

Shastri Bhawan, New Delhi
Dated the 10th March, 2022

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क्रमांक १००७८
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OFFICE MEMORANDUM

Subject: Guidelines for engagement of Consultants (retired Central Government servants) in Ministry of Culture and Organizations under it-regarding.

The undersigned is directed to refer to the subject mentioned above and to convey the approval of Competent Authority on the Guidelines for engagement of Consultants (retired Central Government servants) in Ministry of Culture and its organizations in accordance to the provisions of General Financial Rules-2017, Manual for Procurement of Consultancy & other Services-2017 and the consolidated instructions for engagement of Retired Government servants issued by Department of Expenditure, Ministry of Finance vide its O.M. No. 3-25/2021-E.IIIA dated 09.12.2020.

2. The following procedure may be followed while making such engagement/appointment of Consultants:-

- a. As per Rule-178 of GFR-2017 the Organization(s) may hire external professionals, consultancy firms or consultants for a specific job, which is well defined in terms of content and time frame for its completion. Besides, Rule-180 of GFR-2017 inter-alia provides that engagement of consultants may be resorted to in situations requiring high quality services for which the concerned organization does not have requisite expertise. The eligibility and pre-qualification criteria to be met by the consultants should also be clearly identified at this stage" [Rule-181 of GFR-2017].
- b. As per Para-5 of DoE's O.M. dated 9.12.2020 the appointments (i.e. as Consultant) shall not be made as a matter of practice and must be kept at a bare minimum. Such appointments may be made in the justified exigencies of the official work where public interest is served by appointment of the retired employee. While making such appointments, adequate functional necessity with clear grounds must be placed before the appointing authority.

3. Accordingly, all organisations (Attached/Subordinate & Autonomous) under Ministry of Culture are requested to follow the instructions/guidelines contained in GFR-2017, Manual for Procurement of Consultancy & other Services-2017 and the instructions given in DoE's O.M. dated 09.12.2020.

4. The engagement of consultant(s) in Attached & Subordinate organizations under this Ministry should be made with the concurrence of Finance Division of Ministry of Culture and approval of Secretary (Culture) through their respective Administrative Division.

5. The Autonomous Bodies under this Ministry may adopt these guidelines with the approval of their respective Governing Bodies.

3. The guidelines as annexed herewith, supersede earlier guidelines issued for engagement of Consultants in Ministry of Culture & its organizations.

7. This issues with the approval of Secretary (Culture).

Encls: As above.

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(Manish Kumar Chourasiya)
Under Secretary to the Government of India
Tele No. 2338 2312

Copy to:-

1. PS to HCM/MoS(ARM)/MoS(ML)
2. PSO to Secretary (C)/PS to JS&FA(C)
3. All Bureau/Divisional Heads.
4. The Head of all the organizations (Attached/Subordinate & Autonomous) under Ministry of Culture.
5. Finance & Budget Divisions.
6. All Under Secretaries/ All Sections.
7. E-office Notice Board/HTU for Hindi Translation.

F. No. A-54011/20/2020-Estb. Sec.

Government of India

Ministry of Culture

Subject: Procedure and Guidelines for engagement of Consultants (Retired Central Government servants) in the Ministry of Culture and organizations under it-reg.

The scheme for engagement of Consultants (Retired Central Government servants) on contract basis in the Ministry of Culture and its organizations shall henceforth be regulated as per the following guidelines:-

1. Eligibility:

1.1 Persons retired from the post of Assistant Section Officer/Section Officer/Under Secretary/Deputy Secretary/Director or equivalent is eligible for the position of Consultant. The level shall be decided with the approval of the competent authority considering the nature of job for which Consultant(s) are to be engaged. However, organizations under MoC may engage consultants according to their requirement of services which may include intellectual, Professional, Training & Advisory services as per the provisions of General Financial Rules (GFR)-2017.

1.2 The applicant should have knowledge of Noting/drafting, budget/accounts, office procedure, etc. and shall have expertise in communications and interpersonal skills, knowledge of electronic mailing & e-Office operation, computer applications such as MS Word, MS Excel and Power Point etc.

2. Age Limit:-

2.1 The term of appointment shall ordinarily be for an initial period not exceeding one year which is extendable by another year. Beyond two years after the age of superannuation where adequate justification exists, the term may be extended based on a review of the task and the performance of the contract appointee, provided it shall not be extended beyond 5 years after superannuation.

2.2 It is strictly advised not to continue the engagement of consultant(s) beyond the age of 65 years.

3. Remuneration:

3.1 In case of Retired Central Government servants who are drawing pension (as per CCS Pension Rules), a fixed monthly amount shall be admissible, arrived at by deducting the basic pension from the pay drawn at the time of retirement.

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3.2 If, there is any confusion in fixation of remuneration of Consultant(s), the example given under para-6 of Department of Expenditure's O.M. No. 3-25/2020-E.IIIA dated 09.12.2020 may be referred.

