OFFICE OF THE UNDER SECRETARY OF DEFENSE
3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

APR 26 2012

MEMORANDUM FOR COMMANDER, UNITED STATES CENTRAL COMMAND (ATTN: J-4)
COMMANDER, UNITED STATES SPECIAL OPERATIONS COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY (PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY (ACQUISITION & PROCUREMENT),
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE (CONTRACTING)
DIRECTORS, DEFENSE AGENCIES
DIRECTORS, DOD FIELD ACTIVITIES
DIRECTOR, JOINT STAFF

SUBJECT: Life Support for Third Party Contractors in Afghanistan

This is to advise DoD Contracting Officers and Contracting Officers Representatives (COR) that Embassy Kabul must concur before any DoD Contracting Officer obligates the U.S. mission in Afghanistan to provide life support of any kind to contractor personnel.

As a reminder, Defense Federal Acquisition Regulation Supplement 225.7401 requires DoD contracting officers to verify the requiring activity has considered the availability of logistical and other Government-furnished support and equipment for contractor personnel when building a requirements package for performance or delivery outside the United States. Further, this section requires that DoD contracting officers follow Theater Business Clearance/Contract Administration guidance for the USCENTCOM AOR which can be found on the USCENTCOM OCS webpage (see http://www.acq.osd.mil/dpap/pacc/cc/areas_of_responsibility.html, and click the weblink for USCENTCOM.

We are working with USCENTCOM to update the C-JTSCC TBC Guidance for Afghanistan to address the Embassy Kabul requirement for pre-approval of life support for contractors who will reside on and/or require support from the U.S. Embassy Kabul compound. We will also publish this on the DPAP Contingency Contracting webpage.

My point of contact for this effort is Mr. Bill Reich, william.reich@osd.mil, 571-256-7009.

Richard Ginman
Director, Defense Procurement
and Acquisition Policy

Attachment:
Department of State Memorandum on Life Support of Third Party Contractors

SES 201205681

United States Department of State

Washington, D.C. 20520

www.state.gov

UNCLASSIFIED

April 9, 2012

MEMORANDUM TO:

MS. KRYSTA HARDEN
Chief of Staff
Department of Agriculture

MR. PHILIP McNAMARA
Executive Secretary
Department of Homeland Security

MS. LATOYA MURPHY
Director, Executive Secretariat
Department of Commerce

MS. DAWN SMALLS
Executive Secretary
Department of Health & Human Services

MR. MICHAEL L. BRUHN
Executive Secretary
Department of Defense

MS. JACQUELYN L. WILLIAMS-BRIDGERS
Managing Director
International Affairs and Trade
General Accountability Office

MS. MARY JEFFERSON
Director , Executive Secretariat
Federal Aviation Administration

MS. CAROL C. DARR
Director, Executive Secretariat
Department of Transportation

MS. DANA PAIGE
Director, Office of the Secretariat
Department of Justice

MS. MICHELE M. LEONHART
Administrator
Drug Enforcement Administration

MS. LINDA TRIGEIRO-PABST
Executive Secretariat
Federal Bureau of Investigation

MS. CHRISTA WHITE
Acting Executive Secretary
U.S. Agency for International Development

SUBJECT: Life Support for Third Party Contractors in Afghanistan

OSD004412-12

Embassy Kabul's support platform is taxed to capacity and the Embassy cannot provide housing, meal privileges, and/or medical services to government contractors without advance notice, prudent evaluation, and careful planning.

While Chiefs of Mission (COM) do not directly decide levels of staffing by commercial firms, contracting U.S. government agencies must obtain COM approval before beginning a process that would lead to an award (or extension) of a contract that would include commercial firm employees working in-country.

As set forth in the Foreign Affairs Handbook (2 FAH-2 Authority of Chiefs of Mission Over Other Than Full-time, Permanent, Direct-Hire Personnel), COMs can require U.S. government agencies to provide details of their activities, operations, and plans for staffing contracts. The type and amount of support that a U.S. mission provides commercial firm employees, if any, must be coordinated between the U.S. mission and the contracting agency.

Please advise your senior departmental or agency Acquisition and Contracts Officers and Contracts Officer Representatives (CORs) that Embassy Kabul must/must concur before any U.S. government department or agency Contracting Officer obligates the U.S. mission in Afghanistan to provide life support of any kind to commercial firm employees.

The Embassy's requirements for vetting increases in contractor staffing levels and the Embassy's cable notification of this policy are attached to this memorandum. Embassy Kabul's management policy sets out this issue in detail.

for Stephen D. Mull
Executive Secretary

Attachments:

1. Embassy Kabul Requests Prior Concurrence on Contracts that Promise Life Support in Afghanistan (11 Kabul 8834)
2. Management Policy on Staffing and Accountability (Embassy Kabul Management Policy MP 11-52, dated October 5, 2011

From: Garrett, Matthew J
Sent: 12/26/2011 8:57:26 AM
To: svcSMARTBTSPOP7
Subject: Embassy Kabul Requests Prior Concurrence on Contracts that Promise Life Support in Afghanistan
Attachments: MP- Life Support for Third-Party Contractors.pdf; Metadata.dat

UNCLASSIFIED

MRN:	11 KABUL 8834
Date/DTG:	Dec 26, 2011 / 261357Z DEC 11
From:	AMEMBASSY KABUL
Action:	WASHDC, SECSTATE*ROUTINE*
E.O.:	13526
TAGS:	AMGT, ASEC, AFIN, ASUP, AF, KCRS, KIRC, HHS, DHS, DOD, DOT, FAA, FBI, GAO, AGR, COM, JUS
Pass Line:	DEPARTMENT FOR NEA-SCA/EX DEPARTMENT FOR INL DEPARTMENT FOR DS DEPARTMENT FOR A/LM/AQM DEPARTMENT FOR A/OPE
Subject:	Embassy Kabul Requests Prior Concurrence on Contracts that Promise Life Support in Afghanistan

1. This is an action cable. See paragraph 8.

2. Summary: Embassy Kabul must concur before Department (or other agency) contracting officers obligate the Mission to provide life support to contractors in Afghanistan, per 2 FAH. Our support platform is taxed to capacity, and OBO has just begun a five-year construction project, further limiting space on compound. The Embassy cannot provide housing, meal privileges, and/or medical services to third party contractors without careful consideration. We request contracting officers provide the Embassy their language on life support for contractors currently in country, and seek prior Embassy concurrence before agreeing to life support arrangement in new contracts. This cable mirrors a post policy, attached, that was cleared widely with agency stakeholders in Kabul. End Summary.

Background

3. Mission Afghanistan has approximately 2,548 third-party contractors (TPCs) in country, including 1,545 in Kabul city. We deeply value the service of TPCs, who perform essential work in support of our Mission providing security, IT support, meal service, and technical expertise. However, post management has little/no knowledge of our contractual obligations vis-à-vis TPCs and almost no notice before TPCs arrive in country (because they are not required to submit an e-Country Clearance). Frequently, TPCs arrive in country and request Embassy services, e.g., housing, meal privileges, ground and air transportation, and/or medical services before the Embassy has knowledge of the TPCs arrival.

- *At times, the Embassy only has a day's notice before a TPC arrives in country.*

- *Contracting officers sometimes promise their clients services and facilities that we are not in a position to provide.*

4. Given the existing strain on our support platform, this situation is no longer tenable. Post management must have *complete visibility and provide concurrence in advance* on obligations made by USG contracting officers that promise life support. This requirement is articulated in 2 FAH-2 H-114.5(b):

- Contracting U.S. Government agencies must obtain COM approval before beginning a process that would lead to an award (or extension) of a contract that would include commercial firm employees working in-country.
- The type and amount of support that a U.S. Mission provides commercial firm employees, if any, must be coordinated between the U.S. Mission and the contracting agency.
- Unless specifically stated in the contract and approved by the COM, the U.S. Mission's support responsibilities for U.S. citizen employees of commercial firms must not exceed those it would have for any private U.S. citizen.

Mission Platform and Life Support Challenges

5. Mission Afghanistan increased its staffing from 389 to 1232 employees in little more than two years as part of a civilian uplift that supported the fight against al-Qaida, stabilization and the integrated civ-mil plan. That increase taxed our platform in several ways, noted below. To expand our platform, OBO has just begun a major, five-year construction project that, in the interim, will limit green space and further reduce available office quarters and residential space on compound. Our regional platforms "in the field" experience similar limitations. We are now at capacity providing housing, meals and medical services for direct-hire staff. Providing similar life support to third-party contractors presents major challenges:

- **Housing for PCS and LT TDY Staff:** The number of U.S. direct-hire (USDH) staff at Embassy Kabul has increased from 315 in 2009 to more than 750 people today. While construction is underway to significantly augment the number of available beds, post currently faces a real shortage of available housing for USDH employees of the Mission. Our TPCs, who are a vital component of Mission Operations, currently occupy 71 of our one-person Containerized Housing Units.

