

Approved: 11-06-06

SUBJECT: EMPLOYMENT OF EXPERTS AND CONSULTANTS

1. PURPOSE. To maintain a system of controls and oversight necessary for the Department of Energy (DOE) to assure compliance with 5 U.S.C. 3109, "Employment of Experts and Consultants, Temporary or Intermittent"; Title 5, Code of Federal Regulations (CFR), Part 304, "Expert and Consultant Appointments"; and all other relevant rules, regulations, and DOE directives.
2. CANCELLATION. DOE 3304.1A, *Employment of Experts and Consultants*, dated 6-23-92. Cancellation of an Order does not, by itself, modify or otherwise affect any contractual obligation to comply with the Order. Cancelled Orders incorporated by reference in a contract remain in effect until the contract is modified to delete references to requirements in the cancelled Orders.
3. APPLICABILITY.
 - a. Departmental Elements. This Order applies to all Departmental elements. (Go to <http://www.directives.doe.gov/pdfs/reftools/org-list.pdf> for the most current listing of Departmental elements. This Order automatically applies to Departmental elements created after the Order is issued.)

The Administrator of the National Nuclear Security Administration (NNSA) will assure that NNSA employees comply with their respective responsibilities under this Order. Nothing in this Order will be construed to interfere with the NNSA Administrator's authority under section 3212(d) of Public Law (P.L.) 106-65, National Nuclear Security Administration Act (Title 32), to establish Administration-specific policies, unless disapproved by the Secretary.
 - b. Contractors. This Order does not apply to contractors or the procurement of services by contractors.
 - c. Exclusions. None.
4. REQUIREMENTS. See specific requirements in Chapters I to IV.
5. RESPONSIBILITIES.
 - a. Office of the Secretary of Energy. Subject to statutory provisions/limitations, exercises appointment authority and determines the initial daily rate of pay for experts and consultants.

- b. Office of Assistant General Counsel for General Law.
 - (1) Provides conflict of interest clearance for all potential experts/consultants.
 - (2) Provides written advice to experts/consultants.
 - (3) Maintains appropriate records.
- c. Office of Security and Safety Performance Assurance. Processes security forms, requests appropriate investigations, grants access authorizations when appropriate, and maintains records of potential experts/consultants to be hired at Headquarters.
- d. Headquarters Departmental Elements and National Nuclear Security Administration.
 - (1) Heads of Headquarters Departmental Elements Using Expert or Consultant Services.
 - (a) Assure compliance with the requirements of this Directive by their staff and by the experts and consultants employed by their organization.
 - (b) Concur in requests for expert or consultant services initiated within their organization, and certify that the proposed uses of services are in compliance with governing regulations.
 - (c) As appropriate, provide documentation to the Office of Human Capital Management as required by OPM.
 - (2) Deputy Chief Human Capital Officer/Director, Office of Human Capital Management, and Associate Administrator for Management and Administration, National Nuclear Security Administration.
 - (a) Are responsible for final approval of personnel actions relating to the appointment of experts and consultants by organizations within the scope of their authority.
 - (b) Administer the oath of office and execute appointment affidavits for experts and consultants employed in their respective organizations.
 - (3) Deputy Chief Human Capital Officer/Director, Office of Human Capital Management.
 - (a) Annually provides OPM the number of days each expert/consultant was employed by the Department and the total amount each expert/consultant was paid.

