

~~ADMINISTRATIVE - INTERNAL USE ONLY~~~~ADMINISTRATIVE - INTERNAL USE ONLY~~(b) (2)  
(b) (3)**Date:** 02/19/2002**Category:** 20 - Human Resources      **OPR:** HR**Title:** AR 20-71    CONSULTANTS**REVISION SUMMARY:** 19 February 2002 (0621)

This regulation supersedes AR 20-71 dated, 21 December 2000.

AR 20-71 is revised to amend the conditions under which consultants may serve as members of DCI advisory panels; and to require that all recommendations for continued use of consultants are submitted through the Chief Human Resources Officer, in addition to the General Counsel. This revision also reflects the change in organizational and position titles that resulted from the DCI's decision effective 4 June 2001, to abolish the Directorate of Administration and establish the Mission Support Offices.

*Boldfaced text in this regulation indicates revisions .*

*This revision was written by the Policy Team, Human Resources Strategy & Planning Staff at HRM Policy@DA.*

**71. CONSULTANTS**

**SYNOPSIS.** This regulation states policies, authorities, and responsibilities for engaging consultants to serve as members of DCI advisory panels.

**a. AUTHORITY.** Section 8 of the Central Intelligence Agency Act of 1949, as amended, and Section 303 of the National Security Act of 1947, as amended.

**b. POLICY**

(1) The Agency will use consultants only as members of DCI advisory panels and under the following conditions:

(a) The consultant's term of panel membership normally is three years. The Executive Director (EXDIR) may extend the term for up to three additional years.

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- (b) There is a need for exceptional or specialized services that cannot be met by available Agency employees.
  - (c) Consultant service is beneficial to the Agency administratively and financially.
  - (d) The consultant's service is not obtainable under other employment categories.
  - (e) The consultant's service will not violate conflict of interest statutes, **Executive Orders, or Agency regulations.**
- (2) Because many qualified persons are willing to serve the Agency without compensation, officials first should consider obtaining a consultant's service on a "without compensation" (WOC) basis.
  - (3) An Agency official may not make a commitment to engage a prospective consultant before obtaining EXDIR approval.
  - (4) The EXDIR may waive any of the policy restrictions on employment of consultants when a determination is made that such a waiver is necessary for the performance of the Agency's mission.
- c. **DEFINITION.** Consultants are individuals with unique skills, knowledge, or experience engaged under contract as independent contractors to serve on DCI advisory panels. Consultants draw on their expertise to recommend approaches, methods, techniques, or solutions to problems. Consultants are not Government employees and may not perform employee-type duties. Further, Agency officials may not supervise or direct the work of consultants and may not exercise control over the manner, means, or details by which consultants provide agreed-upon services.
- d. **PERIOD OF SERVICE AND COMPENSATION**
- (1) Contracts engaging consultants must be renewed each fiscal year. Consultants normally provide their services intermittently. They may not serve more than 130 days during any period of 365 consecutive days.
  - (2) The rates of compensation for paid consultants will vary with the type and level of proposed services and individual qualifications. Compensation will not exceed the daily rate of GS-15, step 10, unless the EXDIR approves a higher rate.

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**g. ETHICS RESTRICTIONS.** Consultants are independent contractors who are not legally subject to the ethics laws as contained in Title 18 of the US Code. Nevertheless, for reasons of policy, the Agency has chosen to apply certain ethics restrictions to consultants, and these restrictions should be contained in their contracts. The restrictions, which are set forth below, are divided between those that apply while serving as consultants and those that apply after leaving the Agency.

