

MS 732 Acquisition Regulations, Rules, and Procedures - Overseas and U.S.

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Responsible Office: Office of the Chief Information Officer/Office of Acquisition and Contract Management (OCFO/OACM)

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[Issuance Memo](#) (10/11/2016)

[Attachments](#)

Table of Contents

- 1.0 Purpose
- 2.0 Policy
- 3.0 Scope
- 4.0 Authorities
- 5.0 Definitions
 - 5.1 Contracting Officer
 - 5.2 Support Agency
 - 5.3 Source
 - 5.4 Origin
 - 5.5 Equipment
 - 5.6 Supplies
 - 5.7 Local Procurement
 - 5.8 Small Purchase Limitation Threshold
 - 5.9 Small Business - Small Purchase Set-asides
 - 5.10 Market Survey
 - 5.11 Federal Information Processing Resources
- 6.0 Procurement
 - 6.1 Procurement Responsibilities
 - 6.1.1 Procurement Authority
 - 6.1.2 The Director of the Office of Contracts
 - 6.1.3 Country Directors
 - 6.1.4 Implied Authority
 - 6.1.5 Federal Information Processing (FIP) Equipment and Software
 - 6.1.6 Availability of Funds
 - 6.1.7 Requirement that Contract be in Writing
 - 6.1.8 Federal Acquisition Regulation (FAR)
 - 6.1.9 Procurement Integrity
 - 6.2 U.S. Purchases
 - 6.2.1 Policy
 - 6.2.2 Purchases Not Over 10% of the Small Purchase Limitation Threshold

- 6.2.3 Purchases Over 10% of the Small Purchase Limitation Threshold
- 6.2.4 Maximum Competition
- 6.2.5 Requisitions
- 6.2.6 Dividing Procurement
- 6.2.7 Use of Imprest Funds or I.M.P.A.C. Credit Card for Small Purchases
 - 6.2.7.1 Imprest Funds
 - 6.2.7.2 I.M.P.A.C. Credit Cards
- 6.2.8 Discounts
- 6.2.9 Compliance with Federal Acquisition Regulations
- 6.2.10 Supplemental Solicitation Provisions and Contract Clauses
- 6.2.11 Competitive Bids
 - 6.2.11.1 Purchases Over 10% of the Small Purchase Limitation Threshold
 - 6.2.11.2 Purchases Not Over 10% of the Small Purchase Limitation Threshold
- 6.2.12 File Documentation
- 6.2.13 Special and Directed Sources of Supply
- 6.3 Overseas Purchases
 - 6.3.1 General Policies
 - 6.3.2 Authority
 - 6.3.2.1 Contracts With Competitive Bids
 - 6.3.2.2 Contracts Without Competitive Bids
 - 6.3.3 Small Purchases
 - 6.3.4 Supplemental Far Clauses
 - 6.3.5 Competitive Bids
 - 6.3.6 Purchases Over 10% of the Small Purchase Limitation Threshold
 - 6.3.7 Purchases not Over 10% of the Small Purchase Limitation Threshold
 - 6.3.8 File Documentation
 - 6.3.9 Specific Policies for Overseas Procurement
 - 6.3.9.1 Supplies and Equipment for Volunteer use
 - 6.3.9.2 Vehicles
 - 6.3.9.3 Medical Supplies and Equipment
 - 6.3.9.4 General Procedures
 - 6.3.9.5 Procedures for Acquisition from Local and Third Country Sources
 - 6.3.9.6 Procurement through Support Agency Channels
 - 6.3.9.7 Excess and Near Excess Currency
- 6.4 Prohibited Items
- 6.5 Federal Information Processing Equipment and/or Software
- 7.0 Effective Date

Attachments

- Attachment A - "Purchase Order, Receiving Report and Voucher" FS-455
- Attachment B - "Order for Supplies or Services" OF-347
- Attachment C - "Purchase Order-Invoice-Voucher" SF-44
- Attachment D - "Receiving Report" PC-1783
- Attachment E - "FAR Clauses for Overseas Purchase Orders (\$25,000.00 or less)"
- Attachment F - "FAR Clauses for Purchase Orders with U.S. Vendors (\$25,000.00 or less)"
- Attachment G - "Examination of Records by the U.S. Comptroller General"

1.0 Purpose

This Manual Section prescribes Peace Corps policies, rules, and procedures for procuring equipment and supplies and non-personal services. Additional guidance and procedures are provided in MS 734 *Medical Supplies and Equipment* for medical supplies and MS 733 *Leases* for leases. For detailed acquisition procedures, see the Federal Acquisition Regulations (FAR).

