

Most Immediate

NO: A-35011/09/2014-Adm.III
Government of India/Bharat Sarkar
Ministry of Corporate Affairs/Karporate Karya Mantralay

New Delhi, dated the 23rd June, 2015.

OFFICE MEMORANDUM

Subject: **Scheme for Engagement of Experts/Consultants in Serious Fraud Investigation Office (SFIO) under Rule 3 and 4 (d) of the Companies (Inspection, Investigation and Inquiry) Rules, 2014 - Regarding.**

The undersigned is directed to convey the approval of the Competent Authority for the Scheme for engagement of Experts/Consultants in Serious Fraud Investigation Office (SFIO) under Rule 3 and 4 (d) of the Companies (Inspection, Investigation and Inquiry) Rules, 2014.

2. SFIO shall solicit the approval of the Ministry on the recommendations of the Consultancy Evaluation Committee (CEC) in conformity with the Scheme for engagement of experts/consultants in SFIO under Rule 3 and 4(d) of the Company (Inspection, Investigation and Inquiry) Rules, 2014. All the appointments of experts/ consultants/professionals/professional CA firms will be made with the approval of Ministry of Corporate Affairs.

3. Scheme for engagement of Consultants/Experts in the Serious Fraud Investigation Office is enclosed.

4. This issues in consultation with Ministry of Finance, Department of Expenditure vide their ID No. 68 dated 16.02.2015 and Integrated Finance Division vide their ID No.166 dated 29.04.2015.

Rakesh Kumar

(Rakesh Kumar)
Under Secretary to the Government of India
Tel: 23383507

To

The Director,
Serious Fraud Investigation Office,
2nd Floor, Paryavaran Bhawan,
CGO Complex,
Lodhi Road, New Delhi.

Copy to:

1. PS to Hon'ble CAM.
2. PSO to Secretary, CA.
3. PPS to Addl. Secretary.
4. PPS to JS(M)/JS(B)/JS(K)/JS(SP)/JS&FA.
5. E-Governance Cell with the request to upload the Scheme on the Website of the Ministry.

SCHEME FOR ENGAGEMENT OF EXPERTS/CONSULTANTS IN SERIOUS FRAUD INVESTIGATION OFFICE (SFIO) UNDER RULE 3 AND 4(D) OF THE COMPANIES (INSPECTION, INVESTIGATION AND INQUIRY) RULES, 2014

SCOPE OF THE SCHEME

The scheme would be operative for engagement of Individual Experts/Consultants or other professionals or professional firms for multiple disciplines where the skill sets are either not available in-house or normally not available for deputation due to acute shortage of manpower within the government.

2. ENGAGEMENT OF INDIVIDUAL CONSULTANTS

2.1 GENERAL CONDITIONS

- (i) Professionals, retired employees from Govt. / autonomous organizations, with requisite qualifications and experience would be eligible for appointment
- (ii) Engagement would be on a full or part time basis for a fixed period, or a short term arrangement, for specific and time bound jobs.
- (iii) The Experts/Consultants would have no lien on any job in Serious Fraud Investigation Officer.
- (iv) The Experts/Consultants shall work in Serious Fraud Investigation Office at Headquarter at Delhi or any of its regional offices and shall perform the functions assigned to them by the competent authority of SFIO.
- (v) The requirement of expert(s) will be transparently advertised.

2.2 FUNCTIONS

The broad details of Terms of Reference for the work to be done would be as per the format prescribed at **Annexure-I** within the framework of provisions contained in-

- Chapter 6(II)- Procurement of Services (Rule 163 to 177) of General Financial Rules, 2005.
- Chapter VII – Selection of individual consultants (Para 1.2.1, 7.1, 7.2& 7.3) of Manual of Policies and Procedures of Employment of Consultants issued by Department of Expenditure.

2.3 QUALIFICATIONS, EXPERIENCE AND FEE PAYABLE

- (i) The Qualification, experience and fee payable to 'Consultant-I' and 'Consultant-II' engaged by the Serious Fraud Investigation Office is given in **Annexure-II**.
- (ii) The fee for Experts/Consultants engaged on part time basis would be decided by the Consultancy Evaluation Committee (para 2.4 below) subject to the provisions and ceiling of **Annexure-II**.