3.3 The amount of remuneration so fixed shall remain unchanged for the term of the contract. There will be no increment, percentage increase or Dearness Allowance during the contract period.

4. Allowances:

4.1 An appropriate and fixed amount as Transport Allowance for the purpose of commuting between the residence and the place of work shall be allowed not exceeding the rate applicable to the appointee at the time of retirement. The amount so fixed shall remain unchanged during the term of appointment. However, retired employee engaged as consultants may be allowed TA/DA on official tour, if any, as per their entitlement at the time of retirement.

4.2 No House Rent Allowance or any other allowance shall be admissible during the period of contract.

5. Engagement:

5.1 The engagement of consultant on contract basis shall not be made as a matter of practice and must be kept at a bare minimum. Such engagement shall be made only in the justified exigencies of the official work (for a specific job with well defined terms of content and time frame for its completion) where public interest is served by appointment of the retired employee. While making for such appointments, adequate functional necessity with clear grounds must be placed before the competent authority.

5.2 The engagement of Consultant will be purely on contract basis and will not confer any right for regular appointment in the Ministry/organization.

6. Appointment Procedure:

6.1 The consultant would be appointed after following due procedure i.e. calling for applications vide circular/ advertisement, etc.

6.2 The scrutiny of applications and selection of consultant will be carried out by the committee in Ministry/ respective organizations.

6.3 In the Ministry (Secretariat proper) the committee shall comprise as under:

Joint Secretary(Admn.)	Chairperson
Director/DS(concerned Div.)	Member
Deputy Secretary(Estt.)	Member

6.4 The organizations may formulate their own internal committee.

6.5 The Ministry/organization has the right to cancel advertisement and not to proceed in the matter for engagement of Consultant, at any stage to accept or reject any or all applications without giving any explanation, whatsoever.

6.6 All Consultants should be appointed in a transparent manner after following due procedure of public notification of the position, seeking applications and selection through a duly constituted committee by the competent authority.

7. Drawal of Pension:

7.1 The retired Govt. servant engaged as Consultant shall continue to draw their existing pension and Dearness Relief on pension during the period of his/her engagement as Consultant.

7.2 The engagement as Consultant shall not be considered as a case of re-employment.

8. Leave of absence:

Paid leave of absence may be allowed at the rate of 1.5 days for each completed month of service. Accumulation of leave beyond a calendar year shall not be allowed.

9. Working Hours:

9.1 The Consultant shall be required to observe the normal office timing and may also be called upon to attend the office on Saturday, Sunday or any holiday in case of urgency.

9.2 They shall mark their attendance in AEBAS (or as per the prescribed method of attendance) mandatorily, failing which it may result in deduction of remuneration.

10. Tax Deduction at Source:

The Income Tax or any other tax will be deducted at source as per Government instructions. Necessary TDS Certificate will be issued to them.

11. Confidentiality of data and documents:

11.1 The intellectual Property Rights (IPR) of the data collected as well as deliverables produced for the Department/organization shall remain with the Department/organization.

11.2 No one shall utilize or publish or disclose or part with, to a third party, any part of the data or statistics or proceedings or information collected for the purpose of this assignment or during the course of assignment for the Department/organization, without the express written consent of the Department/organization.

11.3 The Consultant shall be bound to hand-over the entire set of records of assignment to the Department before the expiry of the contract, and before the final payment is released by the Department/organization.

11.4 The Consultant would be required to sign a non-disclosure undertaking as per annexure.

12. Conflict of interest:

12.1 The Consultant appointed by the Department, shall in no case represent or give opinion or advice to others in any matter which is adverse to the interest of the Department/organization nor will he indulge in any activity outside the terms of employment/contractual assignment.

12.2 The Consultant shall not claim any benefit/compensation/absorption/regularization of service with this Ministry under the provision of Industrial Disputes Act, 1947 or Contract Labour (Regulation and Abolition) Act, 1970.

13. Termination of Agreement:

The Ministry may terminate the contract to which these terms apply if:-

- i. The Consultant is unable to address the assigned work.
- ii. Quality of the assigned work is not to the satisfaction of the Officer/ Department.
- iii. The Consultant is found lacking in honesty and integrity.
- iv. The Government may also terminate the contract at any time without giving any notice and also without assigning any reason.

14. Exemptions:

14.1 The term of appointment provided for in these orders shall not apply to cases and to the extent where the Appointments Committee of the Cabinet has allowed special terms OR where special provisions have been allowed with the approval of the Department of Personnel & Training OR Department of Expenditure.

14.2 The cases not covered under these guidelines may be considered by the concerned Division separately with the approval of the competent authority after concurrence of IFD.

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F. No. 3-25/2020-E.IIIA
 Government of India
 Ministry of Finance
 Department of Expenditure

Dated the 9th December, 2020

Office Memorandum

Subject: Regulation of Remuneration in case of Contract Appointment of Retired Central Government Employees.