- (b) Maintains information on appropriate rate of basic pay.
- e. Heads of Field Elements with delegated personnel authority.
 - (1) Approve expert/consultant services for the field and certify such services are necessary and in compliance with governing policies and regulations.
 - (2) Administer the oath of office and executive appointment affidavits for experts and consultant employed in their respective organizations.
- f. Office of the Inspector General, Office of Resource Management.
 - (1) Initiates requests for and certifies that proposed uses of services are in compliance with governing regulations.
 - (2) Approves expert and consultant services for the Office of the Inspector General.
 - (3) Provides for administration of oaths of office and execution of appointment affidavits.
- 6. DEFINITIONS. Definitions are in Appendix A.
- 7. REFERENCES. The following references are the source of requirements for this Order and/or provide additional guidance/information for its implementation.
 - a. Executive Order 12674, "Principles of Ethical Conduct for Government Officers and Employees," dated April 12, 1989, as modified.
 - b. Executive Order 12731, "Principles of Ethical Conduct for Government Officers and Employees," dated October 17, 1990.
 - c. Title 32 of P.L. 106-65, the National Nuclear Security Administration Act, as amended.
 - d. Title 5 CFR Part 304, "Expert and Consultant Appointments."
 - e. Title 5 CFR 2635, "Standards of Ethical Conduct for Employees of the Executive Branch."
 - f. Title 5 U.S.C., Section 3109, "Employment of Experts and Consultants; Temporary or Intermittent."
 - g. Title 5 U.S.C., Chapter 51, "Classification" [of positions].
 - h. Title 5 U.S.C., Chapter 53, "Pay Rates and Systems."

- i. Title 5 U.S.C., Section 5533, “Dual Pay from More Than One Position; Limitations; Exceptions.”
 - j. Title 5 U.S.C., Chapter 63, “Leave.”
 - k. Title 5 U.S.C., Chapter 81, “Compensation for Work Injuries.”
 - l. Title 18 U.S.C., Section 203, “Compensation to Members of Congress, Officers, and Others in Matters Affecting the Government.”
 - m. Title 18 U.S.C., Section 205, “Activities of Officers and Employees in Claims Against and Other Matters Affecting the Government.”
 - n. Title 18 U.S.C., Section 207, “Restrictions on Former Officers, Employees, and Elected Officials of the Executive and Legislative Branches.”
 - o. Title 18 U.S.C., Section 208, “Acts Affecting a Personal Financial Interest.”
 - p. DOE Secretarial Delegations of Authority’s Website:
[http://www.directives.doe.gov/delegations/index .html](http://www.directives.doe.gov/delegations/index.html)
8. CONTACT. Questions concerning this Order should be directed to the Deputy Chief Human Capital Officer/Director, Office of Human Capital Management, 202-586-8450.

BY ORDER OF THE SECRETARY OF ENERGY:



CLAY SELL
Deputy Secretary

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CHAPTER I. APPOINTMENT, REAPPOINTMENT, AND TERMINATION

1. BACKGROUND. The Department of Energy (DOE) uses experts and consultants to provide professional or technical expertise that does not exist or is not readily available within DOE or to perform services that are not of a continuing nature and/or could not be performed by DOE employees in competitive or other permanent full-time positions.
2. ADHERENCE TO FAIR HIRING PRACTICES. Selection of experts and consultants will be made without regard to nonmerit factors such as color, religion, sex, age, or national origin.
3. INITIAL APPOINTMENTS. According to 5 U.S.C. 3109, the Department may employ experts and consultants on a temporary basis (up to 1 year) or on a strictly intermittent basis without time limit or for any period determined by DOE without regard to the civil service and classification laws (i.e., such appointments are exempt from competitive examination, position classification, and the General Schedule pay rates).
 - a. Expert/consultant appointments must meet the following requirements.
 - (1) Positions must be expert or consultant positions.
 - (2) Persons employed as experts/consultants must be qualified to perform the duties of the positions to which they have been appointed.
 - (3) Needed services must be of such a nature that the Department can meet the need by temporary or intermittent employment.
 - b. Expert/consultant appointments must not be used for any of the following.
 - (1) Positions requiring Presidential appointment. (However, subject to the conditions of the authorizing legislation, the Department may appoint an individual awaiting final action on a Presidential appointment to an expert or consultant position).
 - (2) Positions in the Senior Executive Service.
 - (3) Positions involving managerial or supervisory work (although an expert/consultant may act as team leader or director of the specific project for which he/she is hired), making final decision on substantive policies, or functioning in the Department's chain of command (e.g., approving financial transactions or personnel actions).
 - (4) Positions involving work usually performed by DOE's regular employees.
 - (5) Substitutes for permanent, full-time jobs; to fill in for regular employees during staff shortages; or to bypass normal employment procedures and/or General Schedule pay rates.