2.4 PROCEDURE OF SELECTION, EXTENSION AND CANCELLATION OF ENGAGEMENT

- (i) The recommendation of the panel of Experts/Consultants shall be made by a Consultancy Evaluation Committee (CEC) in order of merit comprising of the following members :
- | | |
|---|------------|
| (a) Director, SFIO | - Chairman |
| (b) Representative of MCA | - Member |
| (c) FA or his/her representative | - Member |
| (d) Deputy Director (Admn), SFIO
Secretary | -Member- |

The panel recommended by the CEC would be valid for a period of one year.

- (ii) Period of engagement of consultants will initially be for 6 months which can be extended upto 1 year by Director, SFIO. Subsequent extensions, if any, shall be decided by the CEC on the recommendation of Director, SFIO on a case-to-case basis depending upon the specific job and time frame for its completion. While engaging the consultants, CEC will comply with the relevant provisions of GFR 2005 specifically Rule 169 (shortlisting of consultants), Rule 170 (ToR including task to be carried out, schedule time of completion of task, input to be provided to the consultants & the final output that will be required of the consultants) etc.

The maximum period of engagement of Experts/Consultants shall be 5 years or attaining the age of 65years, whichever is earlier.

- (iii) The Experts/Consultants would have no lien on any job, and such engagement may be cancelled at any time by the SFIO without assigning any reason.

- (iv) Before recommending a panel for engagement of a consultants, the CEC will carry out the background checks as considered necessary by it including report of the professional body regulating that profession, testimonials of past employments etc.
- (v) The employment as consultant is subject to clearance from the professional body regulating the profession wherever applicable. Further, the contract will remain provisional till police verification is received.

2.5 ALLOWANCES, TA/DA & LEAVE

The conveyance allowance, TA/DA payable and Leave to Experts/ Consultants, are given in Annexure III.

3. ENGAGEMENT OF I.T CONSULTANTS THROUGH NIC/NICSI

3.1 Engagement of consultants in the field of Information Technology shall be made through the IT consulting firms empanelled with NIC/NICSI.

4. ENGAGEMENT OF PROFESSIONAL CHARTERED ACCOUNTANTS FIRMS

4.1 SFIO would draw a panel by inviting applications from willing professional CA firms through advertisement to be published in leading newspaper and also on the official website of SFIO. While drawing up a panel of professional firms, the procedure of minimum qualifying standard/criteria will be fixed using, inter alia, the following parameters:-

- i) Minimum experience including number of assignments handled by the firm similar to the area of assignment
- ii) Turnover and financial parameters of the firm
- iii) Minimum educational qualifications of each of the key professionals
- iv) Minimum requirement of experience of the key professionals in an area similar to the proposed assignment

4.2 The panel so drawn would be valid for 3 years, which can be extended further for a period of one year, subject to satisfactory performance. While fixing the quantum of fees for an assignment, guidelines issued by the Institute of Chartered Accountants of India from time to time, will be followed.

43

5. CONTRACT AGREEMENT

5.1 The Experts/Consultants/Professional Firms on having accepted the offer shall enter into a contract with the Director, SFIO. The norms for secrecy will be as per Section 3& 4 of the Official Secret Act, 1923 so far as declaration of Fidelity & Secrecy is concerned as per Annexure IV (A) & IV(B). Security of sensitive data would be ensured through signing of non-disclosure agreement with the Experts/Consultants/Firms.

5.2 Without prejudice to and in addition to the legal remedies available to the Serious Fraud Investigation Office, breach of contract shall be considered a sufficient ground for termination of the contract.

6. POWERS TO RELAX

6.1 The Ministry of Corporate Affairs shall have the power to relax any of the conditions of this Scheme in special cases.

