GUIDELINES AND PROCEDURES REGARDING CONSULTANCY SERVICES INCLUDING FOREIGN CONSULTANCY AND SECONDMENT OF S & T PERSONNEL TO THE PRIVATE SECTOR

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1.0 RATIONALE

Sections 10 and 11 of R. A. 8439 (Magna Carta for Scientists, Engineer, Researchers and Other Science and Technology Personnel in Government), and Sections 1 and 2 under Rule IV of its accompanying Implementing Rules and Regulations (IRR) as amended, stipulate that S & T personnel shall be allowed to render consultancy services to the Private sector, including foreign consultancy and may be seconded to any private entity, respectively.

These guidelines and procedures shall serve as basis in the processing and approval of application for consultancy, including foreign consultancy and secondment to the private sector of S & T personnel.

2.0 DEFINITION OF TERMS

2.1 Consultancy refers to the technical and advisory services rendered outside of the parent agency by S & T personnel who is qualified by appropriate education; training and relevant experience.

This shall encompass all S & T activities defined under Sections 2.2 and 2.3 of the amended IRR of R.A. No. 8439.

> 2.1.1 Local Consultancy shall cover services rendered to Filipino-owned/controlled enterprises/entities whether based locally or abroad.
>
> 2.1.2 Foreign Consultancy shall cover services rendered to foreign-owned/controlled enterprises/entities whether based locally or abroad.

2.2 Private sector shall include sole proprietorship, partnerships, corporations, foundations and cooperatives, as well as non-profit organizations.

2.3 Consultancy Fee/Professional Fee/Honorarium is the amount paid by the private entity or the foreign organization for the services rendered by the S &T personnel, which is over and above the salary received from the government during the period of consultancy. Payment of consultancy fee/professional fee/honorarium to be paid directly to the S & T personnel, unless otherwise stipulated in the contract pursuant to Section 3.1 of this Guidelines shall not be considered double compensation.

2.4 Secondment is the temporary movement of S & T personnel to a local private entity on a full time basis for a maximum period of one (1) year, where his/her services are needed. The nature of the services to be rendered should be related to the employee's current work assignment or expertise.

2.5 Parent Agency is the organization/institution where the S & T personnel is directly employed.

2.6 Third Party refers to the contracting/receiving institution/organization.

2.7 S & T personnel includes all personnel defined under Section 3 of the IRR of R.A. 8439.

2.8 Pending Administrative Charge is a formal charge filed by a disciplining authority motu proprio or based on a complaint filed by a private person where a prima facie case is already found to exist by the disciplining authority, against any S & T personnel that is pending in the Department or in its attached institutions or agency, and/or other government agency or body.

2.9 Pending Criminal Case is information filed against any S & T personnel that is pending in any court of competent jurisdiction.

3.0 GENERAL TERMS AND CONDITIONS

3.1 S & T personnel employed in government who have a very satisfactory performance rating for the last two consecutive semestral rating periods in the parent agency, without pending administrative charge or criminal case may be allowed to render consultancy services or may be seconded to the private sector.

3.2 The agreement for consultancy/secondment shall be covered by a tripartite contract among the S & T personnel, parent agency and the third party. There shall be full disclosure of the terms and conditions of the consultancy/secondment contract which should be Dre-approved by the Secretary of the department concerned or the highest approving authority of the organization of the S & T personnel.

3.3 The consultancy services/secondment to the private sector should not include any commitment of the resources (e.g. human resources, facilities, etc.) of the parent agency, unless covered in the contract and where applicable specific fees are paid for the use of said resources.

3.4 The contract shall explicitly indicate provisions as to duration, nature of service to be rendered, remuneration and other financial and fringe benefits and other relevant terms and conditions. There shall be full disclosure as to the use of the parent agency's scientific and technological innovations.

3.5 Consultancy/secondment to the private sector of S & T personnel shall be recommended/approved by the appropriate approving authority provided that:

a. it does not jeopardize or adversely affect the operations or activities of the parent agency;

b. it shall not divulge Philippine trade, business and military/national security secrets and Philippine cutting edge technologies especially to the Philippines' foreign competitors either based locally or abroad;

c. Whenever applicable, the corporation or institution where the S & T personnel shall be detailed/seconded does not use rare, endemic and endangered species of animals and plants including microorganisms as raw materials in manufacturing their products;

d. Whenever applicable, the corporation or institution has established policies/ programs for environment protection (e.g. with Environment Compliance Certificate, Environment Management System).

3.6 Consulting services and secondment to multi-national corporations that directly compete with Philippine products shall not be approved to protect the interest of local micro, small and medium enterprises.

3.7 All approved contracts shall be submitted to the Civil Service Commission (CSC) within 30 calendar days from signing pursuant to CSC rules.

3.8 Any violation of the provision of the contract shall be ground for discontinuance thereof without prejudice to the filing of appropriate action against the person responsible for the violation.

4.0
CONSULTANCY SERVICES

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4.1 Coverage

4.1.1 In addition to one's regular assignments/functions, S & T personnel who possess the following qualifications may render consultancy services to local private entity or foreign organization:

a. with permanent appointment. Those contractual and casual personnel whose salaries are charged to lump-sum appropriation may be allowed to accept consultancy services on a selective basis as may be determined by the agency head.

b. have rendered a minimum of two years continuous service.

