

## **POLICY STATEMENT 17 | USE OF CONTRACTORS FOR REGULATORY RELATED TASKS**

**UNCONTROLLED DOCUMENT WHEN PRINTED**

**Effective date of Implementation:** 13 November 2018

### **Rationale:**

It is common practice to employ contractors to fulfil a regulatory role. There are many benefits to this arrangement not least of which being that the local industry, in the specialist area of the contractor, may not generate sufficient work to justify permanent employment of a member of staff.

However, contractors conducting regulatory task on behalf of the regulatory authority need to be managed as if permanently-employed staff were performing the work. The organisation also needs to consider and specify the scope of work the contractor will be required to perform as well as the output required and who would be responsible for any follow-up activity.

ICAO Doc 9734 Safety Oversight Manual Part A provides some guidance on the qualifications and experience expected of staff carrying out regulatory duties; and aspects of the critical elements relating to personnel qualification and training and provision of technical guidance apply equally to contractors as to permanently-employed personnel. Doc 9734 emphasises that the State (in this case the OTAA or ASSI) retains responsibility for regulatory oversight within its jurisdiction, article 83bis transfers aside, even when some activity is delegated.

### **Definitions:**

'Inspection' may also be taken to mean 'audit', as appropriate.

'Employer' refers to either ASSI or an OTAA.

### **Policy Statement:**

1. The employer retains ultimate responsibility for the regulatory oversight of aviation within its jurisdiction.
2. When performing their duties, the contract personnel must be kept under the supervisory and technical control of the employer. The employer therefore remains responsible for the management of the activities of contract personnel, including management of audit scheduling and follow-up action, and must have appropriate management systems, sufficient in-house expertise, in accordance with the Competency for the Contract Oversight of Regulatory Activities, and the capacity to be able to do so.
3. The employer is responsible for defining the Terms of Reference for the Contractor.
4. Contracts for enforcement of inspection responsibilities and duties must be explicit in their requirements. They must specify the regulatory means of compliance and any relevant technical procedures which must be used when conducting inspections.
5. Contracts must explicitly state that the employer is to be notified within a specified period following an inspection of any deficiencies that are discovered during the inspection.

6. The employer defines the rules (or Terms of Reference) for inspection, sets the criteria for the reports and provides the means to inspect.
7. Contractors shall possess appropriate technical competency in performing certification, inspection and surveillance functions.
8. Contractors should possess a high degree of integrity, be impartial in carrying out their tasks, be tactful, have a good understanding of human nature and possess good communications skills. They shall have no conflict of interest in the work undertaken.
9. Qualifications, experience and personal characteristics of contractors shall be verified and carefully evaluated.
10. Ideally, contractors should be at least as qualified as the personnel to be inspected.
11. Employers must determine the minimum professional qualifications and experience for its contractors: ie contractors must be qualified and experienced as regulators. Furthermore, employers must provide the technical and administrative training necessary for contractors to accomplish their duties and responsibilities effectively.
12. Contractors must be provided with training, as required, on subjects such as:
  - applicable legal structure and requirements;
  - inspector's skills, knowledge, duties and responsibilities;
  - procedures for implementation and enforcement of requirements;
  - local issues and protocols.
13. Contractors must be provided with credentials to allow them to carry out their duties.
14. (a) When independent consultants are contracted to carry out work which may be used as a basis for developing policy or for future regulatory work, the output shall be subject to acceptance by an appropriate in-house subject expert taking account of:
  - safety risks
  - any business risk to the regulator
  - the scope of any approval held, where relevant, and the issuing authority
  - a review of similar work conducted and references relating to such work.
- (b) Where such expertise in the subject area does not exist in-house, acceptance against the criteria in (a) should be established in consultation with an external expert or regulatory body (eg UK CAA, EASA etc), unless the severity of any associated risk is low.
- (c) The means by which the consultant's recommendations will be accepted should be specified when agreeing the contract.