income taxes for US Citizens and US Permanent Residents, unless an exception from OCFO/ACM, OGC, and Region is obtained.

9.9 Applicability of Other Manual Sections

Unless otherwise stated, individual Peace Corps Manual Sections which refer to “staff” or “employees” only apply to PSCs when a reference to such Manual Sections exist within the contract or the OCH.

10.0 Construction Contracts

10.1 Meeting Construction Requirements

The Peace Corps may meet construction requirements for overseas posts in each of the ways outlined below:

- (a) Lease Contract – The Lessor (i.e. the entity signing a lease contract with the Peace Corps) of a Peace Corps-leased property may agree to carry out the required construction work on their property. The construction work to be performed must be included in the existing lease contract and not performed under a separate contract with the Lessor.
- (b) Two-Step Contracting – The OCO would first use the services contract template to contract with an architecture and engineering firm for the creation of the architectural plans and drawings. Based upon those architectural plans and drawings, the OCO would use the construction contract template to contract with a construction firm to carry out the construction work.
- (c) Combined Contract – The OCO would use the construction contract template to contract with a single general contractor to carry out both the creation of the architectural plans and drawings and the construction work.

For additional information pertaining to the options specified above, refer to the procedures outlined in the OCH.

10.2 Initial Factors to Consider for Construction Contracts

Prior to entering into a construction contract as outlined in section 10.1(b)-(c), the OCO must consider the following factors:

- (a) The availability of a qualified staff member(s) at post to, as applicable, complete an Independent Government Cost Estimate (IGCE), draft one or more requests for quotations, and/or and evaluate the received quotations; and
- (b) The availability of a qualified staff member(s) at post to oversee any technical aspects of the construction contract and recommend to the OCO whether or not construction work should be accepted or rejected by the Peace Corps.

If a post is unable to meet the considerations outlined above through their in-house human resources, the OCO may request assistance from another U.S. Government agency conducting work within the host country (e.g. the General Services Office at the local U.S. Embassy) or enter into a contract with a short-term PSC or another individual through a services contract, as appropriate. If the OCO chooses to enter into a services contract with another individual to

carry out the work identified above, both the request for quotations and the contract must include a statement excluding any firm, or individual affiliated with the services contractor, or its subsidiaries or affiliates, from eligibility to compete or be selected for either an architect-engineering services contract and/or construction contract for that particular construction project.

10.3 Independent Government Cost Estimates for Construction Contracts

For construction contracts as outlined in section 10.1(b)-(c) valued at \$25,000 or above, the OCO must ensure that an IGCE is created prior to competing the contract. The IGCE must include all probable costs of the contract and provide as much detail about cost as possible.

The Peace Corps shall grant access to information outlined in an IGCE only to those individuals whose official duties require knowledge of the estimate. Those individuals with knowledge of the information outlined in an IGCE must not disclose any information about the IGCE through any mechanism (e.g. requests for quotations or other vendor communications) to any individual or entity whose official duties do not require knowledge of the estimate.

11.0 Procedures

Procedures implementing this Manual Section are set forth in the Overseas Contracting Handbook which, to be effective, must be approved by both the Overseas Contracting Council and the Director of Acquisition and Contract Management as outlined in the *Overseas Contracting Council Charter and By-Laws*.

12.0 Effective Date

The effective date of this Manual Section is the date of issuance.