

12 FAH-7 H-440 PERSONAL SERVICE AGREEMENT (PSA)

(TL:LGP-3; 12-31-2003)
(Office of Origin: DS/IP/FPO)

12 FAH-7 H-441 GENERAL

(TL:LGP-3; 12-31-2003)

- a. *Local guard services (which may include a surveillance detection program)* may be acquired through PSAs. Under a PSA, each individual personal service contractor is treated as an employee of the U.S. Government, *and* direct supervisory authority *is maintained* through this employer-employee relationship. The use of PSAs can be an expensive option, one that places the greatest risk of liability on the part of the U.S. Government, and makes the most time consuming demands on the RSO.
- b. The creation of a *Local Guard Program (LGP)* through the use of PSAs will generally only be approved when:
 - (1) The host government prohibits the presence or operation of commercial security firms within the country;
 - (2) Although not prohibiting commercial security firms, the host government raises enough legal, technical or bureaucratic obstacles to their use by the U.S. Government to make a contract unfeasible;
 - (3) Commercial security firms are allowed and operate within country, but no acceptable firm responds to the mission's solicitation;
 - (4) There are no commercial guard companies in country;
 - (5) RSO determines that the post's *LGP and SD program* would be more effective *if* staffed using PSA employees rather than through a NPS contract; and
 - (6) Prior to any final decision to staff a *LG force or SD team* with PSA employees, posts must obtain approval from *DS/IP/FPO*. *Posts will need to conduct a cost benefit analysis (Contract versus PSA) and also determine the additional administrative support required if under a PSA guard force.*

NOTE: The administrative overhead costs to support a PSA LG force or SD team are borne by the mission and are not chargeable to the local guard program.

12 FAH-7 H-442 HUMAN RESOURCES OFFICER (HRO)

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

The human resources officer (HRO) is the primary resource for RSOs or PSOs when operating a LGP through the use of PSAs. The HRO has the responsibility for the administrative and management work necessary to obtain Department agreement for the use of PSAs, drafting of individual agreements, recruiting, and most other tasks necessary for the use of PSAs to staff a LGP. On a practical basis, a close and cooperative relationship between the HRO and the RSO is necessary to ensure successful oversight of these agreements.

12 FAH-7 H-443 REGIONAL SECURITY OFFICER (RSO)

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

The RSO acts as a technical resource to the HRO by providing complete and accurate position descriptions of the duties and responsibilities assigned to local guard positions. The RSO should also provide LGP-related tests (one for uniformed local guards, one for surveillance detection personnel), for personnel selection and training, special skill qualifications, and performance standards. The RSO should also provide information on security concerns regarding supervision, discipline, awards and incentives, the relationship of the LGF to the MSG and host country security forces, etc. to the HRO. The RSO or a designated member of his or her staff is the overall supervisor for a PSA LGF and, as such, is responsible for day-to-day monitoring of the performance of the guard force. **NOTE:** Only the HRO can make any substantive changes in the terms and conditions of an employee's PSA.

12 FAH-7 H-444 RSO RESPONSIBILITIES WHEN ACQUIRING SECURITY PERSONNEL BY PSA

12 FAH-7 H-444.1 Uniformed Local Guard Force

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

Where missions must acquire security personnel by using PSAs, the monitoring responsibilities will be greater than those when using a NPS contract. The RSO, in effect, becomes the LGP program manager. As such, the RSO will be required to monitor in some detail all expenses regarding the operation of the LGP. Included are funds used for administrative supplies, office equipment, maintenance and repair costs for non-expendable equipment, guard force uniforms, insignia, and equipment inventories, and supplies as well as all other costs relative to the administration and operation of the guard force. An individual security personnel file must also be maintained. The RSO and/or PSO must also perform background checks, ensure weapons qualifications when guards are armed, and provide other needed training. The RSO will have to ensure that the required equipment, including vehicles, is obtained, maintained, inventoried and replaced, as necessary. In summary, all of the requirements satisfied by a NPS contract must be met by RSO and/or PSO actions in managing and supervising a PSA staffed LGF.

12 FAH-7 H-444.2 Surveillance Detection Team Members

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

All of the managerial responsibilities listed in 12 FAH-7 H-444.1 apply to the use of PSAs as SDP team members. Position descriptions in the FSN-710 series apply to surveillance detection positions and should be used in completing the Form OF-298, Interagency Foreign Service National Employee Position Description, required for each PSA. Posts should consult their HRO for position descriptions for SDP team members. In addition, to avoid compromising active SD employees, the HRO and RSO must make every effort to ensure that the prospective SD personnel are selected, hired and briefed in ways that keep them isolated from other candidates and serving team members. If possible, candidates should be kept away from mission facilities. Ideally they should be screened, hired and processed into the job without once entering the mission.

12 FAH-7 H-445 PSA PROCEDURES AND FORMAT

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

In instances where the use of PSAs is necessary to obtain local guard services, the mission will follow instructions provided by HR/OE in 3 FAM 7260 and the post's HRO.

12 FAH-7 H-446 AUTHORITY TO ENTER INTO PSA

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

A PSA cannot be awarded unless prior Department approval is obtained from DS/CIS/PSP/FPD. Requests for PSA approval must contain detailed information as to numbers of personnel involved and intended deployment or use and justification for selecting this method over the use of a NPS contract.

12 FAH-7 H-447 CONDITIONS OF EMPLOYMENT

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

- a. The terms of PSAs will conform to the conditions of employment for direct-hire Foreign Service National (FSN) employees (excluding participation in the U.S. Civil Service Disability and Retirement System).
- b. Pay and benefits provided to PSA employees will be determined by guidelines, policies, and standards contained in 3 FAH-2 H-400, Foreign Service National Position Classification, and paid in accordance with the appropriate grade and step of the local compensation plan. This plan includes premium pay, severance pay, bonus payments, and other fringe benefits for which direct payment is made.
- c. Each PSA position shall be classified in accordance with 3 FAM 7500, FSN Position Classification and Pay Administration, on the basis of duties assigned as described in Form OF-298. The RSO must draft or use standard job descriptions. It is anticipated that the mission will have a series of guard classifications under the FSL-700 Security Group series (Guard Series FSL-710). These should be descriptive, with general functions, duties, responsibilities, and desired qualifications for each class of guard and guard supervisor. Specific work requirements should be contained in the guard force general and post orders. Classifications for pay purposes is based on the content of these descriptions; thus, it is important that the RSO assure that they are as complete and accurate as possible.

12 FAH-7 H-448 LIABILITY

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

- a. When PSAs are used to staff a LGP, a major issue is the question of liability for actions (either accidental or deliberate) of the guards. This could have an additional potentially significant impact on the U.S. Government where the LGF is armed.
- b. The members of a PSA staffed guard force are treated in the same manner as FSN employees when questions of liability arise. The circumstances of any liability claim against the U. S. Government or an FSN or PSA employee for the actions of that employee while on duty should be reported to the Department with as much detail as possible. Each case is examined, evaluated and responded to on an individual basis. Posts will be informed by the Department of the proper response to the claim. The response may vary from an offer of monetary or other compensation to a claim of sovereign immunity. For additional information, see 2 FAM 280, Claims Against the United States.

12 FAH-7 H-449 UNASSIGNED