

HRMS Standard Operating Procedure (SOP)

Expert and Consultant SOP

PURPOSE

This standard operating procedure (SOP) establishes the requirements for the administration of expert and consultant appointments throughout Headquarters (HQ) to ensure compliance with Federal laws, regulations, and all applicable the Department of Homeland Security (DHS) policy and requirements.

SCOPE

Applies to all DHS HQ Offices serviced by Office of the Chief Human Capital Officer (CHCO), Human Resources and Management Services (HRMS).

DEFINITIONS

- A. *Consultant* – A person who can provide valuable and pertinent advice generally drawn from a high degree of broad administrative, professional, or technical knowledge or experience.
- B. *Consultant Position* – Position that requires providing advice, views, opinions, alternatives, or recommendations on a temporary basis on issues, problems, or questions presented by a Federal official.
- C. *Expert* – A person who is specially qualified by education and experience to perform difficult and challenging tasks in a particular field beyond the usual range of achievement of competent persons in that field. An expert is regarded by other persons in the field as an authority or practitioner of unusual competence and skill in a professional, scientific, technical or other activity.
- D. *Expert Position* – Position that requires the services of a specialist with skills superior to those of others in the same profession, occupation, or activity to perform work on a temporary and/or intermittent basis assigned by a Federal official.
- E. *Intermittent Employment* – Employment without a regularly scheduled tour of duty.
- F. *Special Government Employee (SGE)* – as defined in Sec. 202 of Title 18, U.S. Code. An officer or employee who is retained, designated, appointed, or employed to perform temporary duties with or without compensation, for not more than 130 days during any period of 365 consecutive days.
- G. *Temporary Employment* – Employment not to exceed 1 year. An expert or consultant serving under a temporary appointment may have a full-time, part-time, seasonal, or intermittent work schedule.

SPECIFIC PROCEDURES

- The requesting office prepares the expert and consultant request package for approval. This package includes the following information:
 - 1. A completed DHS Form 11000-5 to initiate the security process. Access at: http://dhsconnect.dhs.gov/forms/documents/DHS_Form_11000-05.pdf.



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2. Name of appointee
 3. Title and organizational location of appointee
 4. Rate of pay
 5. Résumé which demonstrates the appointee's background and his/her qualifications that match the requirements of the position
 6. Signed justification that includes the following:
 - a. For first appointments as an expert or consultant the necessity for the position as an expert or consultant
 - b. In the case of reappointment:
 - o The continuing need for the position
 - o Statement whether the duties are the same or different as the previous expert/consultant appointment
 - o Which of the reappointment options under Title, 5 C.F.R. § 304.103(c) the DHS HQ organization has elected and the reason
 - o The history of the number of days worked in a service year, or total earnings from expert/consultant employment
 - c. A statement certifying the work to be performed by the expert or consultant is not being performed by the HQ organizations' regular employees.
 - d. A statement certifying the appointee will not perform managerial or supervisory responsibilities, make final decisions on substantive policies, or function in any organization's chain of command (e.g. approve financial transactions, personnel actions, etc.).
 - e. An evaluation of the appointee's qualifications, citing superior competence (e.g., national or international expertise, highly specialized knowledge and skills, etc.) not currently available within the HQ's workforce.
 - f. The length and works schedule as defined in Title 5, C.F.R. § 304.102; if temporary, type of work schedule (i.e., full-time, part-time, seasonal, or intermittent); and proposed length of appointment.
 7. Statement of duties and responsibilities with sufficient detail to demonstrate that the position requires an expert or consultant.
 8. Statement of Understanding (Attachment 2)
 9. Expert and Consultant Certificate that indicates the appointment meets all legal and regulatory requirements (Attachment 3).
 10. OGE Form 450, "Confidential Financial Disclosure Report
 11. Name, title, and signature of the requesting official
 12. Name, title, and signature of approving official
- After compiling the information identified in paragraph VI.A above, the requesting office will coordinate the Expert and Consultant package through the below offices/POCs. Once all the required signatures are received, the package is sent to your servicing HR Specialist, via [FHR Navigator](#). The following offices along with the reviewer's name must be listed on the DHS Record of Coordination and Approval sheet as follows:



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1. Head of the requesting HQ's organization
2. Budget & Finance (POC)
3. OCSO-PSA (HQ Personnel Security at HQPersonnelSecurity@HQ.DHS.GOV)
4. HRMS, HR Specialist POC
5. The HRMS Executive Director or his/her designee (Note: HRMS as the servicing HR Office will also submit the entire package electronically to OCHCO/HCPP, Staffing Policy at StaffingPolicy@hq.dhs.gov for the CHCO's signature.
6. Counsel at (OGC Exec Sec at OGCExecSec@HQ.DHS.GOV). Please note that the Experts and Consultant package is sent to OGC for review/signature after HRMS has reviewed the packet.
 - o OGC General Law & Personnel Labor and Employment) (POC)
 - o Ethics (POC)
7. Chief Human Capital Officer

The below table is shows HRMS's timeline for Expert and Consultants Packages:

HR Flexibilities Box	Review for completeness	2 days
HR Specialist	Review and package	1 day
Branch Chief, Staffing	Review/Coord	1 day
Employment ServiceManager	Review/Coord	1 day
Accountability	Review/Validate/Coord	1 day
HR Specialist	Route to OGC w/cc to the program office	1 day
OCHCO OGC	Review/Approval	5-10 days
HR Specialist	Prepare doc for submission to DeputyDirector	1 day
Deputy Director, HRMS	Approval	2 days

- Other Guidance:
 1. Pay is set in accordance with Title 5, C.F.R. Part 304.
 2. Appointees who will serve without pay must sign a waiver in writing prior to appointment, in accordance with Title 5, C.F.R. § 304.104(c).
 3. Expert and Consultant personnel actions are processed in accordance with the Office of Personnel Management (OPM) Guide to Processing Personnel Actions. When processing



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actions, the title “Expert” or “Consultant” is used. The pay plan is assigned in accordance with OPM’s Guide to Data Standards (i.e., ED, EE, EF, and EG). The occupational series is coded as “0000” and the grade is coded “00” in accordance with Title 5, C.F.R. § 304.103(a)(1).

4. Reappointments that exceed the limits outlined in Title 5, C.F.R. § 304.103 due to unusual or unforeseen circumstances are submitted to the DHS CHCO for approval by OPM.
5. The DHS OCHCO submits Department-wide reports to OPM on the use of experts and consultants appointing authority to ensure compliance with Title 5, U.S.C. § 3109, Title 5 C.F.R. Part 304, and DHS policy and guidance. Components report annually to OCHCO information listed in 5 C.F.R. § 304.107 by January 15th, for the preceding calendar year. This information includes the number of days the agency employed each paid expert or consultant and the total amount the agency paid each expert or consultant. On a periodic basis, OCHCO will request reports on unpaid appointments hired under Title 5, U.S.C. § 3109.

RESPONSIBILITIES

- Chief Human Capital Officer (CHCO):
 1. In accordance with DHS Delegation for Human Capital and Human Resources 03000, the DHS CHCO approves the appointment and reappointment of experts and consultants within DHS.
 2. Submits requests to the Office of Personnel Management for approval of expert and consultants’ reappointments that are an exception to the limits outlined in Title 5, C.F.R. Part 304.103.
 3. Submits Department-wide reports on the use of expert and consultant appointing authorities on an annual basis, as requested by OPM.
- HRMS Executive Director:
 1. Ensures compliance with this SOP and Title 5, C.F.R., Part 304.
 2. Ensures the need for expert and consultant positions, or continuing need in cases of reappointment, is appropriately justified and documented.
 3. Signs Expert and Consultant Request Package for submission to the Chief Human Capital Officer (CHCO) for final approval.
 4. Ensures an annual review of and report on, expert and consultant appointments to ensure compliance with Title 5, U.S.C. § 3109 and Title 5, C.F.R., Part 304.