2.0 Policy

In accordance with the FAR, Manual Section 732 *Acquisition Regulations, Rules, and Procedures – Overseas and U.S.* sets out procedures designed to promote full and open competition in the acquisition of supplies and services for the Peace Corps.

3.0 Scope

All Peace Corps employees who are involved in any aspect of acquisition shall adhere to the acquisition regulations found in the Federal Acquisition Regulations and the acquisition procedures outlined in this Manual Section.

4.0 Authorities

Section 10, Peace Corps Act, Federal Acquisition Regulations (FAR) 48 CFR, Chapter 1, Competition in Contracting Act of 1984 (P.L. 98-369).

5.0 Definitions

5.1 Contracting Officer

An official designated to enter into or administer contracts and make related determinations and findings. (Country Directors, Service Center Purchasing Agents and the Director of the Office of Contracts, have been designated Contracting Officers for the Peace Corps.)

5.2 Support Agency

Any U.S. government organization providing administrative support to the local Peace Corps Post, e.g., U.S. Embassy, U.S. Public Health Service, etc.

5.3 Source

The country or area which ships or transships a commodity.

5.4 Origin

The country or area where a commodity is mined, grown, or produced (resulting in a product that differs from its components' basic characteristics, purpose, or use).

5.5 Equipment

Non-expendable property (property which is not consumed in use, does not lose its identity, has a service life of at least two years, and costs more than \$500.00 - see MS 511 *Personal Property Management*).

5.6 Supplies

Property or materials normally consumed in usage or of value which does not justify the maintenance of property records, e.g., binders, blotters, clips, envelopes, folders, pencils, rulers.

5.7 Local Procurement

Procurement in the host country's commercial market.

5.8 Small Purchase

An acquisition of supplies, non-personal services, and construction in the amount of \$25,000.00 or less using imprest funds, purchase orders, and blanket purchase agreements. This amount is referred to herein as the small purchase limitation threshold.

5.9 Small Business - Small Purchase Set-Asides

Each acquisition of supplies or services within the U.S. that has an anticipated dollar value not over the small purchase limitation threshold subject to small purchase procedures, shall be reserved exclusively for small business concerns unless exempted under FAR 13.105.

5.10 Market Survey

A survey done to ascertain whether qualified sources capable of satisfying the Peace Corps' requirements exist. Testing the market place may range from telephone contacts to formal notices in local papers.

5.11 Federal Information Processing Resources

An umbrella term used to describe automated data processing and telecommunication resources as defined by the Paperwork Reduction Authorization Act of 1986.

6.0 Procurement

6.1 Procurement Responsibilities

6.1.1 Procurement Authority

Procurement authority may be exercised only by Peace Corps employees who have been delegated specific procurement authority, and only within the specific limits of their delegation of authority.

6.1.2 The Director of the Office of Contracts

The Director of the Office of Contracts has been delegated general procurement authority. In certain circumstances, he or she may delegate limited authority to others.

6.1.3 Country Directors

Country Directors have been given limited procurement authority to make procurements outside the U.S. which do not exceed their delegation of authority. Procurements exceeding this amount cannot be made without an additional delegation from the Director of Contracts. Country Directors may redelegate their authority in writing to other Peace Corps employees, but not to personal services contractors.

6.1.4 Implied Authority

No Peace Corps employee has implied authority to procure goods or services or otherwise obligate the Peace Corps. The Peace Corps can, and will, disavow any unauthorized procurements.