The undersigned is directed to say that Ministries/Departments appoint retired Central Government employees on contract basis, including as Consultants on contract basis. However, at present there are no uniform guidelines for regulation of remuneration in such cases.

2. The existing instructions of Department of Personnel and Training, as contained in their Central Civil Services (Fixation of Pay of Re-employed Pensioners) Orders, 1986, as amended from time to time, provide for regulation of pay in case of re-employment. However, the instructions of Department of Personnel & Training as contained in their OM No. 26012/6/2002- Estt (A) dated 9.12.2002 provides that re-employment beyond the age of superannuation of 60 years shall not be permissible. Also, as per their OM No. 3(3)/2016-Estt (Pay II) dated 1.5.2017, the pay plus gross pension on re-employment is not to exceed Rs.2,25,000/-, i.e. Pay Level 17 as applicable to an officer of the level of Secretary to the Government of India.

3. Aforementioned instructions of Department of Personnel & Training on pay fixation in case of re-employment apply only to persons appointed on re-employment. These are not applicable to persons employed on contract basis except where the contract provides otherwise. Accordingly, in cases of appointment of retired Central Government employees on contract basis after the age of superannuation at 60 years, the instructions on pay fixation on re-employment will not directly apply.

4. Department of Personnel & Training has also informed that they are in the process of drafting a Note for Committee of Secretaries (CoS) regarding guidelines for engagement of retired Government servants as Consultant in Government Ministries and Department. In view of this, till Department of Personnel and Training finalizes their guidelines, there is a need to regulate remuneration in such cases of contract appointment of retired Central Government employees on a uniform basis. The matter has, therefore, been considered and it has been decided that regulation of remuneration in case of appointment of retired Central Government employees on contract basis, including as consultants, shall be regulated as provided hereinafter.

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5. At the outset, such appointments shall not be made as a matter of practice and must be kept at a bare minimum. Such appointments may be made only in the justified exigencies of the official work where public interest is served by appointment of the retired employee. While making such appointments, adequate functional necessity with clear grounds must be placed before the appointing authority.

6. Remuneration

6.1 A fixed monthly amount shall be admissible, arrived at by deducting the basic pension from the pay drawn at the time of retirement. The amount of remuneration so fixed shall remain unchanged for the term of the contract. There will be no annual increment / percentage increase during the contract period.

Example

An employee retired in the Pay Level 13 and the pay at the time of retirement was Rs. 1,55,900. Thus, the basic pension will be Rs. 77,950. If the employee is appointed on contract basis, including as Consultant, the remuneration shall be fixed at Rs. 77,950 (1,55,900-77950).

6.2 The basic pension to be deducted from the last pay drawn shall be the pension as fixed at the time of retirement and as such, if the employee has availed of the commuted value of pension, the commuted portion of pension shall also be included in the portion of pension to be deducted. Thus, in the above example, if 40% of pension was commuted, the commuted portion shall be Rs. 31,180 (40% of 77,950) and the pension actually drawn shall be Rs. 46,770. However, the amount of pension to be deducted from the last salary shall be Rs 77,950.

6.3 No Increment and Dearness Allowance shall be allowed during the term of the contract.

7. Allowances

7.1 House Rent Allowances

No HRA shall be admissible.

7.2 Transport Allowance

An appropriate and fixed amount as Transport Allowance for the purpose of commuting between the residence and the place of work shall be allowed not exceeding the rate applicable to the appointee at the time of retirement. The amount so fixed shall remain unchanged during the term of appointment. However, retired employees engaged as consultants may be allowed TA/DA on official tour, if any, as per their entitlement at the time of retirement.

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7.3 Leave of absence

Paid leave of absence may be allowed at the rate of 1.5 days for each completed month of service. Accumulation of leave beyond a calendar year may not be allowed.

8. Term of Appointment

8.1. The term of appointment shall ordinarily be for an initial period not exceeding one year which is extendable by another one year. Beyond two years after the age of superannuation where adequate justification exists, the term may be extended based on a review of the task and the performance of the contract-appointee, provided it shall not be extended beyond 5 years after superannuation.

8.2. The consultant shall sign an agreement of confidentiality with the Government of India containing a clause on Ethics and Integrity.

9. Exemptions

The terms of appointment provided for in these orders shall not apply to cases and to the extent where the Appointments Committee of Cabinet has allowed special terms OR where special provisions have been allowed with the approval of the Department of Personnel & Training OR Department of Expenditure.

10. These orders shall apply to appointments made in the Central Government and shall be effective from the date of issue of the orders, until further orders or until instructions are issued by DoPT regulating remuneration of retired Government employees on their engagement as consultants. The past cases shall not be reopened in the light of these orders until the normal term of those past cases. Any relaxation of the above will be required to be referred to Department of Expenditure.

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(B.K. Manthan)
Deputy Secretary

To, All the Ministries and Departments of the Government of India as per the standard list.