

## Zucker, Andrea B CIV USARMY HQDA ASA MRA (US)

---

**From:** Franke, David S CIV USARMY HQDA OGC (US)  
**Sent:** Monday, October 03, 2016 2:56 PM  
**To:** Zucker, Andrea B CIV USARMY HQDA ASA MRA (US)  
**Cc:** Franke, David S CIV USARMY HQDA OGC (US); Deleon, Crystal G CIV USARMY HQDA ASA MRA (US)  
**Subject:** OGC Review Needed -- DA Civilian Employment and Marketing Feedback (PUBLIC-PRA Packet) (UNCLASSIFIED)  
**Signed By:** david.s.franke.civ@mail.mil

### 1. References:

- DODI 3216.02, 8 November 2011.

- AAHR Supporting Statement, Part A; Collection Title - "DA Civilian Employment and Marketing Feedback."

2. BLUF: There is no legal objection to the proposed gift or payment (of compensation) to focus group participants.

3. This responds to your request for legal review of the proposed payment of compensation to civilian (non-Federal) participants in focus groups designed to gather insights into awareness of and attitude towards DA civilian career opportunities. The collected information will be used to improve the marketing and recruiting of civilians for DA civilian positions. Participants will include college students and career professionals.

4. This collection effort falls under the purview of DODD 5134.01, 1 April 2008, Under Secretary of Defense for Acquisition, Technology, and Logistics, and more specifically, DODI 3216.02, 8 November 2011, Protection of Human Subjects and Adherence to Ethical Standards in DoD-Supported Research.

5. The AAHR Supporting Statement, Part A, Section A.9, describes the proposed compensation as follows:

9. Gifts or Payment. Payment or gift will be provided to the respondent. Per industry standard, focus group participants will receive a gift of approximately \$100 - \$125 (depending on level of work experience) as an incentive to participate. Industry standard is based on Governmental researcher experience and informal queries of focus group moderators and facilities. Authority to provide payments for general research participation is permitted per DoD Instruction 3216.02. See attachment "Att A9\_DoDI 3216.02.pdf" for more details.

6. The DODI provides at Enclosure 3, Section 11a(3)(b) (Compensation to Human Subjects for Participation in Research; DOD-Conducted Research Involving Human Subjects; When the Human Subjects are Not Federal Personnel):

(b) Additionally non-Federal personnel may be compensated for research participation other than blood draws in a reasonable amount as

approved by the IRB according to local prevailing rates and the nature of the research. Payment for general research participation may come directly from a Federal or non-Federal source.

Note 1: Payments from non-Federal sources may include a Federal contractor or other non-Federal source. See, Section 11b(2)(b).

Note 2: The DODI does not further define the terms "reasonable amount" or "local prevailing rates."

7. There is no legal objection to the proposed gift or payment. First, a gift or payment is authorized by DODI 3216.02. Second, the proposed gift or payment is being provided to participants as an incentive to respond to the information collection. Third, the gift or payment amount will vary, based upon the participant's level of experience, but in no case will exceed \$125.00. Fourth, this dollar range is based upon current industry practice. Finally, in my opinion, the amount of \$100.00 to \$125.00 qualifies as a "reasonable" gift or payment under the circumstances.

8. Please ensure that the IRB approves the payment of compensation for research participation, IAW DODI 3216.02, Section 11a(3)(b).

9. Point of contact is the undersigned.

David S. Franke  
Associate Deputy General Counsel  
U.S. Army Office of General Counsel  
Washington, D.C.  
(703) 697-2479 (Pentagon, M & Th)  
(703) 545-3400 (Taylor, T, W, F)

-FOUO-

Confidentiality Notice

CAUTION: This message may contain information protected by the attorney-client, attorney-work product, deliberative process, or other privilege. Do not disseminate without the approval of the Office of the Army General Counsel.