

EDUCATION

Teaching Assistant Program

**Memorandum of Understanding
Between the UNITED STATES OF AMERICA
and MALAYSIA**

Signed at Kuala Lumpur
August 8, 2012

with

Appendix



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“. . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

MALAYSIA

Education: Teaching Assistant Program

*Memorandum of understanding
signed at Kuala Lumpur
August 8, 2012;
Entered into force August 8, 2012.
With appendix.*

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

AND

THE GOVERNMENT OF MALAYSIA

ON

THE FULBRIGHT ENGLISH TEACHING ASSISTANT PROGRAM

THE GOVERNMENT OF THE UNITED STATES OF AMERICA, as represented by the U.S. Embassy in Kuala Lumpur (hereinafter referred to as "the U.S. Embassy") **AND THE GOVERNMENT OF MALAYSIA**, as represented by the Ministry of Education of Malaysia (hereinafter referred to as "the MOE") (hereinafter referred to singularly as "the Party" and collectively as "the Parties"),

RECOGNIZING the existing friendly relations between the two countries;

DESIRING to strengthen and further develop co-operation between the two countries in the field of English language education;

CONVINCED of the necessity of a lasting and effective co-operation in the interest of both countries;

APPRECIATING the existing co-operation as reflected in the Agreement between the Government of the United States of America and the Government of Malaysia Concerning the Establishment of the Malaysian-American Commission on Educational Exchange done at Kuala Lumpur on September 20, 2010 (hereinafter referred to as "the 2010 Agreement"), and

BELIEVING that such co-operation would serve their common interests and contribute to the enhancement of education of the English language and social development of both countries,

HAVE AGREED as follows:

ARTICLE I
OBJECTIVE

The Parties, pursuant to this Memorandum of Understanding (hereinafter referred to as "MOU") and the laws, rules, regulations and national policies in force in each country, agree to strengthen, promote and develop the provision of education and training in the English language while upholding the Malay language, between the two countries on the basis of equality and mutual benefit.

ARTICLE II
AREA OF COOPERATION

Each Party shall, subject to the laws, rules, regulations and national policies in force that govern the subject matter in its respective country, endeavour to take necessary steps to encourage and promote co-operation in the administration of the Fulbright English Teaching Assistant ("ETA") program ("the Program"), whose Terms of Reference are as prescribed in Appendix A.

ARTICLE III
DESIGNATED AUTHORITY

The designated authority responsible for the implementation of this MOU on behalf of the Government of Malaysia shall be the MOE. The designated authority responsible for the implementation of this MOU on behalf of the Government of the United States of America shall be the U.S. Embassy. The Malaysian-American Commission on Educational Exchange (hereinafter referred to as "MACEE"), the binational Fulbright

Commission in Malaysia established by the Parties in 1963 and continued under the 2010 Agreement, shall manage and coordinate the Program in Malaysian national schools together with the MOE, with the assistance and guidance of the U.S. Embassy.

ARTICLE IV

IMPLEMENTATION

The Parties agree that the areas of cooperation under this MOU shall be carried out through the MOE and MACEE in the manner as specified in Appendix A.

ARTICLE V

JOINT WORKING GROUP

1. The Parties shall establish, consistent with the authorities of the binational Board of MACEE, a Malaysia-United States of America Joint Working Group (hereinafter referred to as the "Joint Working Group") to implement this MOU.
2. The Joint Working Group shall consider ways and means to promote the aforesaid objective and ensure the proper co-ordination and implementation of its decisions and/or recommendations.
3. The Joint Working Group shall be co-chaired by the MOE and the U.S. Embassy, with participation from MACEE and other relevant agencies of both countries as appropriate.

4. The Joint Working Group shall meet at least once a year or as the Parties may otherwise determine to review the implementation of this MOU.
5. The Joint Working Group shall meet at a date convenient to and mutually agreed upon by the Parties.

ARTICLE VI

FINANCIAL ARRANGEMENTS

1. The MOE has paid to MACEE the amount of one million eight hundred thousand Ringgit (MYR1,080,000.00) on May 3, 2011 and one million nine hundred forty-five thousand six hundred Ringgit (MYR1,945,600.00) on May 12, 2011, which together amount to a grand total of three million twenty-five thousand six hundred Ringgit (MYR3,025,600.00) for the programmatic and administrative costs of managing the Fulbright ETA Program during calendar year 2012.
2. The financial arrangements to cover expenses for subsequent undertakings within the framework of this MOU shall be mutually agreed upon in writing by the Parties on an annual basis, subject to the availability of funds.
3. Notwithstanding paragraphs 1. and 2. above, expenses for organizing the meetings of the Joint Working Group shall be borne by the Party hosting each meeting. The Party sending its representatives for participation in the meetings of the Joint Working Groups shall bear its representatives' travel and living expenses.

