

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

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1.0 Purpose

This section establishes procedures for the award and administration of personal services contracts to non-host country residents.

Please see Overseas Contracting Handbook for forms referenced.

2.0 Applicability

These procedures apply to personal service contracts issued or substantively modified after November 21, 2011 by Peace Corps posts or Peace Corps Washington to non-residents of the host country. See Overseas Contracting Handbook, Personal Services Handbook: 744b (Procedures) for personal service contracts with non-residents of the host country issued before November 21, 2011. See Overseas Contracting Handbook, Personal Services Handbook: 743 (Procedures) for personal service contracts with residents of the host country.

3.0 Authorities

Section 10(a)(5) of the Peace Corps Act, and 22 U.S.C. 2509(a)(5).

4.0 Definitions

- (a) **Bi-lateral modification** means any written change in the terms of a contract that is signed by both the contractor and the contracting officer.
- (b) **Competition** means offers requested from as many potential candidates as is practicable under the circumstances.

- (c) **Contractor** means Personal Services Contractor (see section 4.0(o)).
- (d) **Contracting Officer** means agency personnel who have a written delegation of procurement authority to enter into, administer and/or terminate contracts and make related determinations and findings.
- (e) **Credit Hours** are those hours which a personal services contractor under a maxiflex schedule elects to work in excess of his or her basic work requirement and which may be used to vary the length of a succeeding workweek or workday.
- (f) **Determinations and Findings (D&F)** means a written approval by the Contracting Officer that is required by statute or regulation as a prerequisite to taking certain contracting actions. The Determination is the conclusion or decision. The Findings are the statements of fact or rationale supporting the determination.
- (g) **FAR** means the Federal Acquisition Regulations, which specify the uniform policies and procedures for acquisition by U.S. Government agencies.
- (h) **Host country** means the foreign country where the personal services contract will be performed.
- (i) **Host Country National (HCN)** means an individual who is a citizen of the host country.
- (j) **Host Country Resident (HCR)** means an individual, regardless of citizenship, who, at the time of contracting, is: 1) a local resident at the time of contracting; 2) has legal, permanent resident status within the host country; and 3) is subject to host-country employment and tax laws.
- (k) **Local currency** means the currency of the host country.
- (l) **Long-term Personal Services Contract** means a contractual term of service in excess of 260 days.
- (m) **Non-Host Country Resident (NHCR)** means an individual who is not an HCR.
- (n) **Personal Services Contract** means a contract that creates an employee-employer relationship with an individual for the performance of work under the direct or indirect and continuous supervision and control of Peace Corps authorized personnel.
- (o) **Personal Service Contractor (PSC)** means the individual performing work under a long or short-term Personal Services Contract.
- (p) **Priced Option** means a right on the part of the Peace Corps to extend the length of the contract for a specified duration at a specified compensation.
- (q) **Professional Services** means work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized instruction and study.

- (r) **Short-term Personal Services Contract** means a contractual term of service of less than 260 work days.
- (s) **Third country** means a country other than the United States or the host country of the Peace Corps program.
- (t) **Third Country National (TCN)** means an individual who is neither a host country national nor a U.S. national.
- (u) **Unilateral modification** means a contract modification that is signed only by the Contracting Officer.
- (v) **U.S. National** means an individual who is a citizen of the United States.

5.0 Contract Award

5.1 Exemptions

Under the Class Justification and Determination of June 14, 2010, signed by the Chief Acquisition Officer, personal services contract renewals are exempt from competition as follows:

- (a) Personal Services Contracts Awarded in the U.S.:
 - (1) Advertising and competition requirements for extensions and renewals of personal services contracts with individuals not recruited locally for continuing service. A renewal is a new personal service contract with the same individual for the same continued service.
- (b) Personal Services Contracts Awarded at Post:
 - (1) an exception for Government-wide point of entry (GPE) and other advertising methods under FAR 5 under 5.102(a)(5)(iii); and
 - (2) limited competition as authorized by FAR 6.303-1(c) of the Federal Acquisition Regulation (FAR).

5.2 Requirements for Competition when Awarding Contracts Over 3,000 Dollars

- (a) Personal Services Contractors Recruited from the U.S.

New U.S.-recruited personal service contracts are publicized and competed in accordance with FAR Part 5. Personal services contracts issued under an exception in FAR Part 6 must be documented for the contract files.

Renewals and extensions with the same individual for continuing service with the Peace Corps do not need to be advertised or competed. The renewal or extension shall be for the same position.

(b) **Personal Services Contractors Recruited Locally at Post**

New locally-recruited personal service contracts are to be competed by requesting offers from at least three (3) potentially qualified candidates. If three sources cannot be identified without advertising, the personal services contract must be advertised locally in accordance with Embassy/Post practice for direct-hire employees or personal services contracts, e.g. Post/Embassy bulletin board or website, in a general circulation newspaper, or using other methods that would reasonably be expected to elicit at least three candidates.