6.1.5 Federal Information Processing (FIP) Equipment and Software

The acquisition or rental of all non-standard computer equipment and software in excess of \$500.00, must be reviewed and approved by the Director, Office of Information Resources Management (M/IRM). The acquisition of FIP equipment and software is governed by the Federal Information Resources Management Regulations (FIRMR).

6.1.6 Availability of Funds

No acquisition shall be executed unless sufficient funds are available. Procurements which exceed funds available or which are made during a period when no Appropriation Act has been passed can subject an employee to disciplinary action and possible criminal liability.

6.1.7 Requirement that Contract Be in Writing

To be recorded as an obligation of the government, a contract must be in writing. Oral contracts are not enforceable against the government, and may not be recorded as obligations.

6.1.8 Federal Acquisition Regulation (FAR)

All government procurement action must comply with the FAR, which is prescribed by the Administrator of the General Services Administration and is applicable to civilian agencies. Failure to follow the FAR may result in personal liability or disciplinary action.

6.1.9 Procurement Integrity

The Office of Federal Procurement Policy Act prescribes conduct and prohibitions for any government official or employee deemed a Procurement Official with respect to a particular procurement. A Procurement Official is anyone who has participated personally and substantially in any of the following activities:

- (a) Drafting, or reviewing and approving, a specification or statement of work;
- (b) Preparing or developing a procurement or purchase request;
- (c) Preparing or issuing a procurement solicitation;
- (d) Evaluating bids or proposals or selecting sources;
- (e) Negotiating to establish the price or terms and conditions of a contract or contract modification; and
- (f) Reviewing and approving the award or modification of a contract.

6.2 U.S. Purchases

6.2.1 Policy

Peace Corps employees having a proper written delegation of procurement authority may obligate Agency funds.

Peace Corps contracting personnel authorized to make small purchases shall comply with Part 13 of the Federal Acquisition Regulations and the following policies.

6.2.2 Purchases Not Over 10% of the Small Purchase Limitation Threshold

Purchases not exceeding this limit may be made without securing competitive quotations if the Contracting Officer considers the prices to be reasonable.

- (a) Such purchases shall be distributed equitably among qualified suppliers.
- (b) If practical, a quotation shall be solicited from other than the previous supplier before placing a repeat order.
- (c) The administrative costs of verifying the reasonableness of the price of purchases not exceeding 10% of the small purchase limitation threshold may more than offset potential

savings from detecting instances of overpricing. Therefore, action to verify price reasonableness need be taken only when:

- (1) The buyer or contracting officer suspects or has information (e.g., comparison to previous prices paid or personal knowledge of the item involved) to indicate that the price may not be reasonable; or
- (2) Purchasing an item for which no comparable pricing information is readily available (e.g., an item that is not the same as, or is not similar to, other items that have been recently purchased on a competitive basis).

6.2.3 Purchases Over 10% of the Small Purchase Limitation Threshold

- (a) Contracting Officers shall solicit quotations from a reasonable number of sources (normally three) to promote competition to the maximum extent practicable and ensure that the purchase is advantageous to the Government, price and other factors considered, including the administrative cost of the purchase. Solicitations may only be limited to one source if the contracting officer determines that only one source is reasonably available.
- (b) Generally, quotations should be solicited orally except that written solicitations shall be used for construction contracts over \$2,000.00. Written solicitations should be used when:
 - (1) A large number of line items are included in a single proposed acquisition;
 - (2) Obtaining oral quotations is not considered economical or practical;
 - (3) Special specifications are involved, e.g., the product is different from that normally or previously purchased; or
 - (4) The suppliers are located outside the local trade area.

6.2.4 Maximum Competition

Maximum practicable competition for small purchases ordinarily can be obtained without soliciting quotations from sources outside the trade area in which the purchasing office is located.

6.2.5 Requisitions

Small purchases of less than \$500.00 will be initiated by requisitions (Form PC-203). Small purchases of more than \$500.00 will be initiated by procurement requests (Form PC-1540). (See *MS 736 Procurement Requests and Unsolicited Proposals in the United States* for Attachments A and B forms.)