Terms of Reference for engagement of all three categories of Consultants

92

- (i) Precise statement of Objectives:-
- (ii) Outline of the tasks to be carried out:-
- (iii) Schedule for completion of Tasks:-
- (iv) The support or inputs to be provided by the Serious Fraud Investigation Office to facilitate the Consultancy:-
- (v) The Final outputs that will be required of the Consultant at the end of the consultancy period should be specified

Qualification, Experience and Fee Payable to Experts/Consultants

(a) Experts/Consultants in the field of Law

Sl.	Category of Experts/Consultants	Qualification and Experience	Fee payable
1.	Consultant-I	The incumbent should be an Advocate with at least 10 years' experience at the Bar in the relevant field/specialization as specified in the Terms of Reference (ToR)	Rs. 50,000/- to Rs. 80,000/- depending upon educational qualification and experience
2.	Consultant-II	The incumbent should be an Advocate with at least 4 years' experience at the Bar in the relevant field/specialization as specified in the Terms of Reference (ToR)	Rs. 30,000/- to Rs. 50,000/- depending upon educational qualification and experience

(b) Experts/Consultants in the field of Financial Analysis

Sl.	Category of Experts/Consultants	Qualification and Experience	Fee payable
1.	Consultant-I	The incumbent should be a CA/CWA/CS with at least 5 years' experience in the relevant field/specialization as specified in the Terms of Reference (ToR)	Rs. 50,000/- to Rs. 80,000/- depending upon educational qualification and experience
2.	Consultant-II	The incumbent should be a CA/CWA/CS with at least 3 years' experience in the relevant field/specialization as specified in the Terms of Reference (ToR)	Rs. 30,000/- to Rs. 50,000/- depending upon educational qualification and experience

(c) Experts/consultants in any other field

Sl.	Category of Experts/Consultants	Qualification and Experience	Fee payable
1.	Consultant-I	<p>Professionals having Qualification of Master's Degree in relevant field/subject as specified in the ToR for the specialisation/field and minimum post qualification experience of at least 7 years in the requisite field. The candidates should have high competency and established peer reputation.</p> <p>OR</p> <p>Retired Government/Public Sector Undertakings/Autonomous Bodies employees with Grade Pay of Rs. 6,600/- and above (or equivalent) with experience of at least 7 years and knowledge in the required domain field as specified in the ToR for the specialization/field</p>	<p>Rs. 50,000/- to Rs. 80,000/- depending upon educational qualification and experience</p> <p>Fee in the case of retired Government officials shall not exceed the ceiling of last pay drawn [(Pay + GP+ DA) - (Basic Pension)]</p>
2	Consultant-II	<p>Professionals having qualification of Master's Degree in relevant field/subject as specified in the ToR for the specialization/field and minimum post qualification experience of at least 5 years in the requisite field</p> <p>OR</p> <p>Retired Government/Public Sector Undertakings/Autonomous Bodies employees with Grade Pay of Rs. 4,200/- and above (or equivalent) with experience of at least 5 years and knowledge in the required domain field as specified in the ToR for the specialization/field</p>	<p>Rs. 30,000/- to Rs. 50,000/- depending upon educational qualification and experience</p> <p>Fee in the case of retired Government officials shall not exceed the ceiling of last pay drawn [(Pay + GP+ DA) - (Basic Pension)]</p>

Annexure III

Admissibility of local conveyance allowance, TA/DA and Leave

The Experts/Consultants shall not be entitled to any allowance such as Conveyance Allowance, Dearness Allowance, Residential Telephone, Transport Facility, Residential Accommodation, CGHS, and Medical Reimbursement etc.

2. TA/DA

No TA/DA shall be admissible to Individual Experts/Consultants for joining the assignment or on its completion. However TA/DA for their travel within the country in connection with official work is permissible as per details specified below:-

Category of Experts/Consultants	Entitlement
Consultant-I	TA/DA entitlements as per Ministry of finance, Department of Expenditure OM No. 19030/3/2008-E.IV dated 23.09.2008 in respect of officers drawing Grade Pay of Rs. 7,600 to 8,900.
Consultant-II	TA/DA entitlements as per Ministry of finance, Department of Expenditure OM No. 19030/3/2008-E.IV dated 23.09.2008 in respect of officers drawing Grade Pay of Rs. 5,400 to 6,600.

