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ADMINISTRATIVE INSTRUCTION

To: Members of the staff

From: Under-Secretary-General for Administration and Management

Subject: Temporary staff and individual contractors

Purpose

1. The purpose of this instruction is to set out detailed provisions for obtaining the temporary services of individuals as temporary staff or individual contractors in accordance with section II of the Secretary-General's bulletin ST/SGB/177 of 19 November 1982 on policies for obtaining the services of individuals on behalf of the Organization. This instruction will become effective on 1 January 1983 and will supersede administrative instruction ST/AI/232 of 28 November 1975 on the use of outside expertise and professional services from the same date. Provisions for obtaining the services of individuals as consultants and participants in advisory meetings under section III and as technical co-operation personnel and OPAS officers under section IV of the Secretary-General's bulletin are set out in administrative instruction ST/AI/296 of 19 November 1982 on consultants and participants in advisory meetings and ST/AI/297 of 19 November 1982 on technical co-operation personnel and OPAS officers respectively.

Temporary staff

2. The temporary services of individuals required by the Organization from time to time to assist the regular staff in the performance of their functions by providing expertise, skills or knowledge similar to those possessed by regular staff or for which the Organization has a continuing need shall normally be obtained by their appointment for less than one year of continuous service as temporary staff either under the 100 series of Staff Rules or, for a maximum of six consecutive months, under the appropriate 300 series of Staff Rules for conference and other short-term service. If the service of an individual is likely to be continued beyond six months, the appointment should be under the 100 series. Unless a separate 300 series of Staff Rules has been established for the locality,

as in Geneva and Vienna, temporary staff shall be appointed under the 300 series of Staff Rules for Headquarters. The salaries to be paid under these Staff Rules for temporary staff who are to serve for more than one month at a time in offices other than Headquarters, Geneva or Vienna shall be determined in accordance with guidelines to be established by the Office of Financial Services.

3. The purposes for which temporary staff are appointed must be:

(a) To assist in dealing with peak workloads, particularly when necessary to meet deadlines for the production of reports and other work, or when the work is not evenly distributed over the year;

(b) To assist in dealing with unexpected demands on the regular staff which could not be foreseen;

(c) To cover essential work which, as a result of vacancies, cannot be performed by regular staff; or

(d) To provide services required for conferences and other short-term purposes that cannot be provided by regular staff.

Individual contractors

4. The temporary services of individuals required by the Organization from time to time for the purposes stated in paragraph 2 above may also be obtained by their engagement as individual contractors under a special service agreement entered into directly with the individual concerned. Individuals shall be engaged in this way as individual contractors when their services are required:

(a) To provide a service or product which can be performed or produced by the individual without entering any office of the Organization; or

(b) To discharge, in an office of the Organization, duties of an intermittent or part-time nature or for a continuous period of not more than eighth weeks in any period of three months.

The functions to be performed by the individual contractor shall be specified in the special service agreement which will contain a time schedule for their performance. As noted in paragraph 9 below, a special service agreement cannot be used for functions such as interpretation for which functional immunity is essential.

5. The services of an individual for the purposes outlined in paragraph 4 (a) above may also be obtained under an Institutional or Corporate Contractor-Contract (PT.141) form with an institution or other corporate body, provided the appropriate personnel service certifies in advance that the provisions of the contract do not conflict with the policies laid down in ST/SGB/177 and in this instruction. The official requesting approval of a PT.141 form that names an individual shall be responsible for obtaining the certificate from the appropriate personnel service

and submitting it to the office authorized to approve the PT.141 form. Such contracts shall be authorized and issued by the Office of General Services or the corresponding service at offices away from Headquarters, following receipt of the approval of the Committee on Contracts in appropriate cases.

Other contractual arrangements

6. Special contractual arrangements have been approved for:

(a) The employment of short-term interpreters under the Agreement concerning conditions of employment of short-term conference interpreters;

(b) The employment of short-term translators, revisers, editors and précis-writers under the Agreement concerning conditions of employment of short-term conference translators, revisers, editors and précis-writers;

(c) The engagement of some language teachers under a Language Teachers Employment Agreement; and

(d) The occasional employment, at an hourly rate as and when required, of persons to assist the United Nations Postal Administration at New York, Geneva and Vienna and to act as Guides in the Visitors Service in Geneva under an Agreement for Occasional Employment (P.100) form.

