



Industry Consulting by Officers and Exempt Professionals

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Background

Some Officer and Exempt Professional employees are interested in doing consulting work with industry. Often, the work being proposed would dovetail into work being done at CU. There are many benefits to CU, the employee and industry - the work provides a connection between CU and industry, employee is engaged in “real-world” activities, might reduce internal funding needs, and demonstrates CU’s role as a leader in certain fields. Work done in this manner can generally be handled in two ways – with the employee taking on outside consulting duties or handling through the employee’s CU appointment. This document will describe when these options are appropriate.

Reference

- Outside consulting by OEPs is governed by Regent Policy, <https://www.cu.edu/regents/Policies/Policy3C.htm>.
- One-sixth rule does not apply to OEP.
- Consulting work done during normal business hours must either have time charged to vacation or the amount of compensation is remitted to the University.
- Normal working hours are defined as the hours and level the employee is expected to work. While the schedule may normally be 8 am – 5 pm, there is an expectation that there may be times when extra hours are required and the ability to perform during those extra hours should not be restricted due to accepting outside consulting.
- Conflict of Interest rules may apply <http://www.colorado.edu/vcr/coi/getting-started>

Important Factors to Consider

- Transparency must be maintained in these interactions. Communicating and agreeing upon the nature of engagement, level of effort, and handling any potential conflicts of interest will be imperative.
- Engage with TTO to determine if IP is involved where the campus has an ownership interest. If CU has an ownership interest, it may not be appropriate to be an independent consultant.
- Priority - The supervisor will decide whether this is something that is an appropriate use of the employee’s CU time to support. Does the employee have the bandwidth to do this work in addition to the job duties already assigned or pending for the employee?
- To what extent does this work contribute to the mission of the university? Work done through CU should contribute to the mission of the university.
- If employees are needed to support this work, long term employment commitments should not be made without a reasonable assurance on the nature of funding. The offer letter for these new employees will reflect the short term nature of the position and include a statement regarding the potential end of appointment, and possibly an expected end date, if the funding does not continue.
- Company is expected to pay full cost of this work to offset the use of CU funds for the employee’s salary & benefits. It is not appropriate for CU funds to support work done on behalf of a private corporation or outside entity.

Approval of Additional Work

The first step is for the employee to consult with his supervisor(s). Describe the opportunity, the value s/he believes that it brings to the campus, anticipated level of effort, level of funding, whether other CU people will be involved, any real or perceived conflict of interest, and any special contracting considerations.

As consultant or through CU?

- Through CU - If the supervisor (consulting with HR) agrees that this work can appropriately be conducted (short term or long term) through CU, the supervisor will determine whether the work is:
 - part of the employee's current job duties
 - creates additional duties to the employee's current role (may be extra pay)
 - an additional job separate from the current (may be at a different rate)The total of the employee's current and new responsibilities can't exceed 100%.
- Consulting – the employee and supervisor agree upon the ability to participate in the work outside of CU commitments.

Agreement types through CU

In accepting work through CU, there are two types of arrangements that might be appropriate: Services contract through CU or sponsored project through CU. The Office of Industry Collaboration will assist in determining the appropriate agreement for the work to be performed. The type of agreement will determine the appropriate proposal, overhead rate, and billing processes.

Compensation options

The payment to the employee will depend upon the assessment made by the supervisor, with HR, above.

- If consulting with private industry is part of the employee's regular job duties, this responsibility should be built into the employee's job description. The standard process of reviewing positions and determining compensation would apply. Effort is charged to the corporate project (whether sponsored research or services).
- Additional pay for extra duties – if it is determined that this would be additional work, beyond the employee's regular appointment, a temporary pay stipend could be provided for this work. The stipend document would spell out the level of activity, how it balances with existing work, how the work will be evaluated, length of time, and any other details that provide transparency in interaction. It would also be subject to the funding from the company continuing to support the stipend. The supervisor will need to determine the appropriate level and amount of additional pay and have approval from the employee's divisional officer (Vice Chancellor).
- Additional job – could establish a new job at a different rate of pay. The current plus additional job can still only be 100% time maximum. The rates of pay for the two jobs could be different.

In any situation, an evaluation should be conducted at regular intervals to confirm that the employee is continuing to meet the requirements of the primary position.

If the employee opts to operate as a consultant:

- The employee is reminded that the use of university resources for the benefit of private companies is not permitted except in a de minimis manner or where the campus is compensated for such use. <https://www.cu.edu/regents/Policies/Policy3C.htm> The employee will also need to ensure s/he complies with all university policies, including the Conflict of Interest and Commitment APS <https://www.cu.edu/policies/aps/hr/5012.pdf>
- Use of computers or email for outside work, even at a low level, is discouraged as that information may be available to other campus personnel, becomes subject to open records requests, and may violate the employee's confidentiality agreement with the company.
- Time for consulting must be charged to vacation if done during normal work hours.