(c) Extensions and renewals with the same individual for continuing service do not need to be advertised or competed as long as the renewal or extension is associated with the same position.

5.3 Approvals Required for Post Contracted Personal Services Contractors

Prior to soliciting and contracting for a non-host country resident, the post shall follow the approval process outlined in manual section 744a section 4.0.

5.4 Statement of Work

A written detailed statement of work and a statement of required minimum qualifications covering the duties to be performed shall be prepared by the Contracting Officer before soliciting for a personal services contract award. A copy of the statement of work and required minimum qualifications shall be provided to potential candidates. A document titled “Statement of Work Elements” available in the Overseas Contracting Handbook (OCH) provides additional guidance on the preparation of statements of work.

5.5 Similarities of Personal Services Contract Negotiation to Personnel Selection

Negotiating a personal services contract is significantly different from negotiating other types of service contracts because a personal services contract entails the direct, continuous supervision and direction of the contractor by the Peace Corps authorized personnel or another PSC. The qualifications, education and experience of the individual candidates are evaluated. Therefore, the selection process is more akin to the personnel selection procedures.

5.6 Review of Personal Services Contractor Candidates by Peace Corps Authorized Personnel

Peace Corps authorized personnel with appropriate qualifications shall be responsible for reviewing and evaluating the qualifications of the potential candidates. If deemed appropriate, interviews may be conducted with the potential candidates before a recommended selection is submitted to the Contracting Officer. Personal services contractors with appropriate qualifications may assist in the source selection of personal services contracts. However, final selection of the personal services contractor and the final decision on the contract award must be made by a Peace Corps Contracting Officer.

5.7 Negotiations Conducted by Contracting Officer

The Contracting Officer shall conduct negotiations with the recommended source. If the Contracting Officer can negotiate compensation and any other cost(s) that are fair and reasonable, then an award may be made.

5.8 Compensation Negotiations

The Contracting Officer shall use the individual's salary history, along with the market value established for the services being contracted for, as the basis for compensation negotiations. In the event an agreement cannot be reached, the Contracting Officer shall enter into negotiations with the next highest rated candidate. Additional guidance on negotiating compensation is found in section 15.0 of this manual section.

5.9 Contract Benefits

The benefits authorized for personal services contracts awarded under this manual section are those listed in a document available in the Overseas Contracting Handbook (OCH) titled “Non-Host Country Resident PSC Non-Compensation Costs and Benefits”, as appropriate. Benefits provided are dependent on the length of the period of performance of the contract. Any benefit or allowance not expressly stated in the document titled “Non-Host Country Resident PSC Non-Compensation Costs and Benefits” shall not be authorized for any personal services contractor covered by this Manual Section. The authorized benefits shall be listed in the contract. They shall not be incorporated by reference.

5.10 Contract File

The contract file shall include documentation and justification for selection of the personal services contractor and the basis of the stated compensation and benefits. This justification shall be recorded in the selection memo.

6.0 Applicability of Manual Sections

All Peace Corps manual sections apply to all long-term Personal Service Contractors unless otherwise stated. Manual sections that give additional benefits to PSCs are listed below and marked as applicable or not applicable depending on the citizenship of the PSC:

Manual Section	US Citizen		Third Country National
	US Hired	Post Hired	
MS 002 Peace Corps Manual	Applicable	Applicable	Applicable
MS 114 Delegation of Authority	Applicable	Applicable	Applicable
MS 269 HIPAA Administration	Applicable	Applicable	Applicable
MS 405 Classified National Security Information	Applicable	Applicable	Applicable
MS 511 Property Management	Applicable	Applicable	Applicable
MS 522 Vehicle Use	Applicable	Applicable	Applicable
MS 523 Motorcycles and Bicycles	Applicable	Applicable	Applicable