6.2.6 Dividing Procurement

The "aggregate amount" of a procurement includes all supplies, equipment, and services which would be included in a single procurement. Procurements totaling more than the small purchase limitation threshold shall not be separated merely for the purpose of utilizing the small purchase methods authorized under Part 13 of the Federal Acquisition Regulations. Individual purchases under blanket purchase arrangements shall not exceed \$25,000.00.

6.2.7 Use of Imprest Funds or I.M.P.A.C. Credit Card for Small Purchases

6.2.7.1 Imprest Funds

The Contracting Officer may authorize the use of imprest funds for small purchases. No purchase order SF-44, OF-347, FS- 455, or OF-206 (See Attachments A-C) need be issued for the purchase if the Contracting Officer determines that such an order is not to the advantage of the U.S. Government, pursuant to subpart 13.4 of the FAR.

6.2.7.2 I.M.P.A.C. Credit Cards

Individuals issued a Government I.M.P.A.C. credit card for use in procurement are authorized to use such cards in accordance with their delegated authority and the limits established for their cards. Cardholders are required to follow Agency and GSA card procedures.

6.2.8 Discounts

Prompt payment discounts shall not be considered in determining the lowest bid; nevertheless, such discounts should be included in the final purchase price.

6.2.9 Compliance with Federal Acquisition Regulations

Small purchase activities will be reviewed by the Director of Contracts or his or her designee to ensure compliance with FAR rules and with procedures set forth in this Manual Section.

6.2.10 Supplemental Solicitation Provisions and Contract Clauses

Supplemental solicitation provisions and contract clauses shall be added or incorporated by reference on Optional Forms 347 and 348 (entitled "ORDER FOR SUPPLIES OR SERVICES") in accordance with FAR 13.507(See Attachment F).

6.2.11 Competitive Bids

The following procedures are designed to provide all interested suppliers, particularly small concerns, an opportunity to submit bids on small purchases. In accordance with FAR 13.106, individual price quotations need not be requested each time a purchase is contemplated if the standard price of the goods or services has been established and can be used to assure reasonableness.

6.2.11.1 Purchases Over 10% of the Small Purchase Limitation Threshold

When the expected purchase price exceeds 10% of the small purchase limitation threshold, solicitation of at least three sources may be considered to promote competition to the maximum extent practicable. If more than three qualified sources normally compete, the firms solicited may be rotated or the number of contractors increased to include the additional bidders. The decision to open the acquisition to additional bidders should correspond to the value of the purchase, the potential for additional price savings, and the additional administrative costs involved. Written quotations shall be required (except for emergency supplies and perishable substances) when the estimated dollar amount of the purchase exceeds \$10,000.00.

For proposed contract actions expected to exceed \$10,000.00, Contracting Officers shall disseminate information by posting the notice of solicitation or a copy of the solicitation in a public place at the Peace Corps Office for a least 10 days prior to the closing date for receipt of solicitations or bids. Contracting Officers shall place paid advertisements of proposed contracts when it is anticipated that effective competition cannot be obtained otherwise.

The determination that a proposed price is reasonable should be based on competitive quotations. If only one response is received, or the price variance between multiple responses reflects lack of adequate competition, a statement shall be included in the contract file giving the basis of the determination of fair and reasonable price. The determination may be based on a comparison of the proposed price with prices found reasonable on previous purchases, current price lists, catalogs, advertisements, similar items in a related industry, value analysis, the Contracting Officer's personal knowledge of the item being purchased, or any other reasonable basis.

6.2.11.2 Purchases Not Over 10% of the Small Purchase Limitation Threshold

Competitive bids are desirable but not required for purchases 10% of the small purchase limitation threshold or less. Although Contracting Officers are not required to solicit bids for purchases not over 10% of the small purchase limitation threshold, they should attempt to purchase supplies from several contractors.