- **Accountability and Capacity in our Cafeterias:** The two State Department cafeterias on the compound are maximizing their output in providing more than 2300 meals per day to residents, contractors and guests to the Embassy. In addition to the cafeterias being over-burdened in providing meal services, post has discovered instances of contractors who eat their meals at the Embassy cafeteria (for free) while collecting per diem. A simple review of the contract by post before it is awarded will insure that individuals cannot have their cake and eat it too.

- **Medical Services:** Our Health Unit provides top-notch care to the Embassy community but faces several difficulties in providing care to contractors who are not authorized medical services. Unfortunately, routine care delivered to TPCs is outside the protective indemnification for medical providers of the DOS, as these individuals do not have State Department Medical Clearances. Further, our medical team is not currently staffed at levels that permit routine care for the large number of contractors in Kabul city.

- **ICASS and the true cost of Support Services:** Finally, all agencies at post are sharing the costs of support services and are paying for them via ICASS. Contractors are not always included in the workload counts that post captures annually on May 1. Post needs to insure that all of our agencies at post that are paying their fair share and receiving the excellent support services to which they are entitled, rather than supporting individuals who are not authorized certain ICASS services.

6. Embassy Kabul underlines that cost, while always a consideration, is not the principal driver of challenges in providing life support to third-party contractors. It is the unanticipated support to TPC personnel that strains our

administrative platform. Post requires the coordination of all parties in order to continue to provide quality services to our large complement of inter-agency direct-hires.

Guidance to Contracting Officers

7. Embassy Kabul must know *in advance* what contracting officers intend to authorize their clients. In many instances, the Embassy will need to limit or deny life support services for TPCs for the reasons noted above. That said, in close coordination with NEA-SCA/EX, Embassy Kabul will review requests on an individual basis and make a decision accordingly. Broadly, here are Embassy Kabul's provisions:

- Absent an eCC, contracting entities need to advise post of the anticipated arrival of new TPCs at post to ensure that the Embassy can provide support for those individuals.
- If the Embassy provides housing, it *may be* in multi-occupancy housing units. Contractors in country for more than a year will be considered for – but not guaranteed – single-occupancy containerized housing units.
- Contractors should not be allowed per diem or meal allowances if they are receiving cafeteria privileges while deployed. Since there are few commercial dining options for Embassy-based personnel, per diem should not be a default provision in TPC contracts.
- Contracting authorities should not authorize Post-provided medical care for TPCs. The provision of medical care is the responsibility of the contractor and should be reflected as such in the contracts. Requests to provide regular medical care will be evaluated on an individual basis but at a minimum will require a State Department Medical Clearance for the contractor before being granted. Post will continue to provide Emergency Care as exigent circumstances demand.
- Post will issue partial-year ICASS invoices for contractors that are not accounted for in May 1 workload counts.

Action Requests

8. In compliance with 2 FAH-2 H-114.5(b), Embassy Kabul requests USG contracting officers:

- Review existing contracts and provide to Post each contractor's name, the language on life support in each contract and a copy of the contract; and
- Seek prior Embassy concurrence before agreeing to life support arrangement in new contracts.

Please provide responses to the first action request to D/FMO Matthew Garrett at KabulFMO@state.gov by January 15, 2012. Concurrence on future contracts should be directed to same POC. Further guidance can be found in Embassy Kabul's Management Policy on Life Support for Third Party Contractors, available by request or on post's sharepoint page.

9. We appreciate the support of individual bureaus and contracting officers in moving forward with this mission-critical initiative. Post reiterates its appreciation for its contract workforce, and hopes that resolving these issues will enhance their contribution to the Mission.

Signature:	Crocker
Drafted By:	KABUL:Garrett, Matthew J
Cleared By:	MGT:Kelly, Martin T
Approved By:	MGT:Teplitz, Alaina B
Released By:	KABUL:Garrett, Matthew J
Info:	
Attachments:	MP- Life Support for Third-Party Contractors.pdf

---

Action Post:
Dissemination Rule: Archive Copy

UNCLASSIFIED

Management Policy

MP #: 11- 61

Date: 12/26/2011

Subject: Life Support for Third-Party Contractors

To: All Mission Personnel

Cleared By: (refer to bottom of text)

Approved By: Alaina Teplitz, Acting Assistant Chief of Mission

All sections and agencies under Chief of Mission authority have a responsibility to inform post management of existing and planned contracts that obligate life support to Third-Party Contractors (TPCs). TPCs are employees of institutional or commercial firms that are under contract with the State Department or another department or agency at post. Personal Services Contractors, Foreign Service Limited employees, and 3161 employees are not TPCs.

