

12 FAH-7 H-130 TYPES OF LOCAL GUARD PROGRAMS

(TL:LGP-01; 08-10-2001)

12 FAH-7 H-131 GENERAL

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a. Regardless of type, all LGPs have the same security function. The type of program is primarily determined by the source of the guards. Local guards come from one of three sources:

- (1) The guards may be the employees of a professional security firm working under a non-personal services (NPS) contract with the mission;
- (2) The guards may be employees of the U.S. Government working under personal service agreements (PSAs); or
- (3) The guards may be employees of the host government serving as members of a police or other security force.

NOTE: For facility access control and inspection functions, host government forces should be used only when NPS or PSA employees are not an option.

b. The Department requires that posts attempt to obtain local guard services from the host government. However, if the level of coverage is not sufficient, then the preferred alternative is a NPS contract with a professional security firm. Only when both of the above options are clearly established as unfeasible, will DS consider approving the use of PSAs to establish and maintain a local guard force.

12 FAH-7 H-132 HOST-GOVERNMENT LAW ENFORCEMENT

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The security environment maintained by the host government through the use of its police resources whether responding to criminality and violence in the form of bombings, terrorist attacks, and riots, influences the kind and

size of the LGP for a post. Each post must rely on the local security forces to respond to criminal events in a manner prescribed by the host government laws. Further, additional security resources may be needed for protection of U.S. Government assets where there is civil disturbance or other forms of violence directed against these assets. How prepared the host government is to do this effectively has a bearing on plans that the mission must make for its protection under such circumstances. Mission requirements for response to criminal or other incidents vary according to the nature of the threat to mission assets. Host country response time will vary from country-to-country and it is the mission's responsibility to determine the response time and whether or not it meets the mission's needs.

12 FAH-7 H-132.1 Host-Government Local Guard Support

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- a. Posts must make formal notification to host governments before taking any measures to create or maintain a LGF for the protection of mission employees, dependents, residences, and facilities. The nature of the threat and the vulnerability of personnel and facilities will be the basis for the proposed security measures.
- b. The post must submit the above information to DS/CIS/PSP/FPD, with the formal host government response. This should be done as part of a request for approval of all new programs, or where there is a substantial modification or increase in the scope of an existing program. If local conditions dictate caution in taking this initial step with the host government, the reasons and an alternative strategy should be communicated by the post to DS/CIS/PSP/FPD.
- c. If the post concludes that local guard resources are needed only for certain security procedures, within the confines of post buildings or grounds, then no representation need be made to the host government. These guards enhance the U.S. Government facility internal security program and will not operate outside of the facility perimeter. Examples of this are guards who are used for examining packages or vehicular cargo within a diplomatic compound, operating a metal detector or access control device inside a chancery or consulate lobby, checking identity documents, etc. Identify these guard services separately in the approval submission to DS/CIS/PSP/FPD.
- d. The U.S. Government provides conventional protection for foreign missions in the United States and bodyguard services to selected resident foreign diplomats. Reciprocity is a political issue with some nations.

Consequently, it is critical that embassies carefully review requests to be made of the host government and to coordinate these with the Department. If there is any indication that the host government may request reciprocity, a full discussion of the extent of the request contemplated should be forwarded to DS/CIS/PSP/FPD and the Office of Foreign Missions (DS/OFM) along with comments and recommendations by the COM. DS/OFM will then provide guidance in anticipation of possible reciprocal requests in the United States. When reciprocity problems arise, posts should provide:

- (1) Details of the protection assistance to be provided; and
- (2) Post views relative to the reciprocity problems.

The Department will then provide specific guidance on a case-by-case basis.

- e. It is U.S. Government policy that missions where local guard services are provided by the host government, responsibility for any questions or problems related to liability for the action or inaction of the host government forces is the sole responsibility of the host government. This should be made clear to the host government before conclusion of any MOA and/or MOU and should be included in the final MOA and/or MOU. See 12 FAH-7 Appendix III, *Suggestions for Host-Government MOU and/or MOA*, for additional information.
- f. Before any approach is made to the host government, the RSO should discuss the local guard needs with the administrative officer and the DCM or COM, as appropriate. It should be understood that discussions with the host government would represent an official statement of the mission relative to the host government services. A decision may be taken to approach the host government in an informal manner.
- g. Before signing any final agreement between the post and the host government, the post should send the final draft to DS/CIS/PSP/FPD for review and appropriate department clearances, e.g., A/OPE, L/LM/DS, regional bureau, etc.