6.2.12 File Documentation

There shall be an official contract file folder for every contract awarded, order issued, or agreement entered into by domestic Contracting Officers. Each contract file shall be organized by sections with the applicable contract file checklist specified in ACM procedures. Each checklist must contain a listing of items and sub-items included in the file, the respective location of the items or sub-items (e.g., documents), and a cross reference to the specific requirement in the Federal Acquisition Regulation, Peace Corps Manual and other Peace Corps Directives as applicable. At a minimum, each checklist shall contain the data elements at FAR 4.803.

Contract and order files shall be disposed of in accordance with Peace Corps Manual Section 892 *Records Management*. Contracting Officers shall seek the guidance of the Agency's Records Manager or the ACM Records Coordinator for additional information concerning the requirements. In no case may the files be destroyed before the timeframes specified in FAR 4.805.

6.2.13 Special and Directed Sources of Supply

Contracting Officers shall give consideration to special and directed sources of supply such as prison industries, blind and handicapped products, GSA stock items, non- mandatory and mandatory GSA schedule contracts.

6.3 Overseas Purchases

6.3.1 General Policies

Country Directors should establish guidelines and procedures for the procurement of services, supplies, and equipment. Through such planning, Country Directors can maximize the advantages of quantity discount purchases and competitive pricing on the local market.

Balance-of-payments considerations dictate that the maximum purchase of supplies and services should be made from U.S. sources whenever feasible. Country Directors may request the procurement of equipment and supplies from a U.S. vendor through M/Administrative Services. Posts should include in their procurement and reordering requests the amount of the following: funds to cover packing, shipping and handling costs in addition to the basic purchase price. Country Directors should inform M/AS about any restrictions on shipping.

Peace Corps Posts should arrange, when possible, to use locally available U.S. Government excess property in lieu of purchasing new equipment.

6.3.2 Authority

Country Directors may purchase goods and services in their countries or other countries except the U.S. up to their delegation of authority. Written approval from the Director of the Office of Contracts (M/C) is required for all cost reimbursable contracts, all PASAs, and fixed price contracts and leases in excess of the small purchase limitation threshold. To insure compliance with Federal Acquisition Regulations, technically trained personnel from the Office of Contracts should negotiate cost reimbursable contracts. Requests for acquisitions in the U.S. shall be forwarded through the Regions or M/AS, depending upon the type of goods or services, to M/C for processing. Supplies and equipment requests go through M/AS while requests for services go through the CDO. Authority may be redelegated by the Director of Contracts to the Country Director in order to execute a specific in-country contract. Such redelegation of authority requires that the following information be forwarded to the Director of the Office of Contracts.

6.3.2.1 Contracts With Competitive Bids

- (a) Copy of proposed contract or lease;
- (b) Type and extent of competition involved;
- (c) Grounds for awarding a contract;

- (d) Description of financial capability of designated contractor, and description of applicable local labor laws such as bonus pay, severance pay, etc. (this information should be verified by the appropriate Embassy officials); and
- (e) Other information needed to consider the approval, such as maintenance and spare parts availability.

6.3.2.2 Contracts Without Competitive Bids

An explanation of the post's attempt to develop competition and the reasons for the lack of bids should be included with the proposed contract. A market survey shall be conducted to attempt to identify available qualified sources.

6.3.3 Small Purchases

Small purchase acquisitions are open market purchases that do not exceed the small purchase limitation threshold. Forms OF-347, FS-455 or OF-206 are used for small purchases.

The Federal Acquisition Regulations (FAR) clauses applicable to small purchases overseas, in excess of 10% of the small purchase limitation threshold, will be incorporated (see Paragraph 6.3.7. below).

A single quotation may be used for procurements not over 10% of the small purchase limitation threshold if considered fair and reasonable by the Contracting Officer.

Written quotations (except for exigencies and perishable substances) are required for purchases in excess of \$10,000.00.

The "aggregate amount" guide specified in Paragraph 6.2.6. shall apply to Peace Corps employees performing the small purchase acquisitions overseas.

Small Purchases which use imprest funds for payment may be made only upon the written authorization of the Contracting Officer. A purchase order (SF-44, OF-347, FS-445 or OF-206) need not be issued for the small purchase if the Contracting Officer determines it is not advantageous to the Government.