Background

Mission Afghanistan has approximately 2,548 TPCs in-country, including 1,545 in Kabul. They contribute significantly to the work of our Mission, providing essential security, IT support, meal services and technical expertise. We deeply value the work of our TPCs. However, our support platforms in Kabul and in the field are currently running at full capacity, and the Mission cannot provide housing, meal privileges, medical services, or other benefits to TPCs without careful consideration.

Authority

Given the constraints of our support platforms, post management must have *complete visibility and provide concurrence in advance* on obligations made by U.S. Government contracting officers that promise life support to TPCs. This requirement is articulated in 2 FAH-2 H-114.5(b):

> Contracting U.S. Government agencies must obtain COM approval before beginning a process that would lead to an award (or extension) of a contract that would include commercial firm employees working in-country. . . . The type and amount of support that a U.S. Mission provides commercial firm employees, if any, must be coordinated between the U.S. Mission and the contracting agency. . . . [U]nless specifically stated in the contract and approved by the COM, the U.S. Mission's support responsibilities for U.S. citizen employees of commercial firms must not exceed those it would have for any private U.S. citizen.

Action

State Department sections that employ TPCs must submit a report outlining each contractor's name, company and contract number to the Financial Management Office (FMO) by January 15, 2012. Other departments and agencies at post must submit a report with the names of their contractors, the contractual

obligations regarding life support for each contractor in Afghanistan, and a copy of the original contract referencing those requirements, to the FMO by January 15, 2012. Failure to do so will result in suspended services for those TPCs.

Any future third-party contracts must have Embassy concurrence (via the FMO) on life support agreements before arriving at post, or TPCs risk receiving no support services from the Mission. Contracts need to be submitted well in advance to allow for post review and feedback. Please submit reports of current TPCs and proposed future contracts to D/FMO Matthew Garrett at GarrettMJ@state.gov.

Guidance to Contracting Officers

The Embassy, in close coordination with NEA/SCA/EX, will review requests for life support for TPCs and make decisions regarding what support to provide on an individual basis. Because our ability to provide life support is limited, the Embassy may need to limit or deny life support services for TPCs under future contracts. Following are Embassy Kabul's known requirements/limitations regarding life support for third-party contracts:

1. In order to manage the availability of living quarters, post will review housing requests on a case-by-case basis. If the Embassy provides housing, it *may be* in multi-occupancy housing units. (Contractors in country for more than a year will be considered for – but not guaranteed – single-occupancy containerized housing units.)
2. Contractor meal privileges need to be carefully reviewed to ensure that individuals are not violating the statutory prohibition against duplicate benefits. No per diem for meals should be authorized if a contractor will be granted open access to the State Department Cafeteria.
3. Contracting authorities should not authorize post-provided medical care for TPCs. The provision of medical care is the responsibility of the contractor and should be reflected as such in the contracts. Requests to provide regular medical care will be evaluated on an individual basis but at a minimum will require a State Department Medical Clearance for the contractor before being granted. Post will continue to provide Emergency Care as exigent circumstances demand.
4. Post will issue partial-year ICASS invoices for contractors that are not accounted for in May 1 workload counts.

Cleared: OIG, DHS, RSO, INL, FAS, DEA, USMS, OBO, SIGAR, CONS, Treasury, USAID, HHS, EXBS, MGT
Info: FAA, FCS, DOJ, PRM, NGA, DOD

DOD

OFFICIAL BUSINESS

4/9/12

REGISTERED: V 3607302

PART II

FROM: DIRECTOR S7ES-CR 7512 HST (JMB)

TO: MICHAEL BRUHN, DOD

THIS PART IS TO BE ADDRESSED BY SENDER AND FIXED TO ENVELOPE
MOISTEN REVERSE SIDE FOR PASTING TO ENVELOPE OR PACKAGE

Messenger Receipt

PART III

(Office symbol or Stamp with Date and Hour)

THIS PART TO REMAIN ATTACHED TO PART II
BUT NOT FIXED TO ENVELOPE
TO BE SIGNED BY RECIPIENT AND RETURNED BY
MESSENGER TO CENTRAL MESSENGER UNIT
RETAINED FOR 3 YEARS

V 3607302