ARTICLE VII
PARTICIPATION OF THIRD PARTY

Either Party may invite the participation of a third party in the joint activities, projects and/or programs being carried out under this MOU upon the agreement of the other Party to the MOU. In carrying out such joint activities, projects and/or programs, the Parties shall ensure that the third party shall comply with the provisions of this MOU and the 2010 Agreement.

ARTICLE VIII
PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

1. The protection of intellectual property rights shall be enforced in conformity with the respective national laws, rules and regulations of each Party and with international agreements in force between the Parties.
2. The use of the name, logo and/or official emblem of either of the Parties on any publication or final document produced under this MOU is prohibited without the prior written approval of the affected Party.
3. Any intellectual property created
 - (i) jointly by the Parties, shall be jointly owned by the Parties in accordance with terms to be mutually agreed upon; and

- (ii) solely and separately by one Party, shall be solely owned by the Party concerned.

ARTICLE IX
CONFIDENTIALITY

1. Each Party shall undertake to observe the confidentiality of documents, information and other data received from or supplied to the other Party during the period of implementation of this MOU or any other agreements made pursuant to this MOU, to the extent permissible by law.
2. Both Parties agree that the provisions of this Article shall continue to be binding upon the Parties notwithstanding the termination of this MOU.

ARTICLE X
SUSPENSION

Each Party reserves the right for reasons of national security, national interest, public order or public health to suspend temporarily, either in whole or in part, the implementation of this MOU, which suspension shall take effect immediately after notification has been given to the other Party, in writing, through diplomatic channels.

ARTICLE XI
AMENDMENT

1. Either Party may request in writing an amendment of all or any part of this MOU.
2. Any amendment agreed to by the Parties shall be reduced to writing and shall form part of this MOU.
3. Such amendment shall enter into force on such date as may be agreed upon by the Parties.
4. Any amendment shall not prejudice the rights and obligations arising from, or based on, this MOU before or up to the date of such amendment.

ARTICLE XII
SETTLEMENT OF DISPUTES

Any difference or dispute between the Parties concerning the interpretation, implementation, and/or application of any of the provisions of this MOU shall be settled amicably through mutual consultation and/or negotiations between the Parties through diplomatic channels, without reference to any third party or international tribunal.

ARTICLE XIII

PROTECTION UNDER OTHER INTERNATIONAL AGREEMENTS OR TREATIES

This MOU shall not prejudice any rights or obligations of the Parties arising from any other international agreements or treaties.

ARTICLE XIV

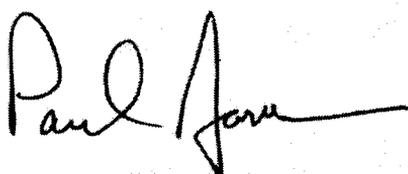
ENTRY INTO FORCE, DURATION AND TERMINATION

1. This MOU shall enter into force upon signature, with effect from May 3, 2011, and shall remain in effect for a period of three (3) years.
2. This MOU may be extended for a further period as may be jointly agreed upon in writing by the Parties.
3. Either Party shall give three (3) months' written notice to the other Party of its intention to terminate this MOU.
4. The termination of this MOU shall not affect the implementation of any on-going activities, projects and/or programs which have been agreed upon by the Parties prior to the date of termination of this MOU, unless the Parties agree otherwise.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed the present MOU.

DONE at KUALA LUMPUR, this EIGHTH day of AUGUST, 2012, in two (2) original copies, in the English language, all texts being equally valid.

**FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA**



**(H.E. AMBASSADOR
PAUL W. JONES)**

U.S. Ambassador to Malaysia

**FOR THE GOVERNMENT OF
MALAYSIA**



**(HON. DATO' DR.
ROSLI MOHAMED)**

Secretary General

Ministry of Education Malaysia

FULBRIGHT ENGLISH TEACHING ASSISTANT PROGRAM
TERMS OF REFERENCE (TOR)

1. The Government of Malaysia agrees to cooperate with the Government of the United States of America (collectively, the Parties) on the implementation of the Fulbright English Teaching Assistant (ETA) Program (the Program). The Program will commence in 2012 for a ten-month period, with the placement of fifty (50) ETAs at fifty (50) selected schools in the states of Terengganu, Pahang and Johor.
2. The Malaysian-American Commission on Educational Exchange (MACEE), as the binational Fulbright Commission in Malaysia established by the two governments in 1963 and continued in 2010, will manage and coordinate the Program in Malaysian national schools together with the Ministry of Education (MOE), with assistance and guidance from the U.S. Embassy.
3. For the purpose of implementing this Program, a Joint Working Group (JWG) shall be established by the Parties. The JWG shall be co-chaired by the MOE and the U.S. Embassy, with participation from the MACEE Board and other agencies, as appropriate. The JWG shall meet at least once a year or as the Parties may otherwise determine to review the implementation of this Program.

4. The MOE shall establish a working committee with participation from the MACEE Board and chaired by the Director-General of Education Malaysia. This committee shall manage and coordinate all operational matters of this Program in Malaysian national schools. The working committee shall consist of representatives from:
 - (i) the Public School Management Division of the MOE;
 - (ii) the Education Planning and Research Development Division of the MOE;
 - (iii) the Teacher Training Division of the MOE;
 - (iv) the Policy and International Relations Division of the MOE;
 - (v) respective state education departments (SED);
 - (vi) respective state governments;
 - (vii) the U.S. Embassy; and
 - (viii) MACEE.
5. A Program secretariat shall be created and affiliated with the Public School Management Division (PSMD) of the MOE.
6. The MOE shall provide MACEE with guidelines and a list of criteria for the recruitment and selection of ETAs, and MACEE and the U.S. Embassy shall endeavor to provide ETAs accordingly. Final selection of ETAs shall be made by the MACEE Board and the U.S. Embassy in accordance with established Fulbright procedures, and with the agreement of the MOE.
7. MACEE shall recruit and select all ETAs for this Program. Selection shall be from among U.S. applicants, who shall submit their applications through MACEE. The ETAs to be selected for this

Program shall be from among recent U.S. university graduates who have applied to be Fulbright Program ETAs.

8. MACEE shall provide a list of ETA finalists to the MOE before final selection. The MOE's recommendations of ETAs shall be given due consideration by the U.S. Embassy and MACEE before any ETAs are placed in Malaysian schools.
9. The MOE shall coordinate and make arrangements for the selection of schools and the placement of the ETAs.
10. The MOE shall facilitate the issuance of visas for all ETAs with the Immigration Department. The MOE shall be responsible for the payment of visa fees.
11. MACEE and the U.S. Embassy shall jointly conduct a pre-orientation program and security briefing for all ETAs upon arrival in Kuala Lumpur, and will include the MOE in the program to provide the ETAs with the necessary knowledge and information required to work effectively in a Malaysian school and community.
12. All ETAs shall be placed in a Malaysian school no later than the last week of January.
13. The MOE shall ensure that a specific briefing will be carried out for all ETAs and the respective schools on the responsibilities of the ETAs in Malaysian schools.

14. MACEE shall select a program coordinator/mentor for each state to assist the MOE with the welfare and monitoring of ETAs.
15. The MOE shall select, arrange and pay a monthly allowance for a mentor from each school to assist the assigned ETA(s) throughout the Program. Mentors shall only assist ETAs with English enrichment activities related to and occurring in school only.
16. ETAs shall develop with their mentors and school administrators a plan of activities to be conducted throughout the duration of the Program. These activities shall include classroom and extra-curricular activities to be carried out by the ETAs. All activities shall be coordinated by ETAs with the cooperation and assistance of their mentors and schools.
17. ETAs are not teachers. As native English speakers, their purpose is to help facilitate the English learning process inside and outside of the classroom, by interacting with the students, and through various forms of activities and through other subjects, such as math and science classes. ETAs should be encouraged to stimulate the interest and promote the usage of English through extra-curricular activities such as music, drama, English clubs, sports, etc. Activities involved may include academic, co-academic or extra-curricular activities within and outside school and which incorporate oral and communicative skills.