6.3.4 Supplemental FAR Clauses

The Federal Acquisition Regulations which became effective April 1, 1984 and which were substantially modified effective April 1, 1985 by the Competition in Contract Act require Contracting Officers to include the applicable FAR Clauses in solicitations and/or contracts for the procurement of personal property and non-personal services.

These clauses apply to all procurement of personal property and non- personal services within and outside the United States, except in the case of procurements entered into and performed outside the United States when (a) its use is prohibited by or is inconsistent with local laws, or (b) the supplies or services could not be obtained if the clause is included. The Contracting Officer should include the justification for exclusion of any mandatory clause in the contract file.

The clauses in Attachment E are mandatory for fixed price supply and non- personal service purchase orders not over the small purchase limitation threshold entered into and performed outside the United States.

6.3.5 Competitive Bids

The following procedures are designed to provide all interested suppliers, particularly small concerns, an opportunity to submit bids on small purchases. Individual price quotations need not be requested each time a purchase is contemplated if the standard price of the goods or services has been established.

6.3.6 Purchases for More Than 10% of the Small Purchase Limitation Threshold

When the expected purchase price exceeds 10% of the small purchase limitation threshold, the Contracting Officer shall solicit at least three bids from qualified suppliers, if available. If more than three qualified sources normally compete, the firms solicited may be rotated or the number of contractors increased to include the additional bidders. The decision to open the bid to additional bidders should correspond to the value of the purchase, the potential for additional price savings, and the additional administrative costs involved. Written quotations shall be required (except for emergency supplies and perishable subsistence) when the estimated dollar amount of the purchase exceeds \$10,000.00.

For proposed contract actions expected to exceed \$10,000.00, Contracting Officers shall disseminate information by posting the notice of solicitation or a copy of the solicitation in a public place at the Peace Corps Office for a least 10 days prior to the closing date for receipt of solicitations or bids. Contracting Officers shall place paid advertisements of proposed contracts when it is anticipated that effective competition cannot be obtained otherwise.

The determination that a proposed price is reasonable should be based on competitive quotations. If only one response is received, or the price variance between multiple responses reflects lack of adequate competition, a statement shall be included in the contract file giving the basis of the determination of fair and reasonable price.

6.3.7 Purchases for 10% of the Small Purchase Limitation Threshold or Less

Competitive bids are desirable but not required for purchases not over 10% of the small purchase limitation threshold. Although Contracting Officers are not required to solicit bids for purchases not over 10% of the small purchase limitation threshold, they should attempt to distribute equitably such purchases among qualified suppliers and, if practical, obtain a quotation from other than the previous supplier before placing a repeat order.

6.3.8 File Documentation

There shall be an official contract file folder for every contract awarded, order issued, or agreement entered into by an overseas Contracting Officer. Each contract file shall be organized by sections with an applicable contract file checklist provided in the Peace Corps Overseas Contracting Handbook. All files shall contain a listing of items and sub-items included in the file, the respective location of the items or sub-items (e.g., documents), and a cross reference to

the specific requirement in the Federal Acquisition Regulation, Peace Corps Manual, Peace Corps Overseas Contracting Handbook, and other Peace Corps Directives as applicable. At a minimum, each checklist shall contain the data elements at FAR 4.803.

Contract and order files shall be disposed of in accordance with Peace Corps Manual Section 892 *Records Management*. Contracting Officers shall seek the guidance of the Agency's Records Manager or the ACM Records Coordinator for additional information concerning the requirements. In no case may the files be destroyed before the timeframes specified in FAR 4.805.

6.3.9 Specific Policies for Overseas Procurement

6.3.9.1 Supplies and Equipment for Volunteer Use

Volunteers shall be provided logistic and project-related supplies and equipment as prescribed by Section 5(b) of the Peace Corps Act. Project-related supplies and equipment include tools, demonstration aids, and reference books for Volunteer use.

Volunteers generally purchase household supplies and equipment with their settling-in allowance although the Peace Corps may procure certain items for the Volunteer, such as: materials for repairs to Volunteer housing, water storage tanks, camping equipment, household items and other non-expendable property which cannot be obtained in-country.