524 Vehicle Accidents	Applicable	Applicable	Applicable
526 Motor Vehicle Insurance	Applicable	Applicable	Applicable
541 Information Technology Asset Management	Applicable	Applicable	Applicable
MS 542 Peace Corps IT Security Policies and Procedures	Applicable	Applicable	Applicable
MS 545 Mobile Information Technology Device Policy	Applicable	Applicable	Applicable
MS 547 Use of Government Technology Services and Equipment	Applicable	Applicable	Applicable
MS 601 Administration of the Peace Corps Personnel System	Not Applicable	Not Applicable	Not Applicable
MS 603 Direct Hire Position Classification	Not Applicable	Not Applicable	Not Applicable
MS 604 Family Members and Domestic Partners	Applicable	Not Applicable	Not Applicable
MS 611 Eligibility for PC Employment or VT Service of Applicants w Intelligence Backgrounds	Applicable	Applicable	Applicable
MS 613 Trial Period Procedures for Foreign Service Employees	Not Applicable	Not Applicable	Not Applicable
MS 620 Direct Hire Merit Selection and Promotion	Not Applicable	Not Applicable	Not Applicable
MS 622 Direct Hire Within Grade Salary Increases	Not Applicable	Not Applicable	Not Applicable
MS 625 Direct Hire Premium Pay	Not Applicable	Not Applicable	Not Applicable
MS 626 Direct Hire Performance Appraisal System	Not Applicable	Not Applicable	Not Applicable
MS 630 Direct Hire Hours of Duty	Applicable (Implementation to be determined)	Not Applicable	Not Applicable
MS 632 Direct Hire Telework Program	Not Applicable	Not Applicable	Not Applicable
MS 635 Absence and Leave	Not Applicable (Implementation to be determined)	Not Applicable	Not Applicable
MS 636 Employee Volunteer Program	To be determined	Not Applicable	Not Applicable
MS 641 Standards of Conduct for Peace Corps Staff Employees	Applicable	Applicable	Applicable
MS 642 Conditions of Service for Overseas USDH Staff	Not Applicable	Not Applicable	Not Applicable
MS 643 Limited Personal Use Of Government Office Equipment	Applicable	Applicable	Applicable
644 Fraternalization	Applicable	Applicable	Applicable
645 Prevention and Elimination of Harassment, Including Sexual Harassment	Applicable	Applicable	Applicable

MS 646 Staff Alcohol Use	Applicable	Applicable	Applicable
MS 652 Disciplinary Procedure for Foreign Service Employees	Not Applicable	Not Applicable	Not Applicable
MS 653 Equal Employment Opportunity and Affirmative Employment	Applicable	Applicable	Applicable
MS 655 Employee Grievances	Not Applicable	Not Applicable	Not Applicable
MS 658 Direct Hire Employee Assistance Program	Applicable	Applicable	Applicable
MS 659 Direct Hire Labor Management Relations	Not Applicable	Not Applicable	Not Applicable
MS 662 Direct Hire Incentive Awards Program	Applicable	Applicable	Applicable
MS 664 In Service Employee Training	Applicable	Applicable	Applicable
MS 671 Separation Process for Direct Hire Employees	Not Applicable	Not Applicable	Not Applicable
MS 673 Detailing Direct Hire Employees	Not Applicable	Not Applicable	Not Applicable
681 Transit Benefits Program	Applicable	Applicable	Applicable
MS 682 Staff Safety and Health Program	Applicable (Implementation to be determined)	Applicable (Implementation to be determined)	Applicable (Implementation to be determined)
MS 691 Direct Hire Employment of Foreign Service Nationals	Not Applicable	Not Applicable	Not Applicable
MS 693 Direct Hire Employment of US Citizens Abroad	Not Applicable	Not Applicable	Not Applicable
694 Employment of Family Members	Applicable	Applicable	Applicable
MS 699 Report of Foreign Service National Employees and Personal Services Contractors	Applicable	Applicable	Applicable
MS 703 Centrally Billed Account Travel Card Program	Applicable	Applicable	Applicable
MS 704 Administrative Control of Funds	Applicable	Applicable	Applicable
MS 706 Individually Billed Travel Card Program	Applicable	Applicable	Applicable
MS 731 Peace Corps Purchase Card Program	Applicable	Applicable	Applicable
742 Direct Hire Maintenance of Employees' Time and Leave Records	Not Applicable	Not Applicable	Not Applicable
MS 758 Authorized Certifying Officers	Applicable	Applicable	Applicable
MS 760 Overseas Imprest Management	Applicable	Applicable	Applicable
MS 762 Staff Personal Property Loss or Damage	Applicable	Applicable	Applicable
774 Retention of Counsel and	Applicable	Applicable	Applicable

Payment of Expenses			
MS 775 Settlement of Claims Arising Abroad	Applicable	Applicable	Applicable
MS 776 Claims Against the US Government Under the Federal Tort Claims Act	Applicable	Applicable	Applicable
MS 777 Billing and Collection Procedures	Applicable	Applicable	Applicable
MS 778 Waiver of Claims for Erroneous Payments	Applicable	Applicable	Applicable
812 Peace Corps Staff Travel and Transportation	Applicable	Applicable	Applicable
MS 832 Cables	Applicable	Applicable	Applicable
MS 834 Staff Telephone and Fax Use	Applicable	Applicable	Applicable
MS 835 International Mail and Distribution - Policy	Applicable	Not Applicable	Not Applicable
MS 835 International Mail and Distribution - Procedures	Applicable	Not Applicable	Not Applicable
MS 897 Privacy Act Administration	Applicable	Applicable	Applicable
MS 899 Breach Notification Response Plan	Applicable	Applicable	Applicable
IPS 2-05 Compensatory Time Off for Travel	Not Applicable	Not Applicable	Not Applicable
IPS 2-10 Text Messaging While Driving	Applicable	Applicable	Applicable
IPS 4-10 Trial period for Foreign Service Employees Receiving Initial Sixty-Month Appointments	Applicable	Applicable	Applicable
IPS 5-10 Direct Hire Automated System for Human Resource	Not Applicable	Not Applicable	Not Applicable

7.0 Contract Provisions

As appropriate, the contracts templates available in the Overseas Contracting Handbook will be used when negotiating and preparing personal services contracts with non-host country residents.

8.0 Attachments Covering Benefits and Billing

Based upon (a) the duration of the contract and (b) where the contract is executed, the Contracting Officer must ensure that appropriate attachments are incorporated into each contract covering the personal services contractor's benefits and billing procedures.

9.0 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.

9.1 Exercising Options

Only Contracting Officers are authorized to exercise options as stated in the contract. The first option of a long-term Peace Corps personal services contract can be exercised unilaterally by the government within the specified period. The remaining options shall be exercised bi-laterally; signed by Peace Corps and personal services contractor. Options shall be exercised at amounts specified in the contract or an amount to be determined by applying provisions (or formula) provided in the basic contract. Firm option prices are established during initial contract negotiation and shall not be changed unless otherwise authorized by other provisions of this manual section.

In the event changes in local conditions or requirements prevent the exercise of an option as originally stated in the contract, a new procurement may be required. The Contracting Officer shall determine if a new delegation of authority is necessary if the total contract award exceeds current procurement authority.

Contracting Officers are reminded to allow sufficient time to provide the required advance notice of Peace Corps' intent to exercise its option to the personal services contractor. When exercising an option, Contracting Officers must ensure the availability of funds and the issuance of the appropriate obligating documents to cover the services provided under the option.

10.0 Extension of Personal Services Contracts

Contracts awarded by OACM shall not be modified by a post Contracting Officer unless specifically delegated authority, in advance, to do so by the Chief Acquisition Officer or their designee in Washington.

11.0 Determining Permanent Residency

There is no precise test of whether an individual is permanently residing in the Host Country. In most cases, it is clear where the individual is permanently residing. In cases where there is some question, the Contracting Officer determines whether an individual is a host or non-host country resident by taking into account certain indicators set forth below.

(a) The following are indications that the individual is permanently residing in the Host Country:

- (1) The individual is a Host Country National.
- (2) The individual is admitted for permanent residency in the Host Country.

- (3) The individual is subject to the laws of the Host Country comparable to other citizens and permanent residents of the Host Country.
 - (4) The individual is physically present in the Host Country.
 - (5) The individual maintains a residence in the Host Country.
 - (6) The individual pays taxes to the Host Country.
- (b) The following are indications that the individual is not a permanent resident:
- (1) The individual is not a Host Country National.
 - (2) The individual is not admitted for permanent residency in the Host Country.
 - (3) The individual is not subject to the laws of the Host Country comparable to other citizens and permanent residents of the Host Country.
 - (4) The individual is physically present in the Host Country but it is temporary.
 - (5) The individual has residence in the Host Country but maintains a residence in another country.
 - (6) The individual is not subject to Host Country taxes.
 - (7) The individual is maintains a tax home in another country, i.e., is subject to the tax laws of another country.

In summary, when determining residency to which country does the individual have a closer connection – the Host Country or another country.

12.0 Suitability and Security Investigations

All non-resident personal services contractors shall have a suitability and security investigation as required by the Office of Safety and Security. The document titled “Guidance for Overseas Background Checks/Background Checks of Overseas Staff”, available in the Overseas Contracting Handbook, promulgated by the Information and Personnel Security Division of the Office of Safety and Security, outlines the requirements for non-host country resident personal services contracts.

13.0 Training

Training may be authorized only if directly related to assigned responsibilities.

Any personal services contractor receiving pay as well as some or all of the additional expenses incurred in government funded training that exceeds 40 hours, to include Continuing Medical Education (CME) and Medical Overseas Staff Training (MOST) conferences, must sign a form

titled “Continued-Service Agreement for Personal Service Contractors Assigned to Training through Non-Government Facilities” prior to training. This form is available in the Overseas Contracting Handbook. Following the training he or she must continue to provide service to the Peace Corps for a period equal to at least three times the length of the training period, unless the contract is involuntarily terminated. Additional Continuing Service Agreements may be required to attend other trainings.

If the personal services contractor terminates his or her contract before the completion of the training or completion of the required period of continued service, the contractor shall reimburse the Peace Corps the pro-rated amount of the additional expenses incurred by the Peace Corps in connection with his or her training. Reimbursement shall cover tuition fees, material costs, books, travel and transportation costs directly related to the training.

The Peace Corps may withhold monies due the personal services contractor to cover the cost of reimbursement to the Peace Corps for training in the event the personal services contractor fails to fulfill his or her continued service agreement or to reimburse the Peace Corps for the additional educational expenses incurred.

14.0 Insurance

All non-host country resident personal services contractors shall obtain and maintain certain levels of insurance during the life of their contracts. The document titled, “Non-Host Country Resident Insurance Requirements” available in the Overseas Contract Handbook provides the type and levels of insurance required and method for reimbursement of said costs.

15.0 Compensation

15.1 Legal Framework for Personal Services Contractors Compensation

Peace Corps personal services contractors are considered employees of the United States Government except 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.))”. Therefore, they may receive compensation, allowances, or benefits as applicable and described in the document titled, “Non-Host Country Resident PSC Non-Compensation Costs and Benefits” available in the Overseas Contract Handbook or the applicable Peace Corps Manual sections. The starting point for establishing a compensation package for Peace Corps personal services contractors is the salary range of the position. The policy for basic compensation of Peace Corps personal services contracts is that it must be fair and reasonable.

15.2 Basic Compensation for Initial Award

15.2.1 Long-term Personal Services Contractors

Overall personal services contract compensation can be thought of in two main categories: (1) basic compensation and (2) benefits. As required by FAR, the overall contract compensation

must be "fair and reasonable" for the services being performed. A fair and reasonable compensation is in line with the fair market value of the services delivered under the contract as well as realistic in terms of the contractor's ability to provide the services delivered under the contract. A reasonable compensation is compensation that a prudent and competent buyer would be willing to pay, given available data on the market value of the position being contracted. Fair and reasonable is a determination made by the Contracting Officer awarding the contract.

For post contracted personal services contractors local compensation plan (LCP) benefits and compensation ranges do not apply to non-host country residents. However, the LCP can be used as a guide to setting the salary range for the position for personal services contractors awarded at Post.

The Contracting Officer shall use the individual's salary history, along with the market value established for the services being contracted for as the basis for compensation negotiations. Current earnings shall be certified by the candidate on a resume or other documentation required by the Contracting Officer and will be subject to independent verification by the Peace Corps. Compensation negotiations shall be conducted by the Contracting Officer.

When a potential personal services contractor has no current earnings history (e.g. a person returning to the work force after an absence of a number of years) or when a person's current earnings history doesn't accurately reflect the person's job market worth (e. g. an RPCV), an effort should be made to establish a market value for the position as a basis for negotiation, notwithstanding the lack of a current earnings history, provided the individual has the full qualifications for the job and could command a similar salary in the open job market.

The following guidelines are to be used to negotiate compensation above that which would be established based on current compensation history. These guidelines are to be used only when awarding a new contract:

- (a) In recognition of satisfactory service, an up to three (3) percent increase may be awarded to a personal services contractor whose current earnings have not been increased for a period of twelve months or more; two (2) percent for earnings which were increased between twelve (12) and four (4) months prior to the proposed compensation increase; or one (1) percent for earnings which were increased within the previous four months.
- (b) Additional percentages may be given above the previous compensation for the following factors: 1) If the individual has worked in a developing country for more than two years, up to two (2) percent may be awarded; 2) Education related to the area of assignment and above the minimum qualifications required for the position may warrant up to an additional three (3) percent; and 3) those specialties where there is a serious shortage and keen competition may be awarded up to an additional two (2) percent.

If all factors in paragraphs (a) and (b) of this section were to apply the maximum increase allowable is 10%, however, Contracting Officers may use their discretion in determining increases beyond this amount if the situation warrants it. For example, if you have only one available, qualified candidate and the post has an urgent need, or if placement is in a hard to recruit country, or if there is a significant difference in the salary history of a candidate and the

prevailing market conditions of the hiring country, increasing the compensation to attract a candidate would be justifiable. These decisions shall be documented for the file.

15.2.2 Short-term Personal Services Contractors

The compensation for short-term personal services contractors who have not previously worked for the Peace Corps shall be negotiated in the same manner as a long-term personal services contract. The rate offered to a short-term personal services contractor shall normally be an annual amount converted to a daily rate. In some cases, the annual amount may exceed that which the market would pay for the particular position. In this case, the market rate may be offered if the program office concurs. Should the potential candidate be a recent former long-term personal services contractor then the Peace Corps' negotiated annual rate shall provide the basis for the established daily rate.

15.2.3 Additional Guidance for Long and Short-term Compensation

Salary compensation paid to a Peace Corps personal services contractor shall not exceed the FP-1, Step 10 level for U.S. direct hires on an annual basis.

Personal services contractors completing one contract and renewing under a new one shall not be eligible for increases beyond those provided in 15.3 or 15.4, as is appropriate.

The contract file shall include documentation and justification to support the final negotiated compensation for long and short-term personal services contractors.

15.3 Increases in Compensation after Initial Contract Award

15.3.1 Long-term Personal Services Contracts Awarded by OACM

Personal services contracts written for more than one year may provide, upon exercise of an option, for up to a three (3) percent annual increase based upon satisfactory performance. Additionally, personal services contractors may receive the same cost of living increase percentage, as that received by U.S. direct hire employees at post subject to the availability of funds.

15.3.2 Long-term Personal Services Contracts Awarded at Post

Any increase in basic compensation shall be made only by contract modification. The preferred time to make changes to basic compensation is after the period of performance is completed and before the start of a new period of performance. However, if certain conditions are met, increases to basic compensation may be made during the period of performance, i.e. mid-term.

(a) Increases when Exercising an Option

The Contracting Officer may increase basic compensation at the end of a period of performance and before the start of a new period of performance (base or option) only as follows:

- (1) The increase is associated with a compensation/cost of living adjustment that is specifically tied to the Local Compensation Plan (LCP) and the amount of the increase is less than or equal to the increase reflected in the most recent LCP; or
- (2) The increase is for a pre-planned annual compensation increase for a PSC (similar to an FSN step increase) that was anticipated at the time of initial contract award and is included in the post's operational plan/budget.

(b) Increases during Contract Performance

The Contracting Officer may increase basic compensation during a period of contract performance (base or option) only when all of the following conditions are met:

- (1) The Contracting Officer determines in writing that the increase should be granted to maintain fairness and equity between FSN and PSC compensation;
- (2) The amount of the increase is less than or equal to the cost of living increase specifically reflected in the LCP that became effective after the start of the current period of performance;
- (3) Funding is available to cover the cost associated with the increase for all post staff affected by the change; and
- (4) The Contracting Officer receives written approval from the Regional Director.

(c) Other Increases

All other compensation increases (i.e., increases based on other salary surveys, mass compensation adjustments, etc.) that are not specifically tied to the LCP must be authorized by the Chief Acquisition Officer or their designee in writing prior to implementation.

15.3.3 Short-term Personal Services Contractors

Short-term personal services contractors can be used on a one-time basis or intermittently for not more than 260 days in a given year.

After establishing the initial daily rate, a short-term personal services contractor may receive up to a (3) percent increase every 12 months. Short-term personal services contractors are not eligible for the same increases as provided to long-term personal services contractors contracted by Post or PC/Washington.

Salary compensation paid a Peace Corps personal services contractor shall not exceed the FP-1, Step 10 level for U.S. direct hires on an annual basis.

15.4 Performance Awards

Non-host country residents are eligible to receive performance awards in recognition of extraordinary services at the sole discretion of the Country Director. The Contracting Officer and program office shall ensure that funding is available in the budget prior to making awards. Additionally, before a performance award is made, the Contracting Officer shall issue a unilateral modification to the individual's contract to add funding so award can be paid through the contract. The Human Resources Management System (HRMS) administrator shall receive a copy of the modification.

16.0 Additional Work Hours, Credit Hour and Administrative Leave Policy

16.1 Additional Work Hours

Personal services contractors, with advance written approval of the Contracting Officer, may be paid for work hours in excess of his/her basic work requirement resulting from emergency situations. The Contracting Officer shall ensure that funding is available in Post's budget prior to authorizing additional work hours. Payment of additional hours will be at non-premium contract hourly rates. The personal services contract shall be modified by the Contracting Officer to add funding so payment can be made through the contract. The HRMS administrator shall receive a copy of the modification.

16.2 Credit Hour Policy

The Country Director, at his or her discretion, may establish a written credit hour policy for personal services contractors in accordance with Manual Section 630, section 4.8.1.1.8. The credit hour policy, if established, should be thoroughly explained to the personal services contractor upon contract signing.

Up to 24 hours of earned credit time may be paid out in a lump sum upon contract expiration when no follow-on contract is to be issued, subject to the availability of funding. The personal services contract will be modified immediately by the Contracting Officer to add funding so payment can be made during contract closeout. The HRMS administrator shall receive a copy of the modification.

16.3 Administrative Leave Policy

The Country Director, at his or her discretion may establish a written administrative leave policy for personal services contractors in accordance with Manual Section 630, section 4.8.1.3.3, Excused Absence.

17.0 Housing

In providing housing for personal services contractors who are required, in the performance of their contractual obligations, to travel away from their home, Country Directors will make arrangements in the following order of priorities:

- (a) Utilize host country housing at no cost to PC;
- (b) Utilize housing at training site facilities where services are in support of training activities;
- (c) Utilize housing available under existing Peace Corps lease;
- (d) Obtain additional housing by lease or sub-lease;
- (e) Authorize temporary lodging allowance in accordance with Standardized Regulations (Government Civilians, Foreign Areas); or
- (f) Housing allowance not to exceed Department of State Standardized Regulations (Government Civilians, Foreign Areas).

The personal services contractor will not be reimbursed for lodging costs when the contractor resides within a personally owned residence, or the residence of a family member or other person with whom the personal services contractor has a close personal relationship.

Where housing is provided, the cost of utilities will be paid or reimbursed by the Peace Corps post. Personal phone calls shall be the responsibility of the personal services contractor.

18.0 Guard Services

Non-host country resident personal service contractors recruited from outside the country of assignment are eligible for guard service at the discretion of the Country Director in accordance with Peace Corps MS 733.

19.0 Travel

If the contract services are short-term and are to be performed in a locality other than that of the personal services contractor's residence or place of business, the Peace Corps will pay allowable and authorized travel costs involved in transporting the personal services contractor from his or her residence or place of business to the site where the services are to be performed, and return costs upon completion of services, in accordance with the provisions of Peace Corps Manual Sections 812 and 813.

19.1 Travel for Long-term Contracts

If the contracted services are long-term and the personal services contractor is a non-resident of the country, the Peace Corps will pay for allowable and authorized travel expenses of the contractor and dependents, if such payment is necessary to obtain the contract services.

20.0 Per Diem

When authorized by the Country Director, per diem for the in-country travel of personal services contractors shall be authorized and paid in accordance with the prevailing Peace Corps in-country per diem rate(s) established for the locality pursuant to Peace Corps Manual Section 813.

If international travel outside the country of assignment is authorized by the contract, per diem for such travel shall be authorized and paid in accordance with applicable Standardized Regulations (Government and Civilian Foreign Areas) issued by the U.S. Department of State or the General Services Administration (GSA) as applicable, or in-country rates established by the Peace Corps Country Director for conferences, meetings and training events held in a host country.

Vouchers are required to claim reimbursement for per diem and other travel related costs authorized in conjunction with the contracted services.

Personal services contractors shall be briefed by the requesting program office in Washington, DC and the post Administrative Officer, or designee, regarding travel and the procedures/forms for filing per diem claims, including the required documentation necessary to support per diem claims.

21.0 Diplomatic Pouch and ICASS Services for U.S. Contracted Personal Service Contractors

Diplomatic Pouch and ICASS Services may be granted to the contractor and his/her authorized dependents to the same extent and on the same basis as they are granted to Peace Corps' U.S. citizen direct-hire employees at the post by the Standardized Regulations (Government Civilians, Foreign Areas), as from time to time amended.

22.0 Evaluation of the Personal Services Contractor's Performance

A personal services contractor's performance shall be evaluated during and at the completion of each contract. Only complete and objective written performance evaluations may be utilized in the acquisition process to assess personal services contractor past performance and for consideration of the personal services contractor for future awards. All evaluations shall be kept confidential to the extent feasible while still allowing the content of the evaluation to be utilized for contracting decision-making purposes.

The post's evaluation should consist of input from more than one staff member and may include recommendations for new contract awards, change of role, termination of an existing contractual relationship, or no new contract awards. A copy of each evaluation shall be provided to the personal services contractor to which he/she may provide comments as part of the final evaluation.

As applicable, all PSCs with the exception of Peace Corps Medical Officers (PCMOs) and Regional Medical Officers (RMOs) will be evaluated using either a form titled "Short-Term

Personal Services Contract Performance Evaluation” or “Personal Services Contract Performance Evaluation” available in the Overseas Contracting Handbook by the Country Director, or other Peace Corps personnel as designated by the Country Director, during and at the completion of their in-country work. A copy of the evaluation will be maintained by the Contracting Officer with copies forwarded to OACM, and the program office, if requested.

Long-term Peace Corps Medical Officers (PCMOs) and Regional Medical Officers (RMOs) shall be evaluated in accordance with Office of Health Services (OHS) procedures using the evaluation forms they provide.

23.0 Billing

Personal service contractors are not paid for services until they have performed the services required by their contracts.

23.1 Payments for Personal Services Contracts Greater than 180 Days

Contract payments for personal services contracts whose duration is greater than six months (180 days) will generally be paid via the Peace Corps designated Human Resources Management System. This system is designed to generate bi-weekly payments automatically without the submission of vouchers. OACM and Post’s staff are responsible for requesting that the personal services contractors be included in the system so that all appropriate deductions and allotments are made, in accordance with the contract.

The personal services contractor’s proof of services provided will be documented on a bi-weekly basis using a Post-controlled timesheet submitted to and approved by the Peace Corps Country Director, or designee. Timesheets for work compensation shall include the contract number, the period covered, days worked, a statement that services were rendered and that payment has not been received for these services, and the personal services contractor's signature.

23.2 Invoices for Personal Services Contracts Less than 180 Days

Contract payments for personal services contracts less than six months (180 days) will generally be paid based on receipt of an approved invoice. Invoices shall include the contract number, a statement of the period covered, days and hours worked, and the personal services contractor's signature certifying that services were rendered and that payment has not been received for those services.

The Country Director, or designated PC employee, shall indicate that satisfactory services have been received and approve payment.

23.3 U.S. Personal Services Contractor Tax Status

All U.S. citizen PSCs are considered Government personnel for U.S. tax purposes and F.I.C.A. contributions and U.S. Federal Income Tax withholding shall be deducted in accordance with regulations and rulings of the Social Security Administration and the U.S. Internal Revenue

Service, respectively. W-2s will be issued to US Citizen PSCs and filed with the Internal Revenue Service.

As an employee, the contractor is not eligible for the “foreign earned income” exclusion under the IRS Regulations (see 26 CFR 1.911-3(c)(3)).

23.4 Timely Close Out of Contracts

- (a) Contracting Officers are responsible for the timely close-out of completed contracts issued by post. OACM in Washington is responsible for the close-out of contracts issued in Washington. For contracts awarded by OACM in Washington, the post is responsible for providing the Contracting Officer the following information:
 - (1) The personal services contractor's final compensation voucher signed by the contractor and approved by the Country Director and Administrative Officer for payment by PC/W (to be submitted to the Contracting Officer);
 - (2) The personal services contractor’s signed voucher for unused annual leave and eligible credit hours and a purchase requisition with funds (for long-term contracts only); and
 - (3) A completed and signed Contractor's Release Statement (an attachment to the personal services contract template(s)).
- (b) OGAP/VPS will provide the following information to the Contracting Officer in support of close-out:
 - (1) A copy of each pre-contract cost voucher processed by the post if file is not complete.
- (c) Upon the Contracting Officer’s review and approval of the close-out package, it will be forwarded to OGAP for payment. A duplicate package shall not be sent to OGAP.

24.0 Pay Currency

Compensation may be paid to PSCs in either U.S. dollars (USD) or local currency units (LCU), consistent with the prevailing local compensation practice and/or the personal needs of the Personal Services Contractor, as addressed in the compensation negotiations, except that all US Citizen and US Permanent Resident (Green Card Holder) PSCs shall be paid in US dollars. The value of the contract is determined based on the currency the contract is written in. Any request for exception must state the basis for the exception and be cleared first by the Regional Director, then by the Office of the General Counsel, then by the Chief Financial Officer, before submission to the Chief Acquisition Officer for final approval. Posts are encouraged to discuss the situation with the Office of Acquisition and Contract Management before submitting a formal request for an exception.

25.0 Disputes

Disputes are to be processed in accordance with the provisions of the contract clause FAR 52.233-1. Informal efforts should be made to resolve any dispute prior to the need for issuance of a Contracting Officer's final decision under the formal processes of FAR 52.233-1. Prior to issuance of a final Contracting Officer's decision pursuant to this clause, Country Directors and Directors of Management Operations shall advise the Chief Acquisition Officer and obtain the advice of General Counsel regarding the proposed action.

26.0 Termination of Contract

The following subparagraphs describe the rights and responsibilities of personal services contractors and of the Peace Corps should a contract be terminated before the contracted period of performance has ended.

26.1 Requirement for Written Notice of Termination

Under the mandatory FAR Termination Clause (FAR 52.249-12) for personal services contracts, the Peace Corps may terminate the contract upon at least 15 calendar days' written notice by the Contracting Officer to the personal services contractor. The personal services contractor, with the written consent of the Contracting Officer, may terminate the contract upon at least 15 calendar days' written notice to the Contracting Officer.

26.2 Written Notification of Inadequate Performance

If termination of a contract is contemplated because of the failure of the personal services contractor to adequately perform the contracted services, the Contracting Officer shall advise the contractor in writing of his/her deficiencies and provide him or her, a reasonable opportunity to correct the deficiencies. Continued failure to perform on the part of the personal services contractor requires detailed documentation and will become part of the contract record, subject to legal review, in case of a formal dispute.

26.3 Reimbursement of Travel Expenses for Long-term Personal Services Contractors

Unless the contract has been terminated for the convenience of the Peace Corps, a personal services contractor who fails to complete at least one full year of a long-term contract shall reimburse the Peace Corps for any travel and transportation costs from his or her home to the post. Reimbursement shall also be made for such costs incurred by Peace Corps with respect to the personal services contractor's dependents, and household and personal effects. In addition the personal services contractor shall also be responsible for paying all return travel and transportation costs for himself or herself, dependents, and household and personal effects from the post.

26.4 Storage Costs after Termination of Contract

Upon termination of his or her contract, the personal services contractor shall be personally responsible for his or her storage and all associated costs beginning 90 days after the effective date of contract termination.