

MS 743 Procedures

Personal Services Contracts with Host Country Residents

Effective Date: June 28, 2011

Responsible Office: Office of Acquisitions and Contract Management

[Issuance Memo](#) (June 28, 2011)

Table of Contents

- 1.0 [Purpose](#)
- 2.0 [Applicability](#)
- 3.0 [Contracting Authority](#)
- 4.0 [Definitions](#)
- 5.0 [Contract Award](#)
- 6.0 [Contract Term](#)
- 7.0 [Contract Provisions](#)
- 8.0 [Security Certifications and Employment Suitability](#)
- 9.0 [Determining Permanent Residency](#)
- 10.0 [Compensation](#)
- 11.0 [Pay Currency](#)
- 12.0 [Training](#)
- 13.0 [Travel](#)
- 14.0 [Per Diem](#)
- 15.0 [Billing](#)
- 16.0 [Housing](#)
- 17.0 [Insurance](#)
- 18.0 [Evaluation of a Contractors Performance](#)
- 19.0 [Termination of Contract](#)
- 20.0 [Alcohol Policy](#)
- 21.0 [Contract closeout and File Retention](#)
- 22.0 [Effective Date](#)

Attachments

Attachment A	Elements of the Statement of Work (SOW)
Attachment B	Special Clauses for Medical Contractors

Attachment C	<u>Continued Service Agreement Form</u>
Attachment D	<u>Personal Service Contract Performance Evaluation</u>
Attachment E	<u>Host Country Resident Personal Services Contract</u>
Attachment E-1	<u>Host Country Resident Personal Services Contract for PCMCs</u>
Attachment F	<u>Personal Service Contract File Checklist</u>
Attachment G	<u>Peace Corps Local Replacement Retirement Plan</u>
Attachment H	<u>PSC Overseas Background Checks</u>

1.0 Purpose

This procedures section establishes procedures for the award and administration of Personal Services Contracts to residents of Peace Corps host countries.

2.0 Applicability

The provisions of this procedures section apply to Peace Corps Personal Services Contracts awarded for personal services in the host country to residents of the host country, regardless of citizenship. It does not apply to contracts issued by Peace Corps posts or Peace Corps Washington to non-resident third country nationals (TCNs) or to non-resident U.S. citizens. Procedures section 744 should be referred to for guidance in those instances.

3.0 Contracting Authority

3.1 Delegation of Authority

Peace Corps employees who have been delegated procurement authority via MS 114 or as delegated by the Chief Acquisition Officer may execute Personal Services Contracts, provided that the following conditions are met:

- (a) The amount of the contract (base year plus all option periods) does not exceed the amount of procurement authority which has been delegated to them;
- (b) U.S. Government conflict of interest requirements are adhered to; and
- (c) Funds for the contract are available prior to soliciting or negotiating with contractors and are properly obligated via a contract to preclude violation of the Anti-Deficiency Act, 31 U.S.C. 1341.

3.2 Additional Procurement Authority

If the price of the total amount of the base plus all option periods exceeds the Contracting Officer's delegated procurement authority, a delegation of additional procurement authority is required from OACM prior to awarding the contract. Posts are reminded to allow sufficient time

to request additional procurement authority from OACM and to provide any required advance notice to the contractor of its intent to exercise its option. Once additional procurement authority has been provided by OACM to award the contract with option periods, additional approval is not required to award the remaining option periods nor subsequent renewals of the same contractor in the same position.

3.3 Contractor in Host Country

When the prospective PSC is already in the country where the Personal Services Contract will be performed, the contract will be negotiated and executed by the Contracting Officer or designee delegated procurement authority. Contracting Officers shall request an additional delegation of procurement authority from OACM if the contract amount exceeds their delegated authority prior to awarding such Personal Services Contracts. *See MS 114 and Section 3.2 of this section.*

3.4 Contractor is not a host country resident

When the prospective PSC is not residing in the host country and is not a resident of the host country, the contract shall be executed under the authorities of MS 744.