6.3.9.2 Vehicles

The acquisition of vehicles is subject to all the regulations cited in this Manual Section as well as those cited in MS 527 *Vehicle Fleet Management*.

6.3.9.3 Medical Supplies and Equipment

(see MS 734 *Medical Supplies and Equipment*).

6.3.9.4 General Procedures

To determine the source and method of acquisition, Country Directors should consider the following:

- (a) General acquisition policies prescribed above;
- (b) Urgency of need (competitive prices may be achieved by ordering in advance);
- (c) Quality and quantity of available items from U.S., third countries, and local sources; and
- (d) Local repair and maintenance facilities.

6.3.9.5 Procedures for Acquisition from Local and Third Country Sources

Peace Corps posts may purchase locally any administrative or program materials which are stocked by a U.S. Government support agency. Local procurement is appropriate for low cost items such as light bulbs and office supplies.

Country Directors should compare prices and inquire about quantity discounts when purchasing large quantity or high value items. They should also consider ex-bond or duty free procurement if such an agreement exists with the host country.

Country Director should issue purchase orders and contracts, and obligate funds to cover the total cost of the acquisition -- including packing, shipping, and handling. Procurement in excess of the small purchase limitation threshold must be supported by a bilaterally signed contract or lease which establishes the complete terms governing the purchase. (Form FS-455 or OF-206 may be used only for purchase of goods and non-personal services for less than the small purchase limitation threshold.)

Overseas procurements in excess of \$25,000.00 (excluding leases and procurements made through GSA supply centers) are not exempt from the requirement to place a synopsis in the Commerce Business Daily. Contracting Officers must review the procurement to assess whether doing so is appropriate and reasonable. Poor acquisition planning and the fact that the acquisition is conducted overseas are not sufficient reasons to waive the synopsis requirement. Contracting Officers should consider such factors as (1) impracticality, e.g., only local contractors may obtain the required license in country, and (2) adverse impact to the Agency's mission. Contracting Officers shall prepare a written determination and finding documenting the basis for waiving the synopsis. The format for the determination is found in Attachment H.

6.3.9.6 Procurement through Support Agency Channels

Country Directors purchasing materials from third country sources may contact the procurement officer at the support Agency in the third country, who will then process the purchase. As an example, the Country Director of the Philippines, who wishes to purchase materials unavailable from U.S. or local sources, might request the procurement officer at the U.S. Embassy in Tokyo, Japan or Bonn, Germany to purchase the material from the local market.

6.3.9.7 Excess and Near Excess Currency

Posts designated excess and near excess currency countries shall comply with MS 727 *Use of Foreign Currencies* in the payment for local procurement.

6.4 Prohibited Items

Examples of items that cannot be procured with appropriated funds are as follows:

- (a) Greeting or holiday cards and decorations;

- (b) Business cards for individual Peace Corps staff, except where the Chief of Staff approves the printing or purchase, consistent with applicable law and principles governing use of appropriated funds;
- (c) Personalized stationery;
- (d) Alcoholic beverages or entertainment or recreation of any kind (except as provided in MS 724 *Representation Allowances*, MS 725 *Entertainment Funds*, or otherwise consistent with applicable law and principles governing use of appropriated funds);
- (e) Personal cable, fax, telephone, and telegraph messages;
- (f) Individual membership fees or dues in organizations; and
- (g) Acquisitions, which cannot be paid for from funds available in the current fiscal year.

6.5 Federal Information Processing Equipment and/or Software

Procurement requests which are for equipment or software on the FIP Resources Purchasing List provided by the Office of Information Resources Management (M/IRM) may be forwarded directly to the Office of Contracts. The Procurement Request must describe the item to be purchased by the package name and package number from the FIP Resources Purchasing List ONLY. No substitutions or addition of items which are not on the list are permitted. Procurement of FIP Resources which are not on the FIP Resources Purchasing List shall be subject to M/IRM concurrence prior to forwarding to the Office of Contracts.

7.0 Effective Date

This Manual Section shall take effect on the date of issuance.