- HRMS Classification:

Reviews, prepares and finalizes the corresponding OF-8 to accompany the description of duties provided by the requesting HQ Office.



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- Requesting Office:

1. Responsible for compiling and coordinating request package to obtain necessary concurrences (See Section VI, "Procedures," of this SOP).
2. Submits complete package (See Section VI, "Procedures," of this SOP for what constitutes a complete package) via FHR Navigator for approval.

- Prospective Employee:

As instructed by the Office of the General Counsel (OGC), the prospective employee completes a Confidential Financial Disclosure Report (OGE 450) or a Public Financial Disclosure Report (OGE 278). This will be part of the complete package and the completed OGE form will be maintained by OGC.

- HR Specialist:

1. Receives Expert or Consultant package via FHR Navigator.
2. Prepares and sends out the tentative job offer to initiate the security process.
3. Ensures the package is complete to include appropriate concurrence signatures; and ensures compliance with applicable regulations.
4. Prepares the routing sheet and assembles the package for HRMS senior leadership review and approval. Specifically, this includes the servicing HR Specialist; Staffing Team Lead; Staffing Branch Chief; Accountability Chief; and, Executive Director, HRMS.
5. Upon HRMS senior leadership approval, submits the final package to Human Capital Policy and Programs (HCPP), Staffing Policy at StaffingPolicy@hq.dhs.gov for their review and
6. concurrence. HCPP, Staffing Policy will forward the final package to the Chief Human Capital Officer (CHCO) for signature.
7. Prepares the final job offer (FJO) upon receiving the signed approval memorandum and security clearance. When applicable, the FJO letter should include the OGC approved language for SGE employees. "You are designated as a Special Government Employee (SGE) and with such a designation you may only work 130 days within a 365-consecutive day period (service year). It is imperative that you track the number of days worked and report your work time to [Hiring Official's Name]. You will be provided a tracking sheet for this purpose. If you accept another SGE appointment at another federal government agency, in addition to DHS, you must aggregate the number of days you worked in both positions. The total number of days worked at both/all agencies must not exceed 130-days during the service year. A partial day of work counts as a full day. If at any time during your service year you find that you are about to reach or have exceeded the 130-day limitation, you should notify [Hiring Official's Name] immediately to determine next steps."
8. Codes the SF-52, Request for Personnel Action, and submits the package to the Payroll and Processing Branch for processing.



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9. Responsible for updating and saving the Expert and Consultant spreadsheet on the shared drive. The name of the folder is: "Expert and Consultant Appointments for HQ Customers."
10. Prepares the personnel actions, for both paid and unpaid appointments, in accordance with the Office of Personnel Management (OPM) Guide to Processing Personnel Actions. When processing actions, the title "Expert" or "Consultant" is used. The pay plan is assigned in accordance with OPM's Guide of Data Standard (i.e., ED, EE, EF, and EG). The occupational series is coded "0000" and the grade is coded "00" in accordance with Title 5, C.F.R. §304.103(a)(1).
11. Ensures the appropriate remark codes are on the SF-52, to include remark code "E21" when the employee is a SGE as defined in Sec. 202 of Title 18, U.S. Code. (Remark code text: "You are subject to regulations governing conduct and responsibilities of Special Government Employees.").

- Payroll and Processing:

1. On-boards the expert or consultant. The onboarding process may vary depending upon the individual circumstances of the hire.
2. Processes the SF-52 within the established time frame to ensure the expert or consultant is paid.
3. Ensures the applicable National Finance Center code(s) are used in accordance with IRIS Manual. Special Employee Code "07" for experts and consultants is used. Special Employee Programs Code "9A" for Special Government Employee or "G3" for Expert/consultant.

- REFERENCES

This SOP supplements policies and requirements contained in the references cited. It is not self-contained and is read in conjunction with the cited references and any applicable collective bargaining agreements.

- A. Title 5, United States Code § 3109, Employment of Experts and Consultants, Temporary or Intermittent.
- B. Sec. 202 of Title 18, U.S. Code, "Special Government Employee (SGE)"
- C. Title 5, Code of Federal Regulation (C.F.R.) Part 304, Expert and Consultant Appointments.
- D. DHS Directive 250-03, Employment of Experts and Consultants.
- E. DHS OCHO Staffing Guidance, SG-1-2014, Expert and Consultant Appointments

- ATTACHMENTS

1. Experts and Consultants Fact Sheet
2. Statement of Understanding for Expert/Consultant Appointment Expert & Consultant Certificate



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SOP APPROVAL

Owned by: OCHCO/HRMS


Approved by: Celisa M. Stephens, Executive Director HRMS

Effective date: April 9, 2018

Revision date:

Expiration/review date: As Needed

**CELISA M
STEPHENS**

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Date: 2020.02.04 07:36:40 -05'00'

Celisa M. Stephens, Executive Director
Human Resources Management and Services



Attachment 1 – Experts Consultants Fact Sheet

DHS may employ qualified experts or consultants to an expert or consultant position that requires only intermittent and/or temporary employment. These appointments are excepted from competitive examination, position classification and the General Schedule pay rates (base salary should be set at the lowest rate necessary to recruit the candidate consistent with pay offered to other similarly qualified candidates).

An expert or consultant who works on a strictly intermittent basis (employment without a regular scheduled tour of duty) may be appointed without time limit or for any period determined by DHS. DHS may reemploy an expert or consultant who works on a full time basis for a maximum of 2 years (i.e., on an initial appointment not to exceed 1 year and a reappointment not to exceed 1 additional year). If the individual works on a part-time or intermittent schedule, there are two options for reappointment and the terms of continuation must be decided in advance of the reappointment:

- Option One – Annual Service: The individual can be reappointed, with no limit on the number of reappointments, as long as the individual is paid for no more than six (6) months (130 days or 1,040 hours) in a service year or works for no more than that amount without compensation. If the individual exceeds this limit during the initial appointment, the reappointment may only be made for one additional year. Exceeding the limit during any subsequent service year results in the elimination of further reappointment opportunities.
- Option Two – Cumulative Earnings: Each appointee will have a lifetime earnings limit of twice the GS-15, step 10 salary. Reappointment may be made until the individual reaches this lifetime maximum. At that point, employment must be terminated.

Compensation and Benefits Limitations:

Reemployed annuitants are subject to salary offset. Any salary earned will be offset by their annuity.

The total daily rate of pay (including basic pay, locality pay, and premium pay) may not exceed the daily rate for GS-15, step 10 (excluding locality pay or any other additional pay).

The total biweekly rate of pay (including basic pay, locality pay, and premium pay) may not exceed the biweekly rate for GS-15, step 10 (excluding locality pay or any other additional pay).

Exempt employees (exempt from the Fair Labor Standards Act (FLSA)) may not receive Title 5 overtime pay, unless they are paid on a daily basis.

Non-exempt employees receive overtime pay under FLSA, regardless of whether they are paid on an hourly or daily basis.

Employees with a regularly scheduled tour of duty (not intermittent employment) are entitled to sick and annual leave and holiday pay.

Experts and Consultants are not entitled to retirement and benefits, unless they were entitled to retirement and benefits prior to appointment as an expert or consultants (without a break in service or separation from Federal service of three days or less).

Experts and Consultants will be paid on an hourly rate.

Attachment 2 – Statement of Understanding for Expert/Consultant Appointment

I understand that under the conditions of my appointment as a/n (Expert or Consultant) (Choose one) with the Department of Homeland Security (DHS) (*Component/Organization*):

1. I do not acquire competitive status as a career Federal employee.

2. I will not receive any special consideration for a career position with the federal government based on this appointment.

____3a. I will work on a strictly intermittent basis (i.e., no regularly scheduled tour of duty) indefinitely or for a period of time determined by (*Component/Organization*), in accordance with 5 C.F.R. § 304.103(a)(2);

OR

____3b. I will serve on a temporary appointment not to exceed one year and work on a full-time, part-time, seasonal, or intermittent work schedule. Eligibility for reappointment is determined by my duties, work schedule, number of days worked in a service year, and/or cumulative earnings, in accordance with 5 C.F.R. § 304.103(c).

____4. (*If applicable*) I have been advised by a DHS ethics official that I've been designated as a "Special Government Employee" (SGE). I have read the [Office of Government Ethics pamphlet entitled "To Serve With Honor,"](#) which addresses SGEs serving on advisory committees, but also applies to SGEs serving on Expert or Consultant appointments, and understand its contents. I will track the days I conduct official business to ensure that my service does not exceed the 130-day limit associated with a SGE designation (calculating any time spent at DHS during a day, no matter how short a time, as equal to a full day, within a 365 day period), and I will complete a new Confidential Financial Disclosure Report (OGE Form 450) for any subsequent reappointment and SGE designation.

____5. (*If applicable; must be signed prior to appointment pursuant to 5 C.F.R. § 304.104(c)*) My service to the Government of the United States as an (*Expert or Consultant*) (*Choose one*) in the (*Component/Organization*) is provided without pay. I agree to release the Government of the United States from any claim or demands for compensation for services performed under this appointment.

6. The service year of my *Expert or Consultant* (*Choose one*) appointment commences upon final approval and establishing the start date.

Signature of Proposed Appointee

Date

Attachment 3 – Expert and Consultant Certificate

In requesting the filling of this position, and in approving the rate of pay, I have considered the requirements of law (5 U.S.C. § 3109), the Office of Personnel Management regulations in 5 C.F.R. § 304, and Department of Homeland Security (DHS) Management Directive 205 -03 and guidance on the employment of Experts and Consultants.

I have determined that:

- a. The position is necessary.
- b. The position is a/n **Expert or Consultant (identify one)** position as defined by the Office of Personnel Management under 5 C.F.R. § 304.102(c) or (e) and is the most appropriate appointing authority for meeting the needs of DHS, **(Requesting Office)**.
- c. The appointee will work/works via **intermittent or part-time temporary** employment **(identify one)**, as defined in 5 C.F.R. § 304.102; if temporary, type of work schedule **(i.e., full-time, part-time, seasonal, or intermittent) (identify one)**. Proposed length of appointment is **(define)**.
- d. The proposed appointee meets the Office of Personnel Management's definition of Expert or Consultant (5 C.F.R. § 304.102(b) or (d)), and does, in fact, possess the level of expertise that will permit him/her to render the type of services that DHS, **(Requesting Office)** requires.
- e. The daily or hourly rate to be paid the proposed appointee is commensurate with the level of work to be performed and the individual's qualifications for the work. **[Provide rate of pay, if not here somewhere else in the request.]**
- f. This appointment will not bypass or undermine personnel ceilings, or 5 C.F.R. § 304 pay limitations.
- g. The work to be performed by the Expert/Consultant is not being performed by the Component's regular employees.
- h. The appointee will not perform managerial or supervisory work, make final decisions on substantive policies, or function in the Component's chain of command (e.g., approve financial transactions, personnel actions, etc.).
- i. This appointment is not being used to appoint the individual to a position requiring Presidential appointment.
- j. This position is not being used to appoint the individual to a Senior Executive Service position.
- k. This position is not being used as a means of covering during staff shortages.
- l. This position is not being filled solely in anticipation of giving that individual a career appointment.
- m. An evaluation of the appointee's qualifications, citing superior competence (e.g., national or international expertise, highly specialized knowledge and skills, etc.) not currently available within HQ Organization's workforce is enclosed.

Hiring Official

Date