- (1) The following restrictions will apply while consultants serve with the Agency:
  - (a) They may not, except in the discharge of their official duties, represent a third party before the United States on any particular matter in which the United States is a party or has a direct and substantial interest if they participated personally and substantially as consultants or Government employees on that particular matter or if the particular matter was pending with the Agency while they served if they served longer than 60 days.
  - (b) They may not participate personally and substantially in their government capacity in any particular matter in which they or any person whose interests are imputed to them have a financial interest if the particular matter will have a direct and predictable effect on that financial interest. An interest is considered imputed to a consultant if the financial interest is held by the consultant's spouse; the consultant's minor child; the consultant's general partner; an organization or entity which the consultant serves as an officer, director, trustee, general partner, or employee; or a person with whom the consultant is negotiating an arrangement concerning prospective employment.
- (2) The following restrictions will apply after consultants are no longer independent contractors for CIA:
  - (a) They are permanently barred from representing anyone (other than the U.S. Government) before any official or agency of the U.S. Government in which the U.S. is a party or has a direct and substantial interest on a particular matter in which they are personally and substantially involved as Agency consultants.
  - (b) They are barred for two years after the consultant relationship has ended from representing anyone (other than the U.S. Government) before any official or agency of the U.S. Government in which the U.S. is a party or has a direct and substantial interest concerning any particular matter that was pending under them during the last year of their Agency consultantship.

**h. APPROVAL AUTHORITIES**

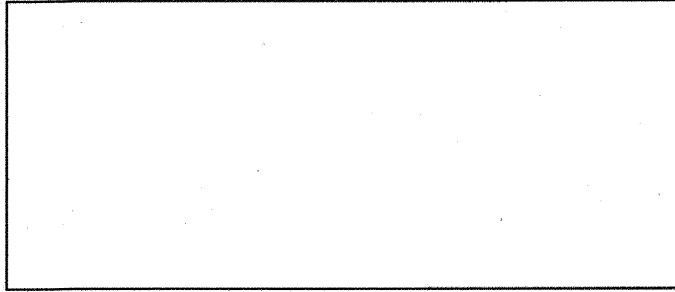
- (1) The EXDIR will approve the engagement of each individual as a consultant and that person's rate of compensation.
- (2) The Director of Security (D/OS) will issue security approval for each consultant.

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~~ADMINISTRATIVE - INTERNAL USE ONLY~~**i. RESPONSIBILITIES**

- (1) The Chairperson, National Intelligence Community (NIC), has administrative and financial responsibility for all consultants and will:
  - (a) Determine the need for consultants and submit requests for their use through the **Chief, Recruitment Center (C/RC)** to the EXDIR for approval.
  - (b) Review annually, during the month of July, the use of all consultants to determine if their contracts should be extended or terminated and forward the proposals from this review through the C/RC or designee for the EXDIR's approval.
  - (c) Review each section, Statement of Employment and Financial Interests, of Form 2553 submitted by consultants for possible conflicts of interest to ensure that the consultant's proposed service will not violate conflict of interest statutes. Complete each section, Certification of Using Official, of Form 2553.
- (2) The C/RC or designee will:
  - (a) Review requests for the continued use of consultants and submit recommendations to the EXDIR through the **Chief Human Resources Officer** and the General Counsel for approval.
  - (b) Ensure that each prospective consultant receives, certifies as having read, and agrees to the provisions of Executive Order 12731, dated 17 October 1990, "Principles of Ethical Conduct for Government Officers and Employees" and extracts of the conflicts of interest provisions of Title 18, U.S.C.
  - (c) Ensure that each consultant files a Form 2553, Statement of Employment and Financial Interests, prior to execution of original contract and as of 1 October of each succeeding year.
  - (d) Designate as consultants at the initiation of their contracts all persons who meet the definition set forth in paragraph c above.
- (3) The **Chief Human Resources Officer** or designee will:
  - (a) Ensure that consultants earning compensation receive an IRS Form 1099 each calendar year or upon termination of their contracts.
- (4) The General Counsel will:
  - (a) Review each Statement of Employment and Financial Interests to determine if a conflict or possible conflict of interest exists.
  - (b) Furnish guidance to the consultant, if the General Counsel determines a conflict or apparent conflict of interest exists, and forward the case to C/NIC via C/RC or designee with a recommendation of action to resolve the conflict. Such action may include, but is not limited to:

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