



Day & Zimmermann

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Policy: International Business Relationships

Policy No.: 1502

Responsible Officer: Senior VP, General Counsel and Secretary

1. Definitions

“International Business Representative” means: an individual or firm, whether U.S. or foreign, possessing special knowledge, expertise, skill and operational experience in the development, solicitation, acquisition, business operations, licensing, and/or retention of contracts with/from “Foreign Customers” or in a Foreign country.

For the purpose of this policy, “International Business Representative” also means any agent, consultant, broker or any other person or firm by whatever name known, whether U.S. or foreign, who/which has, or is likely to have, contact with Foreign Customers (including contact within the United States) or Foreign Government Officials and is hired or otherwise retained to provide services related to obtaining, retaining or facilitating business or business opportunities from/with Foreign Customers or in foreign locations, including obtaining or retaining licenses, registrations, visas, tax rulings or other decisions or permissions from a foreign government, or in satisfying offset/countertrade commitments to Foreign Customers, by either advising or representing the Company in such activities with Foreign Customers or who may be engaged to interact with Foreign Government officials relating to business of the Company whether or not with a Foreign Customer.

“Foreign Customer” means: any customer, actual or potential, to which the delivery of contracted goods, services or technical data, including any such goods, services or data that constitutes/would constitute an export, and thus come under the control of either the United States Department of State or the United States Department of Commerce.

Specifically excluded from this definition are full- or part-time employees of either the Company or its affiliates.

Further specifically excluded are foreign legal counsel procured by the Legal Department that are subject to the requirements, in lieu of this policy, the requirements of Policy No.: 1103-03, Retention/Compensation of Outside Legal Counsel.

2.0 Policy

Company requires that International Business Representatives are vetted with “due diligence” and retained in accordance with practices and procedures that help ensure that they, for example:

- Are not on lists of persons with whom the Company is forbidden by the U.S. Government to contract (“Bad Guys Lists”);
- Are persons of integrity, good business judgment and good reputation;
- Understand the Company’s ethical and business practice standards and commitments, and will honor them;
- Understand and will accept and honor the anti-corruption laws and other laws and regulations of the country or region where they operate or will represent the Company;
- Understand and will accept and honor, as their own obligations, the Company’s obligations under the Foreign Corrupt Practices Act and, as appropriate, the International Traffic in Arms Regulations, the Export Administration Regulations, the Toxic Substances Control Act, the regulations administered by the Bureau of Alcohol, Tobacco and Firearms, the regulations administered by the Treasury Department’s Office of Foreign Asset Control (“OFAC”), the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Anti-bribery Convention), and applicable foreign country laws and regulations; and
- Understand and will accept and honor record keeping and reporting obligations that evidence compliance with the foregoing laws and regulations, and that provide adequate audit support for payments made to them.

Unless expressly authorized by the CEO, the following are prohibited:

- Binding verbal commitments to International Business Representatives that have not been set forth in a written agreement signed by the Company and the Representative.
- Written agreements with such Representatives that are not expressly conditioned upon satisfactory completion of due diligence.

3.0 Standard Practice and Procedure

Business Groups and Staff Units must honor and follow these practices and procedures of the Company unless and until alternative practices and procedures are developed that honor the Company’s Policy and are approved by the Business Group President in conjunction with the Senior VP, General Counsel, and Secretary.

Before establishing a business relationship with an International Business Representative, the Business Unit must consult with their respective Law Department representative to determine the appropriate level of due diligence and oversight needed based on the risk posed by the transaction or engagement using the guidelines set forth in Policy 1102-20 and its supplement. This requirement applies to proposed agreements and renewals of agreements for consultants, joint venture partners, teammates, subcontractors, and suppliers, and any other business partners.

The Company’s standard practice and procedure is to have Business Groups and Staff Units (“User”) propose retention of candidate representatives by executing [DZG Form 1502-A](#) or its equivalent (User’s Recommendation to Appoint International Business Representative) and attaching to it [DZG Form 1502-B](#) or its equivalent (Application for Appointment as International Business Representative), which has been duly executed by the candidate, and furnishing both forms to their respective Law Department representative.

Upon receipt of these two forms, the Law Department representative will:

- Prepare and send to the candidate a letter using the format set forth in [DZG Form 1502-C](#) or its equivalent (Disclaimer Letter);
- Continue the due diligence function by, among other things, checking references (including asking each reference to comment in writing on the candidates reputation for honesty and integrity), contacting other sources and confirming the legality of the type of compensation and appropriateness of the amount; and
- If appropriate, prepare a draft agreement or authorize the User to prepare a draft agreement, specifying certain clauses for inclusion in the agreement based on the nature and extent of the services to be procured.

The Law Department representative must endeavor to ensure that any agreement complies with local as well as U.S. law. Local law may, for instance, limit the use of contingent fees or where payment may be made to the Representative. The Law Department representative may utilize in this process such outside counsel and/or investigative specialists, domestic or foreign, as may be deemed necessary, advising the Business Group or Staff Unit Head (where possible) of the anticipated costs, which shall be borne by the Business Group.

The International Representative Agreement must include, at the least, the following provisions (unless otherwise determined unnecessary by the Law Department because of a risk assessment):

- a) Requirement for compliance with the Foreign Corrupt Practice Act and other applicable anti-corruption laws;
- b) Prohibition on the payment of facilitation payments without advance written approval of the Company's Law Department;
- c) Requirement for regular reports of activities;
- d) A clause which allows the Company to audit the books and records of the Business Representative to ensure compliance with anti-corruption laws;
- e) Requirement for annual certifications of compliance with anti-corruption laws; and
- f) Requirement providing the Company with the authority to audit the books and records of the Business Representative relating to the engagement.

Before any International Representative Agreement is renewed or extended, the Law Department representative must cause a check to be made of the Representative's reputation, including a check of the "Bad Guys Lists" to ensure that the Representative is not on them.

User will ensure that the candidate cooperates fully with the Law Department to complete the due diligence face-to-face or virtual meeting with a Law Department representative (as needed).

After the face-to-face/virtual meeting, the Law Department will advise the User if the candidate and agreement are acceptable. The Law Department will then sign (or authorize the signing) of the agreement on behalf of the Company, and the User will ensure that the Law Department is furnished with an electronic copy of the agreement as signed, if the Law Department is not the custodian of the hard copy of the agreement.

Monitoring Performance

Throughout the course of the candidate's (now Business Representative's) engagement, the User must monitor the Business Representative's performance. The User and its Business Group must:

- Carefully examine each invoice the Business Representative submits;
- Require a detailed accounting of services performed and payments made on the Company's behalf;
- Coordinate with the Law Department to conduct periodic updates of due diligence throughout the Business Representative's engagement to ensure compliance with applicable laws and the Company's policies;
- Ensure that the Business Representative certifies compliance with the Company's anti-corruption policies, including the Foreign Corrupt Practices Act, on at least an annual basis, using the [form 1502-D](#) attached hereto.
- Advise the Law Department if a Business Representative refuses to sign or requests alterations to the certification.

The Law Department should be contacted with any questions regarding compliance with the FCPA or if any doubt exists as to the propriety of a particular engagement, payment or transaction.

Record Keeping

The Business Group must maintain (1) a complete executed copy of the International Representative Agreement, (2) a complete and executed copy of all modifications and extensions of the International Representative Agreement; (3) a copy of all written direction given to the Business Representative; (4) a copy of all reports of activities provided by the Business Representative; (5) a copy of all invoices; and (6) a copy of all payments made to the Business Representative. A copy of all documents must be provided to the Law Department contemporaneously.