4.0 Definitions

4.1

Competition means offers requested from as many potential offerors as is practicable under the circumstances;

4.2

Contractor means Personal Services Contractor (*see* 4.16);

4.3

Contracting Officer means an agency official who has a written delegation of procurement authority and thereby is authorized to enter into, administer, or terminate contracts and make related determinations and findings;

4.4

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.

4.5

Determinations and Findings (D&F) means a written approval by an authorized official 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;

4.6

FAR means the Federal Acquisition Regulations, which specify the uniform policies and procedures for acquisition by U.S. Government agencies;

4.7

Host Country means a foreign country in which there is a Peace Corps program or interest;

4.8

Host Country National (HCN) means an individual who is a citizen of the foreign country in which there is a Peace Corps program or interest;

4.9

Host Country Resident (HCR) - (see "Resident" below)

4.10

Inherently Governmental Functions means actions so intimately related or inherent to the public interest as to require performance by U.S. Government direct hire employees;

4.11

Local Compensation Plan (LCP) means guidance developed by the U.S. Embassy or equivalent organizations if no U.S Embassy exists, for a specific host country intended to bring uniformity to the compensation (wage and benefits) offered to individuals hired locally by U.S. Government Agencies. Peace Corps Personal Services Contractors are not subject to the LCP;

4.12

Local currency means the currency of the host country;

4.13

Long Term contract means a contractual term of service in excess of 260 days;

4.14

Long term Resident means an individual who, at the time of contracting, has dwelled in the host country permanently or continuously;

4.15

Personal Service Agreement (PSA) is a type of agreement that has in some cases replaced Personal Services Contracts at the Department of State. A PSA creates an employer/employee relationship between the parties to the PSA. Peace Corps does not have the necessary statutory authority to enter into PSAs;

4.16

Personal Services Contract means a legal agreement with an individual for the performance of work under the direct supervision and control of Peace Corps employees;

4.17

Personal Services Contractor (PSC) is the individual performing work pursuant to a Personal Services Contract;

4.18

Retirement is the point where an individual stops working entirely with the Peace Corps;

4.19

Severance means a payment made in lump sum at the time a contract relationship is ended in its entirety;

4.20

Short term contract means a contractual term of service of less than 260 work days;

4.21

Third country means a country other than the United States or the host country of the applicable Peace Corps program;

4.22

Third Country National (TCN) means an individual who is neither a host country national nor a U.S. national.

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 contracts are exempt as follows:

(a) Personal Services Contracts Awarded in the U.S.:

(i) 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:

(i) an exception for Government-wide point of entry (GPE) and other advertising methods under FAR 5 under 5.102(a)(5)(iii); and

(ii) limited competition as authorized by FAR 6.303-1(c) of the Federal Acquisition Regulation (FAR).

5.2 Requirements for Competition When Awarding Contracts greater than \$3,000 USD

5.2.1

New long term contracts, must be advertised locally in accordance with Embassy/Post practice for direct-hire employees or PSCs (e.g., Post/Embassy bulletin board or website, in a general circulation newspaper) or using some other method that would reasonably be expected to produce at least three potentially qualified candidates. For short-term Personal Services Contracts (with a value under \$25,000 and less than one year), advertising is not required, if three qualified candidates are identified and reviewed. In all cases, the PSC file must contain a written record documenting the selection process.

5.2.2

Short term PSC contracts competition is also required. Qualified Candidates shall be placed on a list maintained at post. Post will pull qualified candidates from the list for the training contracts. Once a PSC has been placed on the list they do not need to recompeted for the same position. However for each contracting event all qualified candidates must be reviewed and the best candidate in the interests of the Peace Corps must be chosen.

5.2.3

Renewals or extensions of Personal Services Contracts with the same individual for continuing contract service in the same position do not need to be publicized or competed.

5.2.4

If competition is not possible for reasons other than those in Section 5.1 above, the Contracting Officer must prepare a written justification supporting a non-competitive award, have it approved by the Country Director and OACM and place it in the contract file.

5.3 Personal Services Contract Template

The Personal Services Contract Template in Attachment E of this procedures section shall be used for all Personal Services Contracts awarded under this procedures section except PCMCs. The blanks should be filled in appropriately and the statement of work attached. All PCMC contract awards must use Attachment E-1. Unless directed to do so by OACM, the Contracting Officer at Post shall not deviate from the template. Any requests to deviate from the template shall be made in writing by the Contracting Officer, and shall be subject to written concurrence, first by the Regional Director, then by the General Counsel, before submission to the Chief Acquisition Officer for final approval.

5.4 Statement of Work

Before soliciting for a Personal Services Contract award, a written detailed statement of work and a statement of required minimum qualifications covering duties to be performed shall be prepared. A copy of the statement of work and required minimum qualifications shall be provided to potential candidates. Attachment A provides additional guidance on the preparation of statements of work.

5.5 Review of PSC Candidates

Peace Corps staff and volunteers with appropriate qualifications shall be responsible for reviewing and evaluating the qualifications of potential contractors. If deemed appropriate, interviews may be conducted with the potential contractors before a recommended selection is submitted to the Contracting Officer. Current PSCs with appropriate qualifications may assist in source selection of Personal Services Contracts. However, final selection of the PSC and the final decision on the contract award must be made by a Peace Corps employee with appropriate procurement authority.

5.6 Negotiations Conducted by Contracting Officer

The Contracting Officer shall conduct negotiations with the recommended source. If the Contracting Officer can negotiate compensation in accordance with this section, then an award to the PSC candidate may be made. 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 procedures section. The compensation discussed within Section 10.0 of these procedures shall be understood prior to and adhered to during negotiations with candidates for a Personal Services Contract. During negotiations, the potential PSC shall not be referred to as an employee nor shall the Peace Corps be described as an employer.

5.7 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.

5.8 Contract Benefits

The only benefits authorized for personal services contracts awarded under 743 are those listed in the contract benefits section, as appropriate. Benefits provided are dependent on the length of the contract. Any benefit or allowance not expressly stated in the benefits attachment shall not be authorized for any personal services contractor. They shall not be incorporated by reference.

6.0 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.

6.1 Exercising Options

Only Contracting Officers are authorized to exercise options as stated in the contract. The 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 procedures section.

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 insure the availability of funds and the issuance of the appropriate obligations to cover the services provided under the option.

7.0 Contract Provisions

As appropriate, the contract template in Attachments E will be used when negotiating and preparing personal services contracts with host country residents.

8.0 Security Certifications and Employment Suitability

All resident personal services contractors shall have a suitability and security investigation as required by the Office of Safety and Security. Attachment H outlines the requirements for host country resident personal services contracts.

8.1 Access to Classified Information

Foreign nationals are not permitted access to classified information or material.

8.2 Security Certification for PSCs

For all host country resident PSCs contracted for 260 work days or more, the Contracting Officer must ask the Regional Security Officer (RSO) or his or her designee to conduct a background investigation (as per 12 FAM 422.4, 19, 20) of the proposed PSC prior to executing the contract. If completion of the appropriate investigation will be delayed, the Contracting Officer must obtain a temporary security certification from the RSO before execution of the Personal Services Contract. The CD must request re-certification of a continuously employed PSC every five years in accordance with 12 FAM 420. Documentation of the security certification will be filed in the individual PSCs contract file at post.

At those posts where there is no U.S. Mission and no resident RSO (or RSO Foreign Service National Investigator), a post must follow the procedures outlined in section 8.3.

8.3 Suitability for Short-term PSCs

Prior to executing a Personal Services Contract with a host country resident for a contractual term of service of fewer than 260 work days (short-term PSC), the following administrative process must be completed and documented. The Contracting Officer must ensure that:

- (1) an appropriate check with relevant law enforcement entities concerning the proposed contractor is completed and documented;
- (2) the appropriate reference and previous employment checks are conducted;
- (3) the proposed contractor's name is submitted to the U.S. Embassy for Embassy Name Checks (no exterior checks); and
- (4) the Contracting Officer must review this information prior to contract execution.

This administrative process must be repeated every three years for any short-term PSC contracting with Peace Corps on a recurring basis. Documentation of the Peace Corps generated security certification for short-term PSCs must be filed in the individual PSCs contract file at post. Should any derogatory information be developed in the course of a Peace Corps generated employment suitability certification for short-term PSCs, the case must be referred to the RSO for final adjudication before contract execution.

8.4 Intelligence Background Information Certification

Personal Services Contractors are subject to the policy and eligibility standards set forth in Peace Corps Manual Section 611 concerning eligibility of applicants with intelligence backgrounds. Individuals who have prior connections with intelligence activities through employment, related work, or even family relations may be ineligible for a personal services contract depending upon

whether they meet the eligibility requirements set forth in Manual Section 611. Prospective PSCs are required to complete the Intelligence Background form provided as Attachment A to Manual Section 611, in addition to being certified through the appropriate security clearance process. Prospective PSCs who are uncertain as to whether to answer yes or no to the questions set forth in Attachment A should contact the Post Contracting Officer for additional information or guidance. The Post Contracting Officer, in turn, may consult with the Office of the General Counsel, as appropriate. If the PSC responds in the affirmative on the Intelligence Background Certification, the Contracting Officer must contact the Office of General the Counsel for review and decision regarding suitability for contracting.

8.5 Employment Suitability for Former Volunteers

No additional suitability check is required for any former Volunteer whose Peace Corps termination date does not pre-date the proposed contract execution date by more than nine months; unless it is known that the contractor will require access to classified information during the contractual assignment.

9.0 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 or not an individual is a host or non-host country resident by taking into account certain indicators.

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

- The individual is a Host Country National.
- The individual is admitted for permanent residency in the Host Country.
- The individual is subject to the laws of the Host Country comparable to other citizens and permanent residents of the Host Country.
- The individual is physically present in the Host Country.
- The individual maintains a residence in the Host Country.
- The individual pays taxes to the Host Country.

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

- The individual is not a Host Country National.
- The individual is not admitted for permanent residency in the Host Country.
- The individual is not subject to the laws of the Host Country comparable to other citizens and permanent residents of the Host Country.
- The individual is physically present in the Host Country but it is temporary.
- The individual has residence in the Host Country but maintains a residence in another country.
- The individual is not subject to Host Country taxes.
- 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.

10.0 Compensation

10.1 Legal Framework for Peace Corps Personal Services Contract Compensation

Peace Corps PSCs are not employees of the United States Government for any purpose. They are, for all practical purposes except for supervision, self-employed independent contractors of the U.S. Government. Because they are not employees of the U.S. Government, they have no entitlement to compensation, allowances or benefits that derive from an employer-employee relationship with the U.S. Government. Peace Corps PSCs are solely entitled to the compensation and benefits specified within the terms of their contracts unless, in rare cases, local law overrides such agreed upon benefits. *See* Section 10.7.

The Peace Corps is not required to provide PSCs with benefits that are comparable to those given to Peace Corps direct-hire FSNs or PSCs of other agencies. Nor is the Peace Corps subject to the Department of State's local compensation plan or regulations governing direct-hire Foreign Service National employees when establishing compensation packages for PSCs. The starting points for establishing a compensation package for Peace Corps PSCs are the requirements of the position and the contractor's salary history.

As such, Peace Corps PSCs are subject to the cost principles for commercial organizations. Cost principles generally allow certain benefits to be included in PSC contracts, even certain allowable benefits that are inherent to an employer-employee relationship with the U.S. Government (e.g., leave), subject to the principles below on the implications of such benefits in the context of an employer-employee relationship under local law.

The Peace Corps may not provide under its Personal Services Contract authority a benefit to a PSC if it would result in the PSC being considered a U.S. Government employee under U.S. law. The Peace Corps may, but is not required to, provide a benefit because foreign law requires it. It may do so even if it results in the Peace Corps being considered or treated as the employer-of-record under foreign law. For example, a post could pay into a foreign government social security system in which the Peace Corps is identified as the employer-of-record under a host country system.

10.2 Total Contract Compensation

Overall Personal Services Contract compensation can be thought of in two main categories: (1) basic compensation (similar to an employee's salary) and (2) benefits. The overall contract compensation (basic compensation and benefits) must be "fair and reasonable" for the services being performed. A fair compensation is in line with the fair market value of the services delivered under 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 both local market conditions and alternatives for meeting the services to be provided under contract. "Fair and reasonable" is a determination made by the Contracting Officer awarding the contract.

If benefits provided in a particular host country are high, the overall compensation provided should be adjusted by decreasing the basic compensation provided under the contract in order to provide total contract compensation that is fair and reasonable.

10.3 Basic Compensation

10.3.1 The policy for basic compensation for Peace Corps personal services contracts is that the negotiated base compensation shall be fair and reasonable. This determination must be made by the Contracting Officer prior to awarding the contract. Contracting Officers should use such factors as salary history and a local market survey (by Peace Corps or other organizations) of positions with similarly required qualifications, skill sets, certifications, and work requirements.

The range of compensation in the applicable State Department Local Compensation Plan may be considered as well for determining fair and reasonable base compensation. Except as found in the current contract template provided by the Office of Acquisition and Contract Management, the terms *grade*, *step*, *local compensation plan*, *employee*, or *employment* shall not be included in the verbiage of Peace Corps personal services contracts.

The basic compensation shall be inserted in the applicable blanks in the contract template for the base year and option periods prior to contract award. A cost of living increase may be considered by the Contracting Officer during negotiations for the option periods. Basic compensation shall be negotiated for all contract periods of performance (base and option) at the time of contract award. Increases to basic compensation shall only be made in extraordinary circumstances or with contemplated increases in the Statement of Work and shall only be made by contract modification after a period of performance (base or option period) is complete. Changes to the State Department LCP do not result in changes to the contract basic compensation. The basic compensation in the contract itself is what determines basic compensation to be paid.

10.4 Increases in Compensation After Initial Contract Award

10.4.1 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.

10.4.1.a. Increases When Exercising an Option

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

- (a) 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

(b) 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.

10.4.1.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:

(a) The Contracting Officer determines in writing that the increase should be granted to maintain fairness and equity between FSN and PSC compensation;

(b) 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;

(c) Funding is available to cover the cost associated with the increase for all post staff affected by the change; and

(d) The Contracting Officer receives written approval from the Regional Director.

10.4.1.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.

10.5 Benefits

10.5.1 General Policy

Benefits are an entitlement available in accordance with a contract and can include compensation for such items as leave, meal allowance, severance, social security, and retirement. The Peace Corps' general policy for contractors serving under Peace Corps personal services contracts is that benefits shall be paid equivalent to the benefits paid to host country Foreign Service Nationals under the Local Compensation Plan at the time of contract award. The Local Compensation Plan itself shall not be stated in the contract but rather the benefits provided shall be individually stated directly in the benefits section of the contract. Each benefit shall be individually listed to provide clarity to the agreement between the Peace Corps and contractor, as contractors are only entitled to the benefits stated within the contract. If the terms of the benefits are long they may become an attachment to the contract. For example, if the terms of a local social security benefit are long the benefits section of the contract may state "local social security as detailed in attachment 2 to this contract."

10.5.2 Exceptions and Special Circumstances

(a) Severance if appropriate, may be paid, but may not exceed that provided to host country Foreign Service Nationals under the Local Compensation Plan with the additional provision that the Contracting Officer determines it is in the interests of the Peace Corps to pay severance at the time the contract relationship is ended.

Appropriateness is determined by the Contracting Officer and takes into consideration such things as the performance and conduct of the PSC and the circumstances under which the contract relationship has ended (e.g., resignation by PSC, non-renewal, or termination for cause or convenience).

(b) Retirement may be provided by participation in the local social security and retirement system if provided for in the LCP. If warranted the retirement plan will be incorporated into the contract and managed by Peace Corps.

(c) Retirement shall not be provided under the State Department's Global Retirement Plan or any other retirement plan managed by another Government agency (e.g., where participation is limited to employees of the U.S. Government because Peace Corps PSCs may not be considered U.S. Government employees for purposes of the Peace Corps Act).

(d) In no case shall an annuity (multiple reoccurring benefits) type benefit be paid after the final period of performance of the contract.

10.5.3 Requesting and Authorizing Exceptions on Benefits

As set forth in Section 10.5.1, the Contracting Officer may not deviate from benefits in the LCP (deleting, adding or modifying a benefit) without an exception approved by the Chief Acquisition Officer. A Contracting Officer may request an exception from the Chief Acquisition Officer. The request must state the basis for the exception and be cleared first by the Regional Director, then by the Office of the General Counsel, before submission to the Chief Acquisition Officer for final approval. Posts are encouraged to discuss the situation with the Office of Acquisitions and Contract Management before submitting a formal request for an exception.

10.6 Cash Awards

At the sole discretion of the Country Director, cash awards may be made in recognition of extraordinary services. Post shall develop an awards program that outlines the eligibility criteria and process for the awards program. An award may be accompanied with an appropriate ceremony and should not be perceived as an annual entitlement. The Contracting Officer must ensure that the funding is available in the Post's budget. When the award is made, the Contracting Officer must issue a unilateral modification to the individual's contract to include the award amount into the contract, in order for the award to be paid out through the contract.

10.7 Effect of Local Law

The Agency's general policy on benefits provided to PSCs is in Section 10.4 of this procedures section. In some countries, and under certain conditions (e.g., where the contractor has worked

for Peace Corps for a specified extensive period of time, e.g., two years) PSCs may be deemed, under local law, as employees with certain attendant benefits and protections. Generally, employee benefits under local law are set forth in the LCP. However, in some cases, a PSC may contend that he or she is entitled to a specified benefit under local law which is not set forth in the Local Compensation Plan or in his or her contract. Before accepting a PSC's assertion that he or she is entitled to additional benefits under local law, the Contracting Officer must have obtained reliable legal advice as to the pertinent local law. Typically, this is accomplished through consultation with the embassy. In the case of remaining uncertainty, however, the Contracting Officer may obtain local legal advice after obtaining the approval of OACM and the Office of the General Counsel. The Chief Acquisition Officer may *authorize* a local law benefit. Any request for a local law benefit shall be made in writing by the Contracting Officer, and shall be subject to written concurrence, first by the Regional Director, then by the General Counsel, before submission to the Chief Acquisition Officer for final approval.

The Peace Corps may not provide under its Personal Services Contract authority a benefit to a PSC if it would result in the PSC being considered a U.S. Government employee under U.S. law. The Peace Corps may, but is not required to, provide a benefit because foreign law requires it. It may do so even if it results in the Peace Corps being considered or treated as the employer-of-record under foreign law. For example, a post could pay into a foreign government social security system in which the Peace Corps is identified as the employer-of-record under a host country system.

10.8 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.

10.9 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.

11.0 Pay Currency

The currency in which compensation is paid to PSCs shall be in accordance with the prevailing local compensation practice of the Embassy. Written concurrence must be obtained by the Country Director from the Chief of Mission in order to deviate from the prevailing local compensation practice. and must be approved by the Regional Director. If a Personal Services

Contract is priced in foreign currency, the agency must ensure that adequate funds are available to cover currency fluctuations to avoid violations of the Anti-Deficiency Act.

12.0 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 continued services agreement provided as Attachment I prior to the training. 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. The length will be based on length and expense of training.

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.

13.0 Travel

13.1 Short Term Contracts

If the contract services are short term and are to be performed in a locality other than that of the contractor's residence or place of business, the Peace Corps will normally pay reasonable travel costs involved in transporting the 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.

13.2 Long Term Contracts

If the contract services are long term and the contractor is a resident of the country, the Peace Corps will not pay for relocation travel expenses of the contractor or dependents, required to obtain the contract.

13.3 Former Volunteers

A former Volunteer entering into a Personal Services Contract overseas prior to his or her return to the U.S. from a Volunteer assignment must be contracted under MS 744. In the rare case that a former Volunteer decides to become a permanent resident of the host country, s/he should be

contracted under MS 743. In such case, the Peace Corps will pay transportation costs necessary to the performance of the contract which are over and above the amount of any return home transportation payment the former Volunteer has previously received from the Peace Corps at the time of his or her service completion.

13.4 Contracts Beginning Near a Former Volunteer's COS Date

If a Volunteer's Close of Service (COS) date is shortly before the beginning of contract performance, the Contracting Officer shall require the potential PSC to be available in the host country when the contract starts. Any travel between the former Volunteer's COS date and the start date of the contract will be at the expense of the former Volunteer.

13.5 Medical Travelers Insurance

At the discretion of the Country Director and in the event that the Peace Corps requires the PSC to travel outside of the host country in performance of his or her contract duties, the Peace Corps may provide hospitalization and medical treatment to the PSC, while the PSC is outside the host country on official travel, for illnesses, injuries, or conditions that, in the judgment of the Peace Corps, began during the Contractor's travel or so near to the beginning of such travel that the onset of the illness, injury, or condition could not have been known, and for which immediate medical treatment or hospitalization is reasonably required. The reasonable costs of such hospitalization and medical treatment may be paid directly by the Peace Corps or may be covered by insurance purchased by the Peace Corps. The PSC shall remain personally responsible for all medical or insurance costs that the Peace Corps, in its discretion, does not cover.

14.0 Per Diem

When authorized by the Country Director, per diem for the in-country travel of PSCs 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.

PSCs shall be briefed by the post Administrative Officer, or designee, regarding the requirements for a signed written Travel Authorization and the procedures/forms for filing per diem claims, including the required documentation necessary to support per diem claims. The contractor must file a travel voucher within 10 days of completion of travel.

15.0 Billing

PSCs are not paid for services until they have performed the services required by their contracts. Vouchers are required to claim reimbursement for per diem and other travel related costs authorized in conjunction with the contracted services.

15.1 Payments for Personal Services Contracts Greater than 180 days

Contract payments for Personal Services Contracts greater than 180 days will generally be paid via the Peace Corps designated Personal Services Contract payment system. This system is

designed to generate biweekly payments automatically without the submission of vouchers. Post staff are responsible for requesting that the PSCs be included in the system so that all appropriate deductions and allotments are made, in accordance with the contract.

15.2 Vouchers for Personal Services Contracts 180 days or less

In order to initiate the payment process for short-term Personal Services Contracts, the PSC must submit a proper voucher to the Peace Corps. Vouchers will normally be submitted bi-weekly. Vouchers must include the contract number; a statement of the period covered; days and hours worked; and the PSC's signature certifying that the services were rendered and that payment has not been received for those services.

15.3 Local Law requirements for Payments

Some countries local laws may require payment within a specified time frame with relation to completion of work. In these cases a translated version of the local labor law must be submitted to Global Accounts Payable in order to ensure prompt payment.

15.4 Approval by Country Director or Designated Representative

The Country Director, or designated Peace Corps employee, shall indicate that satisfactory services have been received and approve the voucher for payment in a timely manner. PSCs should be paid for their service as soon after completion of the service as possible, but in no case should the payment be transmitted to the PSC more than 30 days after the receipt of a proper invoice.

15.5 U.S. Tax Status

All U.S. citizen PSCs are considered self-employed for U.S. tax purposes and no U.S. or state taxes are withheld from their compensation. For each tax year in which payments made to any U.S. citizen PSC, a Form SF 1099 will be prepared and issued to the PSC and the U.S. Internal Revenue Service stating the amount paid to the PSC.

15.6 Timely Close out of Contracts

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:

(a) The personal services contractor's final compensation voucher signed by the contractor and approved by the Contracting Officer for payment by PC/W (to be submitted to the Contracting Officer);

(b) 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

(c) A completed and signed personal services contractor's release (see Attachment D contained within Attachment E-2 of this procedures section).

OGAP/VPS will provide the following information to the Contracting

Officer in support of close-out:

(a) A copy of each pre-contract cost voucher processed by the post if file is not complete;

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.

16.0 Housing

Host Country Residents contracted in this procedures section are not eligible for Peace Corps-provided or -reimbursed housing.

17.0 Insurance

17.1 Health and Accident Insurance

PSCs are not covered by the Federal Employees Compensation Act or the claims settlement authorities in the Peace Corps Act. Therefore PSCs should obtain, wherever possible, health and accident insurance prior to commencement of the contract. The cost of health and accident insurance may be reimbursed under the Personal Services Contract as a benefit or paid directly to the insurance agent on behalf of the PSC. The benefit terms in the Personal Services Contract shall specify the insurance coverage and the amount to be reimbursed. Because health and accident insurance may be unavailable or prohibitively expensive depending upon local conditions, the recommended minimum coverage is left to the discretion of the Country Director to establish for the post. In the event PSCs are required to travel outside of the host country under their Personal Services Contracts, they may be required to complete an insurance application in order to receive health and accident coverage while on official travel.

17.2 Automobile Insurance

In many countries Peace Corps obtains automobile insurance centrally to cover their fleet and any drivers. However in some countries additional automobile insurance is required. In these instances additional automobile may be obtained by the PSC in the minimum amounts determined by the Country Director as commensurate with any legal requirements of the locality and sufficient to meet normal and customary claims. It is recommended that Country Directors review coverage limits with the Administrative Officer of the U.S. Embassy and that such insurance meet the minimum recommended for personal vehicles owned by mission personnel. *See MS 524 and 526.* The cost of automobile insurance may be reimbursed under the contract as a benefit or paid directly to the insurance agent on behalf of the PSC. The benefit terms in the contract shall specify the insurance coverage and the amount to be reimbursed.

18.0 Evaluation of Contractor Performance

It is U.S. Government policy that a PSC's performance 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 the PSC's past performance and in considering the contractor for future awards.

All PSCs will be evaluated by the Country Director, or another Peace Corps employee 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 Country Director with copies forwarded to OACM, and the program office, if requested.

Attachment D shall be used for all non-medical Personal Services Contracts. Long-term PCMCs shall be evaluated for the quality, efficiency and effectiveness of their medical services using an evaluation form (see Medical Technical Guidelines 112, Attachment C) maintained by the Office of Medical Services (OMS). OMS will initiate this process by contacting the Contracting Officer at the beginning of the Peace Corps' Medical Contractor's evaluation cycle. In addition, the administrative and management requirements of PCMC performance must be evaluated by Country Directors. 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. All evaluations shall be kept confidential.

19.0 Contract Termination

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.

19.1 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. Notice of intent to terminate must first be given to OACM. 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.

19.2 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.

20.0 Alcohol Policy

PSC staff shall comply with the post-specific policy on the consumption of alcohol by staff with V/Ts overseas established by each Country Director under Interim Policy Statement Number 2-04, *Staff Alcohol* (MS 652).

21.0 Contract Close-Out and File Retention

At the completion of the contract, the contract file must be properly closed-out and retained at post. In addition to the evaluation required by Section 19.0 above, the file must contain a signed statement by both the PSC and the Contracting Officer, that the contract has been completed and that both parties have fulfilled all of their obligations under the contract, including payments (*see* the "Contractor's Release" Form, which is an attachment to the Host Country Resident Personal Service Contract Template, Attachment E to this section). Closed-out contracts must be retained at Post. After the retention period of 5 years, the files may be destroyed.

22.0 Effective Date

The effective date is the date of issuance.