3. Leave

The Experts/Consultants shall be eligible for 8 days leave in a calendar year on pro-rata basis. Therefore, a Consultant shall not draw any remuneration in case of his/her absence beyond 8 days in a year (calculated on a pro-rata basis). Also un-availed leave in a calendar year cannot be carried forward to next calendar year.

DECLARATION OF FIDELITY AND SECRECY

I,(Name).....(designation in the firm) of the.....(name of the Firm), do hereby declare that I am duly authorized by the(Firm) to make this declaration, and further declare that(Firm) will truly, faithfully and to the best of skill and ability execute and perform the duties with due diligence required/desired of the(name of the firm), in connection with regular case/preliminary enquiry (RE/PE)

2. I,(Name) , on behalf of the(Name of the Firm), further declare that the(Name of the Firm), will follow all the rules and regulations of the Central Government, which are in force during the period of his assignment. The (Name of the Firm), will discharge the duties with utmost honesty and sincerity and in case the (Name of the Firm), or any person associated with the firm is found to be performing duties not satisfactorily or found working in conflict with the interest of Serious Fraud Investigation Office, Ministry of Corporate Affairs, including Ministry of Corporate Affairs or any of its field office therefore, the services of the (Name of the Firm), shall be discontinued by terminating the contract without assigning reason.

3. I,(Name), on behalf of the (Name of the Firm), further declare that during the period of assignment with Serious Fraud Investigation Office, Ministry of Corporate Affairs, it is, likely that (Name of the Firm) may come across certain information of important or secret nature. The (Name of the Firm) shall, therefore, be subjected to the provisions of the Indian Official Secrets Act, 1923, not only during the period of the assignment but also thereafter. More particularly, the (Name of the Firm), will not divulge any information gathered by it during the period of the assignment to anyone who is not authorized specifically by Director, Serious Fraud Investigation Office to know/have the same. Further (Name of the Firm) shall not, except with the previous sanction of the Serious Fraud Investigation Office, Ministry of Corporate Affairs or in the *bona fide* of his duties, publish a book or a compilation of articles or participate in a radio broadcast or contribute an article or write a letter to any newspaper or periodical, either in his own name or anonymously or pseudonymously in the name of the any other person, in such book, article, broadcast or letter.

For an on behalf of (Name of the Firm)

Place:

Date:

(Chartered Accountant)/IT Firm

DECLARATION OF FIDELITY AND SECRECY

I,(Name).....(Consultant-I/Consultant-II), do hereby declare that I am duly authorized to make this declaration, and further declare that(Consultant-I/Consultant-II), will truly, faithfully and to the best of skill and ability execute and perform the duties with due diligence required/desired in connection with regular case/preliminary enquiry (RE/PE).....

2. I,(Name), (Consultant-I/Consultant-II), further declare that I will follow all the rules and regulations of the Central Government, which are in force during the period of his assignment. I will discharge the duties with utmost honesty and sincerity and in case I may be found to be performing duties not satisfactorily or found working in conflict with the interest of Serious Fraud Investigation Office, Ministry of Corporate Affairs, including Ministry of Corporate Affairs or any of its field office therefore, my services shall be discontinued by terminating the contract without assigning reason.

3. I,(Name), Consultant-I/Consultant-II, further declare that during the period of assignment with Serious Fraud Investigation Office, Ministry of Corporate Affairs, it is, likely that I may come across certain information of important or secret nature. I shall, therefore, be subjected to the provisions of the Indian Official Secrets Act, 1923, not only during the period of the assignment but also thereafter. More particularly, I will not divulge any information gathered by it during the period of his assignment to anyone who is not authorized specifically by Director, Serious Fraud Investigation Office to know/have the same. Further I shall not, except with the previous sanction of the Serious Fraud Investigation Office, Ministry of Corporate Affairs or in the *bona fide* of his duties, publish a book or a compilation of articles or participate in a radio broadcast or contribute an article or write a letter to any newspaper or periodical, either in his own name or anonymously or pseudonymously in the name of the any other person, in such book, article, broadcast or letter.

Consultant-I/Consultant-II

Place:

Date: