

Project Administration Instructions

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ELIGIBILITY

A. General Rules

1. The Asian Development Bank (ADB) generally permits consultants with the required technical expertise from all its member countries to bid for the assignments it finances. Selection criteria are applied to ensure that consultants have sufficient capacity to complete assignments. Therefore, the following general restrictions apply to all assignments:

- Consultants must come from ADB member countries. Consulting firms must be registered in ADB member countries, and individual consultants must be citizens of member countries.
- Consultants must be fully competent and qualified for the work they will do.
- Consultants must be medically fit for their assignments, including any necessary travel.

2. For technical assistance (TA), staff, training, or resource person assignments, (but not for loan-financed assignments), reengaging a person as a consultant requires clearance by the Central Operations Services Office (COSO).

3. As noted in project administration instruction (PAI) 2.01, Part A, paragraph 18, and paragraph 1.11(b) of the *Guidelines on the Use of Consultants by Asian Development Bank and Its Borrowers (the Guidelines)* to avoid conflicts of interest, a consultant or consulting firm that has prepared the terms of reference (TOR) for an assignment may not be engaged for that assignment. This exclusion applies to consultants engaged as individual consultants, any consulting firm engaged to prepare TOR, and any team members of the consulting firm specifically involved in preparing the TOR.

B. Government Organizations and Employees

4. The following special restrictions on government organizations and employees apply to all assignments:

- Government-owned enterprises and institutions may work as consultants in their own countries only if they can establish that they are legally and financially autonomous; operate under commercial law; and do not depend on the borrowing government, a government agency, or subborrower. However, ADB may approve, on a case-by-case basis, a government-owned university or research center, or one of its staff, participating in an assignment when the services are of an exceptional or unique nature and such participation is critical to the assignment.
- Current employees of executing agencies (EAs) for ADB-financed loan or TA activities may not work as consultants on those activities.
- Developing member country (DMC) government employees may not work as consultants in their own countries if there is a real or potential conflict of interest.
- ADB's preference is to not recruit current DMC government employees from agencies other than the EA to work in their own countries. However, when such government employees who do not work in EAs must be engaged, as individuals or as members of a consulting firm's team, and there is no real or potential conflict of interest:

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- the government must provide written approval, confirming that the employees are on leave without pay from their official positions and available to work full-time on the assignments; and
- the individuals must not work in their own departments.
- Former DMC government employees may work as consultants in their former ministries, departments, or agencies provided there is no real or potential conflict of interest.

5. The additional restrictions in paragraphs 6-21 apply to TA, staff, training, and resource person assignments.

C. Former ADB Staff

6. Former ADB staff, advisers to executive directors, and former executive directors and alternate executive directors on the Board may not work as consultants within one year of their effective termination dates. Vice-presidents may not normally work as consultants within 3 years of their effective termination dates. Management may waive this requirement when it specifically requires a person's services.

7. The Budget, Personnel, and Management Systems Department (BPMS) clears proposals to engage former ADB staff for the first time as consultants on TA, staff, training, or resource person assignments. This occurs (i) if the former staff member was nominated by a first-ranked consulting firm in its technical proposal, or (ii) if the former staff member is proposed as an individual TA consultant or staff consultant. The procedures to obtain clearance are as follows:

- If the former staff member's position was below director level, the user division refers the candidate's name to the Director, Human Resources Division (BPHR), who checks that he or she did not have a performance, disciplinary, or related problem while working in ADB.
- If the former staff member's position was at the level of director through to department or office head, the user division submits the name through the Principal Director, COSO, to the Director General, BPMS for clearance. BPMS forms a committee of senior staff to review the nomination (paragraph 8), so adequate notice should be given.
- If the candidate was a director or alternate director on the Board or a vice-president, the director of the user division submits a brief justification and recommendation for recruitment through the head of the user department or office; the Principal Director, COSO; the Director General, BPMS; and the vice president concerned to the President for approval. A copy is given to the Secretary, Office of the Secretary.

8. To review proposals to engage former staff whose positions were at the level of director through to department or office head, BPMS forms a committee. The committee comprises the Director General, BPMS as chairperson; the head of the user department or office; and another head of a department or office as an independent member. The Director, BPHR acts as the secretary. The committee considers all the relevant factors, including

- whether the former staff member had a performance, disciplinary, or related problem while working in ADB;
- the proposed scope of work;

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- the expertise required and whether other candidates are equally qualified;
- the extent to which the former staff member was associated with the proposed work;
- the extent to which the former staff member's work or his/her subordinates' work was related to the proposed work; and
- the risk that the engagement might involve or be seen to involve favoritism or a conflict of interest.

D. Spouses of ADB Staff

9. Subject to the conditions set out below, spouses of ADB staff may work on assignments for which ADB selects the consultants.

10. Spouses of certain categories of staff are however, generally restricted from being recruited as consultants for consulting services. These restricted categories of staff are

- President, vice-president, head or deputy head of an office or department, dean of the Asian Development Bank Institute, and managing director-general; and
- professional staff positions in COSO, BPHR, and the Office of the Auditor General (OAG).

Upon recommendation, the President may waive this restriction in special cases, such as unique qualifications, urgency, or the overriding importance of the assignment. If the candidate is the current President's spouse, the ranking vice-president may approve the recruitment. The head of the user department or office submits the recommendation to the President, except when the staff member's position is in COSO, BPHR, or OAG; then the heads of the user department or office and the staff member's department or office submit a joint recommendation to the President.

11. In all cases, the recruitment of a spouse of an ADB staff member will be subject to a conflict of interest check in respect of the spouse being recruited. A spouse may not be recruited as a consultant of ADB if it is determined that

- the proposed consultancy position is in the same office or department as his/her staff member spouse (including field offices);¹ or
- the proposed consultancy position could be perceived to involve an actual or potential conflict of interest on the part of the ADB staff or spouse.

When a user division is in doubt about an actual, potential, or perceived conflict of interest, it shall refer the matter to the Principal Director, COSO, who will decide whether the recruitment may proceed.

12. Staff members whose spouses have skills that appear to match ADB's needs must take great care not to appear to be promoting their spouses' interests. Staff members are advised not to communicate with prospective user departments, since to do so may be interpreted as lobbying, which is strongly discouraged and may result in disciplinary measures.

¹ Field office includes all resident/regional missions and all representative, liaison, or coordination offices of ADB.

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13. Spouses who are interested in individual consulting assignments should register in the DICON,² the database of individual consultants. Spouses interested in working for consulting firms or organizations as members of their teams should contact those consulting firms or organizations directly.

14. User divisions recruiting individual consultants normally short-list three candidates. If a spouse is a candidate on the short list, user divisions should consider the spouse on the same basis and use the same eligibility requirements as used for the other candidates. The user division must not give the spouse any preference by virtue of his/her relationship to the staff member. The user division should also confirm that the assignment will not create any actual, potential, or perceived conflict of interest.

15. User divisions may directly select spouses for individual consulting assignments only in special cases. The user division submits a recommendation with detailed justification through the head of the user department or office to the Director, BPHR for clearance. Then the head of the user department or office approves the direct selection.

16. The Director, BPHR clears all assignments for spouses, including repeat assignments.

17. ADB does not provide a spouse working on an individual consulting assignment with

- per diem when working in the same duty station as the staff member, or
- reimbursement of expenses or other benefits provided by ADB to the staff member.

COSO decides during contract negotiations, on a case-by-case basis, whether to provide the spouse with the insurance cover normally provided to individual consultants.

E. Other Relatives of Current ADB Staff

18. Close relatives of current ADB staff, other than spouses (paragraphs 9-17), may not work as consultants. Administrative Order 2.01 (Appendix 1) lists the relatives considered to be close relatives.

F. Close Relatives of Consultants Currently Engaged by ADB

19. Close relatives of consultants currently engaged by ADB may not work as consultants or support staff if there is a real or potential conflict of interest. Engaging a close relative of a consultant to also work as a consultant or support staff on the same TA, or to work on a staff or training assignment in the same department or office is not allowed.

G. Legal Experts and Information Technology Experts

20. The Office of the General Counsel clears proposals to engage legal experts as consultants for TA, staff, training, and resource person assignments. The Office of Information Systems and Technology clears proposals to engage information technology experts as consultants for similar assignments.

² DICON will be replaced by the Consultant Management System (CMS) during the first quarter of 2008.

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H. Other Special Cases

21. The following additional restriction applies to loan project assignments: Borrowers may exclude consultants from countries to which the borrowing country cannot make payments, because it is complying with a decision of the United Nations Security Council.