4. **REQUIRED FORMS.** The heads of the organizations seeking to use expert or consultant services will ensure the following forms are filled out as indicated for each expert/consultant and the appropriate approvals obtained. (See the appendices for sample forms.)
- a. DOE F 3304.1, “Approval of Expert or Consultant Employment Request.” (Appendix B is an example of this form.) One of the following must be attached to DOE F 3304.1.
 - (1) Office of Personnel Management (OPM) Optional Form- (OF-) 612, “Optional Application for Federal Employment,” or
 - (2) a résumé showing the proposed appointee’s qualifications, experience, and earnings record.
 - b. Financial Disclosure forms, as specified in Chapter III, must be completed for prospective experts or consultants and approvals obtained from the Office of the Assistant General Counsel for General Law. The forms must be submitted within 30 days of appointment/reappointment.
 - c. Security forms for the clearance level required for each appointment, as described below, must be completed and submitted to the Director, Office of Security and Safety Performance Assurance for Headquarters appointments, or the servicing Personnel Security Office at Field locations.
 - (1) Nonsensitive (no access to classified data required; no clearance required)—
 - (a) OPM Standard Form- (SF-) 85, “Questionnaire for Nonsensitive Positions,” (submit electronically via the Electronic Questionnaire for Investigations Processing, E-QIP, System, and
 - (b) SF-87, “Fingerprint Card,” (two copies).
 - (2) Noncritical Sensitive (requires access to Secret or Confidential National Security Information or Confidential Restricted Data and requires “L” access authorization) and Critical Sensitive (requires access up to Top Secret National Security Information or Secret Restricted Data and requires a “Q” access authorization).
 - (a) OPM SF-86, “Questionnaire for National Security Positions,” (submit electronically via E-QIP);
 - (b) SF-87, “Fingerprint Card,” (two copies);
 - (c) DOE F 5631.18, “Security Acknowledgment,” (one copy); and

(d) DOE F 472.1, “Fair Credit Reporting Act Authorization.”

- d. OPM SF-52, “Request for Personnel Action,” (including appropriate remarks on the scheduled tour of duty if part-time).
 - e. Signed “waivers of compensation” must be submitted to the Department by those experts and consultants who agree to serve without compensation before appointment. (Appendix C is an example of an acceptable format for such waivers.)
 - f. OPM SF-61, “Appointment Affidavit,” must be signed by the appointee and the appropriate official upon administration of the oath of office.
 - g. OPM OF 306, “Declaration for Federal Employment.”
5. APPOINTMENT OFFERS. A formal letter of appointment must be sent to all experts/consultants before employment. (Appendix D is an example of an acceptable format for letters of appointment.) The following forms and documents will accompany the letter of appointment.
- a. A copy of 5 CFR Part 2635, Standards of Ethical Conduct for Employees of the Executive Branch, or a summary of this regulation that has been approved by the Assistant General Counsel for General Law.
 - b. The necessary clearance forms described under paragraph 4d above.
 - c. A waiver of compensation “form,” if necessary, per paragraph 4f above (see Appendix C).
 - d. A copy of “Employment Conditions for Experts and Consultants” (see Appendix E).
6. REAPPOINTMENT.
- a. Reappointment to perform substantially the same duties is subject to the following limits:
 - (1) DOE may employ an expert or consultant who works on a full-time basis for a maximum of 2 years (i.e., for an initial appointment not to exceed 1 year and a reappointment not to exceed 1 additional year).
 - (2) DOE may reappoint an expert or consultant who works on a part-time or intermittent schedule in accordance with one of the following options. The Department must determine which option it will use in advance of any reappointment and must base its determination on objective criteria

(e.g., nature of duties, pay level, whether or not work is regularly scheduled). Option 1 must be applied to reappointment of experts and consultants appointed without compensation.