Functions

7. The functions of temporary staff and individual contractors may involve the provision of interpretation, translation, editing, library, language training, public information, secretarial, clerical, guiding services, etc., as well as other functions of regular staff. Temporary staff and individual contractors shall not perform functions requiring the provision of outside expertise, i.e., advisory services or assistance requiring expertise, special skills or knowledge not normally possessed by regular staff and for which there is no continuing need in the Secretariat. Such services, which normally involve analysing problems, directing seminars or training courses, preparing documents for conferences and meetings or writing reports on the matters within their area of expertise on which their advice or assistance is sought, shall be obtained from individuals engaged as consultants under administrative instruction ST/AI/296.

Budgetary policy

8. Temporary staff may be appointed and individual contractors may be engaged against funds authorized for the purpose of temporary assistance. In some departments and offices, where the use of individual contractors is expected to be heavy, an identifiable provision may be made for this purpose, under contractual services. Temporary staff may also be appointed against established, temporary or authorized posts when the post is vacant and the temporary staff are to perform the functions normally associated with the post pending its incumbency by regular staff. The objects of expenditure appropriate for the various functions to be performed by temporary staff and contractual services are published in the Allotment Accounts Code Handbook (ST/ADM/L.3, as revised).

PROVISIONS RELATING TO INDIVIDUAL CONTRACTORS

Legal status

9. Individual contractors serve in their personal capacity and not as representatives of a Government or of any other authority external to the United Nations. They are neither "staff members" under the Staff Regulations of the United Nations nor "officials" for the purpose of the Convention of 13 February 1946 on the privileges and immunities of the United Nations. They may, however, be given the status of "experts on mission" in the sense of Section 22 of Article VI of the Convention. If they are required to travel on behalf of the United Nations, they may be given a United Nations certificate in accordance with Section 26 of Article VII of the Convention. If the temporary services provided by the individual need to be protected with the full functional immunities of an "official" of the United Nations, the individual must be appointed as temporary staff under the 100 or 300 series of Staff Rules.

Obligations

10. Individual contractors shall neither seek nor accept instructions regarding their services for the United Nations from any Government or from any authority external to the United Nations. During the period of their services for the United Nations, they may not engage in any activity that is incompatible with the discharge of their duties with the Organization. They are required to exercise the utmost discretion in all matters of official business of the Organization. They may not communicate at any time to any other person, Government or authority external to the United Nations any information known to them by reason of their association with the United Nations which has not been made public, except in the course of their duties or by authorization of the Secretary-General or his designate; nor shall they at any time use such information to private advantage. These obligations do not lapse upon cessation of their services with the United Nations.

Title rights

11. The United Nations shall be entitled to all property rights, including but not limited to patents, copyrights and trademarks, with regard to material which bears a direct relation to, or is made in consequence of, the services provided to the Organization by an individual contractor. At the request of the United Nations, the individual contractor shall assist in securing such property rights and transferring them to the Organization in compliance with the requirements of the applicable law.

Duration of services

12. The services of an individual as an individual contractor will normally be limited to a maximum of six work months in any period of twelve consecutive months. 1/ Where circumstances require, this maximum may be extended to nine work months on the authority of the appropriate personnel service which shall immediately transmit its reasons for the extension in writing to the Director, Division of Recruitment, Office of Personnel Services. No individual may serve as

an individual contractor for more than nine months in any period of twelve consecutive months without the approval of the Director, Division of Recruitment, Office of Personnel services being obtained before the nine-month maximum has been exceeded. Former staff members of the United Nations or of any other organization of the United Nations family who have been separated from service at or after the age of 55 may not be engaged as individual contractors during the three months following their separation from service as a staff member without the prior approval of the Assistant Secretary-General for Personnel Services.

Procedure for engagement

13. The substantive office proposing the engagement of an individual contractor under a special service agreement shall complete the Special Service Agreement for Individual Contractors (P.106) form and forward it with a completed Personal History (Short) (P.110) form, if a completed Personal History (P.11) form or a Personal History Statement for project personnel (P.13 or TCD49) is not already on the official status file, to the appropriate administrative service which shall check that the provisions of paragraphs 3, 7 and 8 have been observed. The substantive office shall retain the two copies of the P.106 form on which the final evaluation will be recorded. If funds are available and the administrative service agrees with the proposal, it should be forwarded to the appropriate personnel service for approval. The approving officer shall, in particular, ensure that the individual is properly qualified, establish the appropriate level of remuneration and check that the provisions of paragraphs 4 to 8 and 12 are observed. Where an individual is engaged to perform similar functions on a recurring basis, the personnel service may approve in advance the engagement of the individual for the purpose at a particular rate of remuneration provided all the requirements of paragraphs 4 to 8 and 12 above are strictly observed.

14. No individual may commence work as an individual contractor until the relevant P.106 has been duly approved and signed on behalf of both the United Nations and the individual in question. In exceptional circumstances, acceptance of the special service agreement by the individual can be evidenced by a cable or other communication in writing.

Remuneration

15. Individuals who are engaged under a special service agreement as individual contractors shall be remunerated on the basis of the time required to provide the services specified in the agreement at an agreed daily, weekly or monthly rate of payment or on the basis of a lump sum payment or other agreed rate representing the value of the services provided to the Organization. If the services of an individual as an individual contractor are provided free of charge, a special service agreement may be issued with nil or token (e.g., one dollar a year) remuneration for the purpose of providing the individual with the appropriate status while performing the services specified in the agreement and in order to cover travel and related expenses as appropriate.

16. The determination of the level of remuneration to be offered to an individual contractor is the sole responsibility of the approving official in the appropriate

personnel service. No official in any other service has authority to make any financial or other commitment, either orally or in writing, to an individual whose services are sought as an individual contractor without prior approval in writing from the appropriate personnel service. However, in submitting to the appropriate personnel service a request for the issuance of a special service agreement for an individual contractor, the requesting official may recommend the level of remuneration to be offered or state the maximum amount budgeted for the purpose.

17. The appropriate personnel service shall establish the level of remuneration to be offered to an individual who is to be engaged as an individual contractor on the basis of the following guidelines:

(a) The primary consideration in establishing the level of remuneration shall be the nature of the services to be provided by the individual contractor (e.g. the complexity, difficulty and extent of the work to be performed and the degree of expertise required to accomplish it);

(b) The estimated time required for the individual contractor to undertake the work involved shall be taken into account, as well as the current market rate for comparable work, if available; and

(c) The remuneration to be paid shall be the minimum amount necessary to obtain the services required by the Organization. The level of expertise of the individual contractor must be appropriate to the importance of the services to be performed.

18. The total remuneration payable to an individual contractor by the United Nations shall be specified in the special service agreement and expressed in gross terms, i.e., before tax. The Organization shall not be responsible for the payment of any taxes due on the remuneration paid to the individual contractor by the Organization for his or her services. The payment of any taxes for which the individual contractor is liable shall be the sole responsibility of the individual contractor. Individual contractors shall not be entitled to reimbursement of such taxes nor to any benefit, payment or subsidy which is not expressly provided for in the special service agreement under which they are engaged.

19. The remuneration of an individual contractor is normally paid on satisfactory completion of the services described in the special service agreement. Subject to the provisions of financial rule 110.23 on advance payments, such remuneration may, however, be paid in instalments, in accordance with a schedule of payments linked to the completion of specific phases of the service and expressly set out in the agreement. Each payment to an individual contractor shall require certification using the Payment Voucher for outside expertise and professional services (F.183) form by, or on behalf of, the head of the department or office to which the service is provided that the appropriate phase of the service as described in the agreement has been completed satisfactorily. No remuneration shall be paid if the individual contractor fails to complete the service specified in the agreement to the satisfaction of the United Nations.

Currency of payment

20. The currency of payment shall be specified in the special service agreement. Individual contractors who are not required by the United Nations to travel outside the country of their usual residence shall normally be paid in the currency of that country. Those who are required to travel outside the country of their usual residence may, in addition to receiving subsistence allowance, receive their remuneration in another currency when appropriate. Every effort should be made to make payments in the local currency when it is a non-convertible currency of which the United Nations has an accumulated balance.

Travel

21. If individual contractors are required by the United Nations to travel beyond commuting distance from their usual place of residence, such travel at the expense of the United Nations shall be governed by conditions equivalent to the relevant provisions of the 100 series of Staff Rules (chap. VII) concerning the travel of staff members. Such travel shall be at the least costly airfare structure regularly available or its equivalent when by air, unless a higher standard is approved in advance by, or on behalf of, the Assistant Secretary-General for Financial Services, and first class by rail.

Service-incurred death, injury or illness

22. An individual contractor engaged under a special service agreement who is authorized to travel at United Nations expense or is required under the agreement to perform his or her services in a United Nations office, or his or her dependants as appropriate, shall be entitled in accordance with the terms of the special service agreement in the event of death, injury or illness attributable to the performance of services on behalf of the United Nations while in travel status or while working in an office of the Organization on official United Nations business to compensation equivalent to the compensation which would be payable under Appendix D to the Staff Rules of the United Nations (ST/SGB/Staff Rules/Appendix D/Rev.1) to a staff member performing similar functions.

Medical clearance

23. Individual contractors normally need no medical examination before being engaged. However, an individual contractor who is expected to work in any office of the Organization shall be required to complete a statement of good health. Individual contractors may not be authorized to travel outside the country of their normal residence at the expense of the United Nations unless the individual concerned submits a statement from a recognized physician certifying that the individual is in good health, is fit to travel and has had the required inoculations for the country or countries to which the individual is to travel. If the appropriate statement is qualified in any way or cannot be provided, the appropriate United Nations medical service must be consulted.

Insurance

24. The United Nations accepts no responsibility for the death, illness or injury of any individual contractor which is not attributable to the performance of services on behalf of the United Nations. Individual contractors are fully responsible for any expenses incurred as a result of such events and for arranging at their own expense, such life, health and other forms of insurance covering the period of their services on behalf of the United Nations as they consider appropriate. Individual contractors are not eligible to participate in the life or health insurance schemes available to United Nations staff members. The responsibility of the United Nations is limited solely to the payment of compensation under the conditions described in paragraph 22 above.

Leave

25. An individual contractor engaged under a special service agreement is not entitled to annual leave or sick leave.

Evaluation

26. After the completion of the service or delivery of the product specified in the special service agreement, the substantive office shall evaluate the performance of the individual contractor and record it in the appropriate copies of the P.106 form. One copy shall be retained on file for the purpose of audit. The other copy shall be forwarded with the Payment Voucher (F.183) form by which final payment is requested. If the performance of the individual contractor is evaluated as less than adequate or poor, the evaluation shall be transmitted to the Director, Division of Recruitment, Office of Personnel Services.

Termination of contract

27. The special service agreement of an individual contractor may be terminated either by the individual or by the United Nations before the expiry date of the agreement by the party wishing to terminate the agreement giving notice in writing to the other party. The period of notice shall be five days in the case of agreements for a total period of less than two months and fourteen days in the case of agreements for a longer period.

28. In the event of a special service agreement being terminated prior to its due expiry date in this way, the individual contractor shall be compensated on a pro rata basis for no more than the actual amount of work performed to the satisfaction of the United Nations. Additional costs incurred by the United Nations resulting from the termination of the contract by the individual may be withheld from any amount otherwise due to the individual from the United Nations.

Settlement of disputes

29. In the event of any dispute arising out of, or in connexion with, this contract, attempts should be made to settle the dispute by negotiation. If a settlement cannot be achieved in this way, the dispute shall be submitted to

arbitration by a single arbitrator agreed to by both parties. Should the parties be unable to agree on a single arbitrator within 30 days of the request for arbitration, each party shall appoint an arbitrator and the two arbitrators thus appointed shall agree on a third. Failing such agreement, the President of the United Nations Administrative Tribunal shall be requested to appoint the third arbitrator. The decision rendered in the arbitration shall constitute final adjudication of the dispute.

Record keeping

30. The P.110 form and a copy of each special service agreement shall be kept on the official status file of the individual contractor. All other documents and correspondence with respect to the agreement shall be kept on file by the department or office concerned.

Reporting procedures

31. Each department and office shall be responsible for maintaining a current log of all expenditures for individual contractors they engage each year. These logs shall be prepared separately for expenditures under each section of the budget and for each source of extrabudgetary funds for all programme and miscellaneous accounts. The logs shall indicate the work assignment and its purpose, the body or programme for which it is intended, the name, nationality, date of birth and level of education of the individual contractor, the commencement and expiry date of the contract, the estimated work months required to complete the contract, the fee or other remuneration and the basis for its payment, the travel cost and an evaluation of the individual contractor's services under the contract.

32. Copies of the logs for individual contractors will be forwarded at the end of each year to the Office of Personnel Services at Headquarters to permit the administration of the provisions of this instruction to be monitored centrally.

Notes

1/ The calculation of the number of work months of service shall take into account periods of service as a consultant under Administrative Instruction ST/AI/296 of 19 November 1982 on consultants and participants in advisory meetings.