4.2 Terms and Conditions

4.2.1 An S & T personnel shall be allowed to render one or more local consultancy services on official time for a maximum period of forty eight (48) working days per year taken either on staggered or cumulative basis.

4.2.2 S & T personnel cannot render consultancy services to any institution where they have direct oversight functions or supervisory authority/influence on the decision or approval of projects, and where they are responsible for the evaluation and screening of projects funded by grants from their respective agencies.

4.2.3 S & T personnel shall be allowed to render foreign consultancy for a minimum of two months per year either on staggered or continuous basis. In case of extension, the S & T personnel must file a vacation leave with or with out pay, not to exceed ten months (making a total consultancy period of one year including the first two months), subject to the approval of the agency head.

4.2.4 During the period of consultancy, S & T personnel shall receive their salary and appropriate benefits from the parent agency subject to existing rules and regulations. In addition, consultancy fee/professional fee/honorarium received by the S & T personnel from third party, over and above the salary and benefits received from the parent agency shall not be considered double compensation.

5.0
SECONDMENT

5.1 Coverage

5.1.1 Regular S & T personnel who possess the following qualifications may be seconded to the private sector or to international bodies/foreign organizations recognized by the Philippine government, for a period not exceeding one year:

a. with permanent appointment; and

b. have rendered at least four (4) years continuous service.

5.2 Terms and Conditions

5.2.1 During the secondment the third party, shall provide the salary and other benefits due the S & T personnel. The third party shall also provide all benefits provided under R.A No. 8439 unless otherwise specified in the contract.

5.2.2 The seconded employees shall be on leave without pay from their parent agency for the duration of their secondment. During such period, they may earn leave credits immediately commutable thereafter and payable by the third party. Further, such period of secondment shall be included in computing the length of service for purposes of retirement, but not for the commutation of leave credits.

5.2.3 All mandatory contributions (e.g. GSIS, PAGIBIG, ECC, PhilHealth, etc.) shall be borne by the third party.

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5.2.4 S &T personnel who are seconded for one year or less must serve their parent agency in accordance with the schedule below, before another secondment may be granted upon the recommendation of the agency head and the approval of the Secretary of the department concerned or the appropriate approving authority:

Period of Secondment

Required Service Period Before Another Secondment may be Granted

9 months to 1 year 4 years

6 months to less than 9 months 3 years

3 months to less than 6 months 2 years

Less than 3 months 1 year

5.2 5 In case the seconded S & T personnel opt to continue the secondment beyond the allowable maximum period of one year, or to remain in the private sector, they shall have to resign/retire from the government service provided that they have no scholarship/service/financial obligation to their parent agency. If there is no approved resignation/retirement, they shall be on Absence Without Official Leave (AWOL), and the corresponding rules for AWOL shall apply.

5.2.6 The period of secondment immediately preceding the resignation shall not be counted in the computation of the number of years of service in the government

5.2.7 Such secondment shall not like wise affect the S & T personnel's security of tenure or result to the loss of his/her seniority rights.

5.2.8 Unless it is stipulated in the contract. S & T personnel cannot apply for/ accept any scholarship unless they have completed all the terms and conditions of the contract for secondment.

6.0
PROCEDURE

6.1 Each agency shall create its own Committee to formulate procedures for screening evaluation, monitoring and formulation of policy recommendations for improving the conduct of consultancy services/secondment.

6.2 After thorough evaluation, the Committee shall recommend to the agency head concerned the appropriate action to be undertaken on the application.

6.3 Application

6.3.1 The application for consultancy or detail secondment together with all the required supporting documents shall be submitted to the agency Committee which shall screen and evaluate the same and recommend to the agency head concerned.

a. The agency head shall endorse the application for consultancy to the Secretary of the Department concerned for approval.

b. The agency head concerned shall approve the application for secondment. However, succeeding secondments shall be recommended by the agency head and approved by the Secretary of the Department concerned.

6.4 The S & T personnel concerned shall submit a monthly report on the consultancy activities or secondment undertaken to the agency head. Likewise, the third party shall provide a monthly performance report of the S & T

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personnel to the parent agency.

6.5 The agency head in turn shall submit a semi-annual report to the Secretary of the department concerned.

7.0
REQUIRED DOCUMENTS TO BE SUBMITTED FOR PROCESSING REQUESTS/ APPLICATIONS
7.1 Letter request from the third party addressed to the head of the parent agency indicating the need, urgency, duration, and the nature of consultancy/secondment.

7.2 Application letter of the S & T personnel addressed to the head of the parent agency stating the nature of work to be accomplished during the consultancy/secondment, the duration of the assignment, the terms and conditions including remuneration, and benefits.

7.3 Draft tripartite contract prepared by the parent agency stipulating all the agreed terms and conditions among the S &T personnel, parent agency and the third party.

8.0
EFFECTIVITY
These guidelines and procedures shall become effective fifteen (15) days after publication in the Official Gazette.

Adopted: 04 Jan. 2008

(SGD.) DR. ESTRELLA F. ALABASTRO
Secretary

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