- (a) Option 1—Annual Service. DOE may reappoint an expert or consultant, with no limit on the number of reappointments, as long as the individual is paid for no more than 6 months (130 days or 1040 hours) of work or works for no more than that amount of time without compensation in a service year. An expert or consultant who is expected to exceed this limit in his/her first service year may be reappointed for 1 additional year. An expert or consultant may not exceed the limit during the second service year and may not be reappointed thereafter.
 - (b) Option 2—Cumulative Earnings. Each expert or consultant will have a lifetime limit of twice the maximum annual rate payable under the annualized basic pay limitations of 5 CFR 304.105. DOE may adjust this limit to reflect statutory increases in basic pay rates. DOE may reappoint an expert or consultant until his/her total earnings from expert or consultant employment with DOE reach the lifetime maximum of Executive Level III, as determined by using the applicable maximum salary rates. At that point, the employment will be terminated.
 - b. DOE may reemploy an expert or consultant to perform demonstrably different duties without regard to the length of that individual's previous expert or consultant service with the Department.
 - c. The same forms are required for reappointment as are necessary for initial appointment; however, unless there is a change in security level (i.e., change in level of access required), no security forms are required.
 - d. OPM may authorize reappointment of an expert or consultant as an exception to the above limits when necessitated by unforeseen and unusual circumstances.
7. TERMINATION. Appointments are terminated at the expiration of the appointment period or upon completion of the work.
- a. An SF-52 must be used to document the termination and must specify the total number of days worked during the service year if the appointment was intermittent.
 - b. An SF-278, "Public Financial Disclosure Report," must be filed by certain experts/consultants as described in Chapter III.

- c. DOE F5631.29, "Security Termination Statement," must be completed if the expert/consultant was granted an access authorization (security clearance)
 - d. Standard Form 312, "Classified Information Nondisclosure Agreement," the debriefing section, must be completed if the expert or consultant was granted an access authorization.
- 8. REPORTING. As required by 5 U.S.C. 3109(e), DOE will report the following to OPM on an annual basis:
 - a. number of days the Department employed each paid expert or consultant and
 - b. total amount (except for payments for travel and related expenses) the Department paid each expert or consultant so employed.

CHAPTER II. COMPENSATION AND PAY ADMINISTRATION

1. **RATE OF PAY.** The rate of basic pay for experts and consultants must be set by the organization submitting the administrative action, subject to statutory limits (refer to 5 CFR 304.104). (Contact the Office of Human Capital Management for the latest information.)
 - a. The following factors will be considered when setting the initial rate of basic pay for an expert or consultant:
 - (1) the level and difficulty of the work to be performed,
 - (2) the qualifications of the expert or consultant,
 - (3) the pay rates of comparable individuals performing similar work in Federal or non-Federal sectors, and
 - (4) the availability of qualified candidates.
 - b. Daily and Biweekly Basic Pay Limitations (Refer to 5 CFR 304.105).
 - (1) Unless specifically authorized by an appropriation or other statute, DOE may not pay for any one day of work an aggregate amount of pay that exceeds the daily equivalent of the highest rate payable under 5 U.S.C. 5332—that is, the daily rate for GS-15, step 10, under the General Schedule (excluding locality pay or any other additional pay). The daily rate is computed by dividing the annual rate by 2,087 hours to find the hourly rate of pay and multiplying the hourly rate of pay by 8 hours.
 - (2) Unless specifically authorized by an appropriation or other statute, an expert or consultant shall not be paid for any biweekly pay period an aggregate amount of pay in excess of the biweekly rate of pay for GS-15, step 10, (excluding locality pay or any other additional pay). The biweekly rate is computed by dividing the annual rate by 2,087 hours to find the hourly rate of pay and multiplying the hourly rate of pay by 80 hours.
2. **PAY ADMINISTRATION.**
 - a. Experts and consultants will be paid at the daily rate prescribed in the appointment action for services performed for and at the request of the Department.
 - b. Experts and consultants are not entitled to overtime pay under 5 U.S.C. 5542.

- c. One-eighth of the daily rate is payable for each full hour for services in 1 calendar day up to 8 hours, including services performed on a Saturday, Sunday, or holiday.
 - d. A consultant or expert will not be paid for more than 10 days in a pay period.
 - e. Time spent in authorized travel is payable as if it were service as provided in paragraphs 2c through 2e above, except that travel beginning after 6 p.m. on one day and ending before 8 a.m. the next day (local time in the travel zone) or travel performed on a Saturday or Sunday is not payable unless actual service is performed; however, such time is eligible for compensatory time for travel.
 - f. No additional pay is provided for services or travel in excess of 8 hours in any 1 calendar day.
 - g. Pay adjustments will be at the Department's discretion, in accordance with statutory requirements, and will not automatically coincide with those for other employees (e.g., annual pay adjustments for General Schedule employees).
3. DUAL EMPLOYMENT AND COMPENSATION. Title 5 U.S.C. 5533(a) stipulates that an employee must not receive pay from more than one Federal position for more than an aggregate of 40 hours of work in any single week. Experts and consultants are exempt from this limitation when paid on a "when-actually-employed" basis for more than one expert or consultant position in different Agencies if the pay is not derived from the same hours of the same day or if pay consists of fees paid on other than a time basis.
4. EXCEPTIONS. Under certain circumstances, an expert or consultant appointed under 5 U.S.C. 3109 may be employed without pay provided the individual agrees in advance, in writing, to waive any claim for compensation for those services (see Chapter 1, paragraph 4f).
5. SPECIAL CONSIDERATIONS.
- a. Travel.
 - (1) An expert or consultant employed intermittently is entitled to compensation for travel and other expenses while away from his or her home or regular place of business, including per diem in lieu of subsistence while in route to and at the place of Departmental employment, in accordance with the Federal Travel Regulation.

- (2) Where the individual's residence or regular place of business is in the same metropolitan commuting area as the official Departmental workplace, the cost of commuting between the residence and regular place of business will not be reimbursable, nor will per diem or other subsistence payments be made.

b. Annual and Sick Leave.

- (1) Only those experts and consultants employed on a full- or part-time basis, with a regularly scheduled tour of duty prearranged in advance of employment, are entitled to earn annual and sick leave under the Annual and Sick Leave Act of 1951, as amended.
- (2) The regular tour of duty for part-time appointments must be specified on the SF-52 used to document actions.

c. Death and Disability Compensation. Experts and consultants are covered by the Federal Employees' Compensation Act (compensation for death or disability), 5 U.S.C. Chapter 81, each time they are called to perform a Departmental service. Incumbents should immediately report any occupational injury occasioned by Departmental service to the head of the office that uses the individual's services.

d. Retirement, Life Insurance and Health Benefits. Experts and consultants are not eligible for retirement, group life insurance or health benefits coverage unless such employment follows, without a break in service of more than 3 calendar days, service in positions in which they were entitled to such coverage and provided their earnings in each pay period will be sufficient to meet the employee's share of the premium costs.

CHAPTER III. STANDARDS OF CONDUCT

1. GENERAL STANDARDS. Most of the standards of conduct and ethical principles discussed in this chapter are derived from 5 CFR Part 2635, “Standards of Ethical Conduct for Employees of the Executive Branch,” which should be consulted for more complete information on ethics and standards of conduct restrictions impacting experts and consultants. Experts and consultants of DOE—
 - a. will refrain from any use of Government employment that is or gives the appearance of being motivated by the desire for private gain;
 - b. will not use any inside information obtained as a result of a Departmental appointment for private personal gain either by direct actions, recommendations, or suggestions to others;
 - c. will not use their Government positions to coerce in any way, or give the appearance of coercing, another person to provide a financial benefit to them or any persons with whom they have family, business, or financial ties; and
 - d. will not receive or solicit from persons having Departmental business anything of value, such as a gift, gratuity, loan, or favor while serving DOE or in connection with such service unless the receipt of the gift is within an exception or exclusion contained in 5 CFR Part 2635.
2. FINANCIAL DISCLOSURE REPORTING REQUIREMENTS.
 - a. Experts and consultants paid at a rate *equal to or greater than* 120 percent of the minimum rate of basic pay for GS-15 and serving for more than 60 days in a calendar year must complete an Office of Government Ethics (OGE) SF 278, “Executive Personnel Public Financial Disclosure Report”—
 - (1) within 30 days of appointment or reappointment and
 - (2) within 30 days after termination of their appointments.
 - b. Experts and consultants paid at a rate *less than* 120 percent of the minimum rate of basic pay for GS-15, serving without compensation, or serving 60 days or less at any pay level must complete an OGE Form 450, “Confidential Financial Disclosure Report,” or approved alternative form upon appointment or reappointment. No termination report is required.
3. CONFLICT OF INTEREST. The conflict of interest rules for experts and consultants are contained in criminal statutes (18 U.S.C. 201 et seq.) and executive branch-wide regulations. If a conflict or the appearance of conflict exists, all employees, including experts and consultants, should seek counsel from the Office of the Assistant General Counsel for General Law.

APPENDIX A. DEFINITIONS

1. 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. When an Agency requires public advisory participation, a consultant also may be a person who is affected by a particular program and can provide useful views from personal experience.
2. Consultant Position. One that requires providing advice, views, opinions, alternatives, or recommendations on a temporary and/or intermittent basis on issues, problems, or questions presented by a Federal official.
3. Employment without Compensation. Unpaid service provided at the Department's request to perform duties that are unclassified. It is not volunteer service.
4. 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.
5. Expert Position. One 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. For example, a computer scientist may use advanced methods to develop a complex software system.
6. Intermittent Employment. Employment without a regularly scheduled tour of duty; work on programs, projects, problems, or phases thereof, accomplished on an occasional or irregular basis. When an expert or consultant works more than one-half of a service year (i.e., if he or she is paid for all or any part of a day for more than 130 days in a service year), such employment automatically ceases to be intermittent and becomes full-time, temporary employment.
7. Service Year. The calendar year that begins on the date of the individual's initial appointment in DOE.
8. Special Government Employee. An expert or consultant retained, designated, appointed, or employed with or without pay for 130 or fewer days during any period of 365 consecutive calendar days.
9. Temporary Employment. Employment on programs, projects, problems, or phases thereof that require only temporary service for 1 year or less (full-time, part-time, seasonal, or intermittent work schedule).
10. Working Day. A calendar day on which work is performed for 1 hour or more.

**APPENDIX B. U.S. DEPARTMENT OF ENERGY FORM 3304.1,
APPROVAL OF EXPERT OR CONSULTANT EMPLOYMENT REQUEST**

DOE F 3304.01 (x-06)	
U.S. DEPARTMENT OF ENERGY APPROVAL OF EXPERT OR CONSULTANT EMPLOYMENT REQUEST	
1. Name of Expert or Consultant:	
2. Organization:	9. Current Employment (<i>position, company, and location</i>):
3. Action Requested: (a) <input type="checkbox"/> Expert (b) <input type="checkbox"/> Appointment/Reappointment <input type="checkbox"/> Consultant <input type="checkbox"/> Extension	
4. Hourly Rate of Pay:	10. Home Address (<i>city, state, and zip code</i>):
5. Nature of Appointment: <input type="checkbox"/> Full Time <input type="checkbox"/> Part Time <input type="checkbox"/> Intermittent	
6. Period for Which Services Are Desired: _____ To _____	11. Official Worksite (<i>where services are to be performed</i>):
7. Estimated Number of Days to Be Worked:	<u>FOR USE OF APPROVING OFFICE ONLY</u> 12. APPROVALS Conflict of Interest Clearance Approved: _____ Security Clearance Required (Y/N) _____
8. Number of Days Worked Under Present Appointment: (<i>Extension Only</i>)	
13. Description of Services Required:	
14. Justification for this Expert/Consultant Action and Qualifications of Candidate Related to Need for Appointment:	
(Continued on Reverse)	

Name of Expert/Consultant _____

APPROVAL OF EXPERT OR CONSULTANT EMPLOYMENT REQUEST

In approving the filling of this (*Consultant/Expert*) position without regard to the laws and regulations governing appointments in the competitive civil service, and in approving the rate of pay set for this position without regard to the classification and pay laws, I am satisfied myself that:

- a. the position is necessary;
- b. the position is a "Consultant/Expert position" as defined by 5 CFR Part 304;
- c. (*check blocks 1 or 2 below, as appropriate*)
 - ☐ 1. the work of this Consultant:
 - (a) is temporary in nature (e.g., will not exceed 1 year, and requires irregular or occasional services),
 - (b) requires a high level of expertness not available in the regular work force,
 - (c) is of a purely advisory nature, and
 - (d) does not include the performance or supervision of operating functions;
 - ☐ 2. the work of this Expert:
 - (a) is temporary in nature (e.g., will not exceed 1 year, and requires irregular or occasional services),
 - (b) requires a high level of expertness not available in the regular work force, and
 - (c) requires the services of an authority in the field of _____ ;
- d. this authority is the most appropriate appointing authority for meeting the Department's needs;
- e. the proposed appointee's qualifications meet the definition of Expert or Consultant in 5CFR Part 304;
- f. the daily rate intended to be paid the proposed appointee is commensurate with the level of the work he is to perform and his qualifications for work;
- g. the documentation of this action is in compliance with the rules and regulations of the Office of Personnel Management and with the Department's policies and directives; and
- h. the signed form will be maintained by the Human Resources Office.

CERTIFIED: (Initiator)	Signature: Title (<i>Typed</i>):	Date:
CONCURRED: (Assistant Secretary or equivalent)	Signature: Title (<i>Typed</i>):	Date:
APPROVED: (Human Resources)	Signature: Title (<i>Typed</i>):	Date:

APPENDIX C. SAMPLE WAIVER OF COMPENSATION

DEPARTMENT OF ENERGY

WAIVER OF COMPENSATION

I understand my service to the Government of the United States as an expert or consultant for the _____ is provided organization/location of work without compensation. I agree to release the Government of the United States from any claims or demands for compensation for services performed under this appointment.

Signature of Proposed Appointee

Date

Signature of Witness

Date

APPENDIX D. SAMPLE LETTER OF APPOINTMENT

Dear [Name]:

The Department of Energy appreciates your willingness to serve as

- | | |
|---------------------------------------|---|
| <input type="checkbox"/> an expert | <input type="checkbox"/> on an intermittent basis |
| <input type="checkbox"/> a consultant | <input type="checkbox"/> on a part-time basis |
| | <input type="checkbox"/> on a full-time basis |

and requests that you complete the enclosed forms. The nature of your services will be to [specify significant work requirements].

The period of this appointment is from _____ to _____.
Specific requests for your services will be made as the need arises.

You will ☐ receive compensation of \$_____ per hour.

☐ serve without compensation.

Your paycheck will be sent to your banking/financial institution.

It is understood that you or the Department of Energy may terminate your services at any time by giving written notice.

The enclosed description of employment conditions for experts and consultants of the Department is a part of this letter of appointment; it applies to this appointment, reappointment, and any extensions, thereof.

Please indicate your acceptance of this appointment by completing the enclosed documents and returning them to this office in the enclosed envelope.

Confirmation of your appointment may be made either orally or in writing. If you have any questions or if we may be of any assistance to you, please contact _____ at _____.

Please retain this letter of appointment for your files.

Sincerely,

[Name]
[Title]

Enclosures:

Employment Conditions for DOE Experts and Consultants
(List also all forms enclosed for completion by the expert or consultant.)

APPENDIX E. EMPLOYMENT CONDITIONS FOR EXPERTS AND CONSULTANTS IN THE DEPARTMENT OF ENERGY

1. APPOINTMENTS. Expert and consultant appointments are temporary appointments for service periods of 1 year or less.
 - a. Full time employment—Employment on programs, projects, problems, or phases thereof which require only temporary service for 1 year or less (40 hours per week).
 - b. Intermittent employment—Work on programs, projects, problems, or phases thereof which is accomplished on an occasional or irregular basis. When an expert or consultant works more than one-half of a service year, that is, if he or she is paid for all or any part of a day for more than 130 days in a service year, such employment automatically ceases to be intermittent and becomes full time.
 - c. Work day is defined as a calendar day on which work is performed for 1 hour or more.
2. PAY. Pay at the rate prescribed in the appointment documents is paid for services performed for and at the request of the Department.
 - a. One-eighth of the full daily rate is payable for each full hour for services in 1 calendar day up to 8 hours, including services performed on a Saturday, Sunday, or holiday.
 - b. A consultant or expert may not work more than 10 days in a pay period and biweekly rate of pay must not exceed 10 times the daily rate.
 - c. Time spent in authorized travel is payable as if it were service as provided in paragraphs 2a and c, above, except that time during travel is not payable if travel begins after 6:00 p.m. on one day and ends before 8:00 a.m. the next day (local time in the travel zone), and travel performed on a Saturday or Sunday is not payable unless actual service is performed; however, such time is eligible for compensatory time for travel
 - d. No additional pay is provided for service or travel in excess of 8 hours in any 1 calendar day; and if the consultant or expert is employed on an intermittent basis, he/she cannot be given holidays off with pay, paid a premium rate for work on a holiday, or otherwise compensated at an overtime rate.
3. TRAVEL. If the consultant or expert employment is intermittent, he/she will be allowed travel and other expenses while away from his/her home or regular place of business, including per diem in lieu of subsistence while en route and at place of Departmental employment in accordance with Federal Travel Regulations. Where the consultant or expert's residence or regular place of business is in the same metropolitan commuting

area as the official Departmental work place, the normal cost of commuting between his home and regular place of business will not be reimbursable, nor will per diem or other subsistence payments be made.

4. DEATH OR DISABILITY COMPENSATION. A consultant or expert is covered by the Federal Employee's Compensation Act (compensation for death or disability), Title 5 United States Code, section 8101 et seq., when serving in the Federal position. She or he is to immediately report any occupational injury occasioned by Departmental service to the head of the office which uses his/her services.
5. RETIREMENT, LIFE INSURANCE, AND HEALTH BENEFITS. A consultant or expert whose service is intermittent or temporary for 1 year or less is not covered under the Federal retirement system and is ineligible for life insurance and health benefits. However, if an employee currently covered by retirement, life insurance, or health benefits is appointed as an intermittent or temporary (full time or part time) expert or consultant without a break in service or after a separation from the service of 3 days or less, coverage is continued. To continue life insurance coverage for an intermittent employee, there must be an expectation that the employee will return to the previous position on a full-time basis. (5 CFR 831, 5 CFR 870, and 5 CFR 890).
6. ANNUAL AND SICK LEAVE. A consultant or expert who serves on an intermittent or other basis without a prearranged regular tour of duty does not earn annual and sick leave. However, if the consultant or expert is on a regularly prescribed tour of duty, full time or part time, he/she does earn annual and sick leave. (5 CFR 630)
7. SECURITY REQUIREMENTS. A consultant or expert must conform to all Departmental regulations and requirements concerning security and access authorization.
8. CONDUCT. A consultant or expert must conform to the provisions of Departmental policy and regulations regarding conduct of employees including conflict of interest, the filing of statements of financial disclosure, and post employment reports.
9. CONFLICT OF INTEREST. The conflict of interest provisions for experts and consultants are contained in executive-branch-wide regulations, as well as the Department's regulations. Experts and consultants should seek counsel from the Office of the Assistant General Counsel for General Law.
10. POSTEMPLOYMENT. Experts and consultants are subject to postemployment restrictions under title 18 and procurement integrity under title 41. Experts and consultants should seek counsel from the Office of the Assistance General Counsel for General Law.