

Purpose of the agreement

To provide the framework for cooperation through secondment and exchanges of staff between ACER and FERC with the aim to share knowledge, experience and best practices, and to provide support to each other in the process of monitoring wholesale energy markets in the European Union and in the United States of America.

Scope of the agreement

- Establishes the general conditions for secondment of staff from FERC to the Agency and Agency's staff to FERC. On the basis of this agreement, an Agency staff member may be seconded in the interests of the service to FERC and a FERC staff member may be seconded in the interests of the service to the Agency.
- Lays down the specific conditions applicable to the above mentioned secondment for staff members of both Parties.

Legal basis

- the Agency's rules for missions¹ (for Agency staff sent to FERC) and
- the United States policy on details or transfers to international organisations found at 5 U.S.C. §§ 3343, 3581-3584 and 5 C.F.R. and §§ 352.301 through 352.314.

General and specific terms and conditions covered by the agreement:

- Status of the experts on secondment from both organisations
- Scope, objectives and description of the tasks of the experts on secondment; expert profile (to be agreed upon each individual secondment)
- Applicable rules
- Period of secondment
- Reimbursables: salary, pension contribution and allowances; travel costs; living and other expenses while on secondment
- Provisions on confidentiality
- Ownership of results
- Other provisions: immigration documents; performance; conflict of interest; working time, time recording and requests for leave; insurance; personal data.

¹ Commission decision of 18.11.2008 on General implementing provisions adopting the Guide to missions for officials and other servants of the European Commission; Decision 2013-19 of the Director of the Agency for the Cooperation of Energy regulators of 21 August 2013 on internal rules governing missions.

1. General Terms and Conditions

The Parties agree to second members of their staff to the other Party, when of mutual interest, for the purpose identified in this agreement.

The Terms of Reference, to be agreed upon for each individual secondment, and a template of which is contained in Annex A.1., shall govern the work of the secondee(s) in each of the two Parties. During secondment, the secondee shall, in the performance of the tasks established in the Terms of Reference, respect the laws, statutes, regulations, and internal rules applicable to the staff of the host organisation, including, *inter alia*, those related to working hours, safety at work, conflict of interest, government ethics, and confidentiality.

The **secondment period** shall be agreed on a case-by-case basis according to requirements. Agency's staff may be sent on secondment to FERC for a maximum period of 6 months.

The selected secondee shall work at the premises of the host organisation and shall cooperate with the team to which he/she is assigned, as further specified in the Terms of Reference and the details of the secondment defined according to the template contained in Annex A.2.

The secondee shall continue to be employed by the sending organisation. At the end of the secondment, the return to the sending organisation shall be governed by the internal rules applicable at the sending organisation. The specific conditions of the sending organisation regarding career development, appraisal, reclassification, as well as health insurance and pension contribution, shall continue to apply during the period of secondment.

The host organisation shall under no circumstances be considered to be the employer of the secondee and the secondee shall not invoke against the host organisation any right arising from the contractual relationship between the Parties.

The secondee shall maintain full **confidentiality** of the activities performed under this Service Level Agreement and of any information, document or data that he/she becomes aware of while on secondment, unless such information, document or data is already publicly available. The secondee shall under no circumstances disclose or communicate any such information outside of the host organisation, including in or to the sending organisation, unless previously authorised by the host organisation itself. Such duty of confidentiality shall be maintained even after the termination of the secondment or of the present agreement.

The secondee shall represent neither the host, nor the sending organisation, and shall not behave in any way that would give such an impression. In case of proven misconduct by the secondee, the secondment may be terminated before its natural expire by either Party.

The secondee shall be made aware of the requirements and conditions of this Service Level Agreement. He/she shall sign and accept the declarations containing the details of the secondment according to the templates contained in Annex A.1. and Annex A.2., prior to the start of the secondment. Failure of acceptance of any of the conditions contained thereto would amount to a justified reason for rejecting the secondment.

2. Reimbursables

The Agency and FERC agree to apply the following general rules for reimbursement:

Salary, pension contribution and allowances

The sending organisation shall remain fully responsible for the payment of the salary and any other employment-related contributions to the secondee during secondment. The secondee shall in no way seek any further remuneration or reimbursement in any form for the tasks performed in the framework of the secondment neither from the host, nor from the sending organisation.

Travel costs

The sending organisation shall cover the travel costs to and from the place of secondment at the start and end of the secondment, in line with its own rules.

All other authorised travel costs during the secondment (*e.g.*, missions required by the host organisation, etc.) shall be fully funded by the host organisation, in line with its internal rules.

Living and other expenses while on secondment

The sending organisation shall be responsible for determining what, if any, living expenses it will cover for its staff on secondment, according to its internal rules, policies, and procedures. Mission expenses shall be covered in line with the internal rules of each Party. The host organisation shall not be responsible for providing any living expenses to the secondee while on secondment. No other expenses shall be covered or reimbursed by the host organisation without the prior notification and approval of the sending organisation.

3. Ownership of results

All documents and/or other results of the activities performed by the secondee while on secondment shall be and will remain the property of the host organisation which shall have exclusive control over such documents. The secondee shall not remove any documents from the host organisation, except with the express authorization of the host organisation. The secondee may be required to sign a non-disclosure agreement at the start of the secondment.

4. Other provisions

Immigration Documents

The secondee shall, prior to the secondment, obtain all necessary immigration or other documents from the appropriate authorities, with the support from the sending and host organisations where needed.

Performance

The host organisation shall provide the sending organisation with a written evaluation report on the performance of the secondee at the latest one month after the termination of the secondment.

Conflict of interest

Secondees in either of the Parties shall not be assigned to activities which may result in a conflict of interest situation in relation to the sending organisation's applicable policies, statutes, or regulations. The host organisation shall consult with the sending organisation if it needs assistance in determining whether a particular assignment could give rise to a conflict of interest under the sending organisation's applicable policies, statutes, or regulations.

Each secondee shall be bound by the provisions of the conflict of interest policies, statutes, and regulations applicable to the host organisation. He/she shall remain fully liable under the provisions of the conflict of interest policy of the sending organisation as well.

In case of discrepancies and/or inconsistencies between the conflict of interest policies of the two parties, the provisions of the conflict of interest policy of the host organisation shall prevail during the period of secondment. If such a discrepancy and/or inconsistency exists, the secondee shall report the matter to the sending organisation.

Working time, time recording and requests for leave

The secondee shall respect the working time regime of the host organisation during secondment.

He/she shall maintain his/her annual leave entitlements as established by the sending organisation. Use of leave will be approved by the supervisor designated for the secondee during the period of secondment. The secondee will communicate to the sending organisation any leave taken according to the time and attendance reporting procedures of the sending organisation. Working time and attendance records will be approved by the secondee's supervisor at the host organisation.

Insurance

Secondees shall make sure that they are covered by world-wide insurance for the whole duration of the secondment or mission. However, from the day on which the secondment begins, secondees shall be covered by the host organisation against accidents at work.