12 FAH-7 H-132.2 Host-Government Security Services

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The host government security forces may consist of civil, paramilitary, and military forces of various proficiencies. Such forces vary from country to country. The RSO or PSO should become aware of the responsibilities and

capabilities of such forces at the post of assignment. Detailed information regarding the scope and nature of guard services provided should be determined. This includes information on the numbers of personnel, the posts of assignment, the nature of arms used, the manner in which such personnel are supervised, and the hours of coverage for each post.

12 FAH-7 H-132.3 The Vienna Convention on Diplomatic Relations and Optional Protocol on Disputes (1961)

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- a. Most countries, including the United States, are parties to the Vienna Convention on Diplomatic Relations, a multilateral international agreement concerning diplomatic privileges and immunities. The full language of the Vienna Convention is generally available in the mission's political section. The key provisions include:
 - (1) **Article 1**—Provides definitions of diplomatic staff and premises;
 - (2) **Article 22**—States the inviolability of the premises of the mission and states the duty of the receiving state to take all appropriate steps to protect the premises of the mission against any intrusion or damage and disturbance of the peace or the impairment of its dignity;
 - (3) **Article 27**—Requires the receiving state to permit and protect free communication by the mission for all official purposes, but requires host government consent for the use of a wireless transmitter;
 - (4) **Article 29**—States the immunity from arrest or detention of a diplomatic agent;
 - (5) **Article 30**—Provides the same level of inviolability for the residence of a diplomatic agent as that accorded to the mission; and
 - (6) **Article 37**—Provides the same level of immunity for diplomatic agents and their families and defines the privileges and immunities of administrative and technical staff.
- b. The Convention formalized rules of conduct that have existed for centuries. Whether or not a host country is a signatory of the Convention, its provisions have become the accepted norm in international relations.

12 FAH-7 H-133 NONPERSONAL SERVICES (NPS) CONTRACT

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- a. It is the general policy of the U.S. Government, Office of Management and Budget (OMB) Circular A-76, to rely on commercial sources to supply the products and services that the U.S. Government needs. U.S. Government performance of the commercial activity of providing guard services may be authorized when:
 - (1) No commercial source is capable of providing the needed products or services;
 - (2) Use of such a source would cause unacceptable delay or disruption of an essential program; or
 - (3) A cost comparison demonstrates that the U.S. Government is operating or can operate the activity on an on-going basis at an estimated substantially lower cost than a qualified commercial source.
- b. DS/CIS/PSP/FPD has a cost-estimating model that must be used to establish whether or not personal service agreements (PSAs) would be less expensive than continuing a NPS contract. However, if a post is able to substantiate that it could operate a LGP with PSAs, at a lower cost than a NPS contract, DS/CIS/PSP/FPD agreement is required.
- c. The 12 FAH-7 H-400 covers in detail the benefits for the U.S. Government, the post and the RSO and/or PSO of operating a LGF through the use of a NPS contract as well as the procedures needed to execute a contract. The majority of LGPs use NPS contracts and every effort should be made by the mission to, where possible, maintain a NPS contract with a commercial security firm.

12 FAH-7 H-134 PERSONAL SERVICE AGREEMENT (PSA)

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- a. PSAs are used to employ guards at missions where no suitable commercial security contractors are available. The host government, for example, may prohibit the establishment or operation of such companies.

- b. Under a PSA, each personal service contractor is treated as if he or she is directly employed by contract by the U.S. Government, and therefore, direct supervisory authority is exercised over that employee through an established employer-employee relationship. See 12 FAH-7 H-440 for complete information on establishing and maintaining a PSA staffed LGF.

12 FAH-7 H-135 THROUGH H-139 UNASSIGNED