18. ETAs shall not be required to:

- (i) Teach formal lessons or in any way replace the actual English teacher. However, the ETA may be asked to assist when the teacher is handling a class;
- (ii) Replace other teachers or classes without the ETA's prior consent and early notification;
- (iii) Conduct extra classes outside of normal schooling hours in the afternoon, evening or on weekends without prior consent and early notification;
- (iv) Conduct programs during school breaks and Malaysian public holidays without prior consent and early notification;
- (v) Prepare exam papers;
- (vi) Grade exam papers or students;
- (vii) Sit on school working committees or groups for administrative purposes or carry out duties normally undertaken by teachers;
- (viii) Pay for lodging or accommodation;
- (ix) Bring outsiders to the school or arrange for outsiders to be in contact with the students without prior permission from the school management and parents; and
- (x) Bring items prohibited by the Malaysian government, the MOE, or the school to the school and in contact with the students.

19. ETAs shall be required to have a minimum of four (4) contact hours daily during school and official extra-curricular activities hours. Prior consent from the ETA shall be obtained for any activities under the Program to be planned and scheduled outside of school and official extra-curricular activities hours, school holidays and Malaysian public holidays.

20. The MOE shall provide guidelines to ETAs, which are to be adhered to at all times, regarding:
 - (i) school regulations;
 - (ii) the do's and don'ts of various cultural practices;
 - (iii) the do's and don'ts of various religious practices; and
 - (iv) other do's and don'ts relevant to the Program.

21. The MOE shall advise the schools on the code of conduct and proper way for the school administration and teaching staff to treat ETAs.

22. MACEE shall advise and help ensure that ETAs abide by the guidelines provided by the MOE on school regulations, and the do's and don'ts of various cultural and religious practices.

23. The MOE shall accord seven (7) days of leave to each ETA throughout his/her stay ten-month tenure as an ETA, in addition to Malaysian or school holidays. ETAs must obtain approval from their respective schools and the SED before going on leave, except in the event of an emergency, in which case approval may be sought while on leave.

24. MACEE shall advise ETAs that they should consult and obtain approval from MACEE, their host school, and the SED prior to leaving the country.

25. Representatives from the MOE and MACEE or the U.S. Embassy shall, from time to time, visit the ETAs and respective schools to monitor their progress and welfare. MACEE or the U.S. Embassy

shall be asked to notify the MOE at least twenty-four (24) hours in advance of such visits, but shall not be required to obtain permission for those visits.

26. The MOE and MACEE shall provide feedback to each other on the progress of ETAs and their respective schools.
27. The MOE and MACEE shall consult each other in cases where disciplinary problems may arise related to any ETA.
28. The MOE, MACEE and the U.S. Embassy shall consult each other to overcome any problems that may arise related to ETAs.
29. The MOE shall be responsible for payments to be made directly to schools for the following costs related to the Program:
 - (i) An orientation program in each respective state where ETAs are to be placed, organized by the respective SED;
 - (ii) A monthly housing allowance for each school where ETAs are placed;
 - (iii) A monthly allowance to each ETA mentor in schools;
 - (iv) A one-time allocation to each school to assist with the settlement of ETAs; and
 - (v) A one-time allocation to each school for transportation purposes for activities planned and arranged under the Program.

30. MACEE shall use the funding provided by the MOE to pay for the following costs related to the Program:
- (i) A monthly stipend to each ETA to cover food, transportation and other daily/personal expenses;
 - (ii) Transportation between Kuala Lumpur and the schools to which ETAs are assigned;
 - (iii) An orientation program in Kuala Lumpur for ETAs, jointly organized by MACEE and the U.S. Embassy; and
 - (iv) An allowance for each ETA for supplies and materials for teaching and extra-curricular activities related to the Program.
31. MACEE shall use the funding provided by the United States to pay for the following costs related to the Program:
- (i) Recruitment of ETAs in the United States;
 - (ii) Insurance for each ETA; and
 - (iii) Round-trip airfare from the United States to Kuala Lumpur for all selected ETAs.
32. MACEE shall channel any necessary funding for the ETAs through their respective schools.
33. MACEE shall reimburse the MOE, in a manner agreed upon by both Parties, for any ETA who does not complete the ten-month term at his or her school.
34. Upon request, the MOE shall arrange and facilitate suitable accommodations and basic amenities for ETAs, either on school premises or nearby, including:
- (i) Own bedroom with bed and mattress;

- (ii) Western flush toilet;
- (iii) Refrigerator; and
- (iv) Ceiling or standing fan.

- 35. Schools are not required to provide transportation to ETAs who do not stay on school premises.
- 36. Schools are required to provide transportation for any activities or programs under the program in which the ETAs are involved.