

 <p><b>Category:</b> Financial</p> <p><b>Policy applicable for:</b> Faculty/Staff</p>	<p><i>Policy Title:</i></p> <p><b>Payments to Individuals for Services</b></p> <p><b>Effective Date:</b> 03/11/11</p> <p><b>Prior Effective Date:</b> 01/01/2009</p> <p><b>Enabling Act(s):</b> IRS Higher Education Act, Title IV</p>	<p><i>Policy Number:</i></p> <p><b>2.3.1</b></p> <p><b>Policy Owner:</b> Sr. VP for Administration and Finance</p> <p><b>Responsible Office(s):</b> Accounts Payable Human Resources Purchasing Tax Compliance</p>
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## Background

This policy concerns engaging individuals other than volunteers to provide services to the university. This policy is intended to facilitate efficient and flexible business practices, while also effectuating appropriate fiscal control, and compliance with tax and labor laws.

This policy does not apply to Purchase Orders, Term Contract Releases, Small Dollar Invoices, P-Card expenditures, or Travel Expense Reports.

## Policy

The university shall retain and compensate the services of an individual either as an employee or as an independent contractor and only through the following means: as an employee of the university, an independent contractor, or an employee of a payrolling or temporary agency. While these guidelines provide assistance to university personnel, the above-noted responsible offices retain the authority to make judgments as to whether an individual should be retained as an independent contractor or as an employee.

No individual shall be retained – whether as an employee, under a personal services contract, under a limited services engagement form, or through a payrolling or temporary agency – and compensated on a commission basis to recruit students, unless the Senior Associate Vice President for Enrollment Management approves and, in consultation with the Office of General Counsel, concludes that the compensation complies with applicable law, including Title IV of the Higher Education Act.

The university shall retain an individual as an **EMPLOYEE** if any of the following conditions are met:

- The work is described through a University of Cincinnati job description
- Supervision and equipment is provided by the university
- Working hours are controlled by the organizational unit
- The organizational unit is responsible for discipline

- Services to be performed are being performed by, or would normally be performed by, persons in employee roles within the university

The university may retain an individual as an independent contractor under a **PERSONAL SERVICES CONTRACT** if all of the following conditions are met:

- The university will pay the individual as an individual and not through any corporation or agency
- The individual performs services according to his/her own methods to provide the outcome requested by the university
- Services to be performed for the university over a period of one year in length will not exceed the maximum amount currently permitted by applicable law. (The current university threshold is \$20,000 and a new contract may be executed for the same contractor in the second year, to a maximum of five consecutive contracts.)
- Contracted services are not currently being performed by, or would not normally be performed by, an employee of the university
- Services to be performed are not on an interim basis while recruiting to fill a vacancy

The university may retain an individual as an independent contractor under a **LIMITED SERVICES ENGAGEMENT FORM** if all of the following conditions are met:

- The university will pay the individual as an individual and not through any corporation or agency
- The individual performs services according to his/her own methods to provide the outcome requested by the university
- Services to be performed are limited to a specific event or a period of one week or less within a year and within one organizational unit
- Services to be performed through a Limited Services Engagement Form will not exceed \$10,000
- Contracted services are not currently being performed by, or would not normally be performed by, an employee of the university
- Services to be performed are not on an interim basis while recruiting to fill a vacancy

In the event that a responsible office denies a request to retain an independent contractor for a particular work need, the university may secure necessary services through a payrolling or temporary agency.

The university may retain an individual through a **PAYROLLING OR TEMPORARY AGENCY** provided that all of the following conditions are met:

- The university will pay the individual through an agency
- Services are under the supervision of the University of Cincinnati and the individual does not use their own methods to provide services

- Contracted services are being performed by, or could be performed by, an employee of the university
- Services to be performed are on an interim basis while recruiting to fill a vacancy

A payrolling agency is used when the University of Cincinnati chooses the individual providing services; a temporary agency is used for an hourly-paid position when the vendor chooses the individual for services. A purchase order or term contract is required to use a payrolling or temporary agency.

As a general rule, organizational units of the university should not retain current university employees, former university employees, or student workers through a Personal Services Contract, Limited Services Engagement Form, payrolling agency or temporary agency to render services.

*For example:*

- **Current UC employees** – When such contracted work is beyond the scope of, and not part of their regular appointment or work is temporarily assigned for a vacant higher-level position, organizational units must use appropriate methods of additional compensation available through the UC payroll system.
- **Current UC student workers** – When such contracted work is similar to existing student employee positions where the organizational unit has supervision and control over their work, classification as an employee is in order, and organizational units must use the appropriate methods available through the UC payroll system.

To retain a current university employee, former university employee, or student worker through a Personal Services Contract, Limited Services Engagement Form, payrolling agency or temporary agency, organizational units must ensure that the contracted work meets with an approved exception to the above general rule.

Organizational units should limit exceptions to those instances where (i) the Office of General Counsel has advised the individual that performing the services will not constitute criminal conduct or otherwise violate the Ohio Ethics Code or any other applicable law and (ii) the individual has complied with the university's outside activity requirements, including the requirement to obtain advance, written approval of the individual's supervisor.

*Exceptions:*

- **Payrolling and temporary agencies** – When a former employee is retained to perform work that is similar to their former employee role or those of other employees, organizational units can and should use appropriate methods available through payrolling or temporary agencies.

- **Personal Services Contract** – Limited exceptions may apply when current student workers and current UC employees perform services that are outside of existing student worker or employee positions. For example, an employee whose existing position (e.g., accounting) does not include musical services, can be retained on a personal services contract to provide a one-time music performance that is not supervised by the organizational unit.
- **Limited Service Engagement** – Minimal pre-approved exceptions may be processed on the Limited Services Engagement Form.
- **Other** – All other exception requests must be forwarded to the Director, Tax Compliance.

## **Procedures for Retaining Individual Services**

### ***Employee:***

To hire an employee, consult applicable Human Resources policies or contact Human Resources for assistance.

### ***Personal Services Contract:***

- The organizational unit entering in to an agreement with an independent contractor must complete the forms listed below and acquire appropriate signatures from the contractor. Links to forms are available below in Related links.
  1. Personal Services Contract
  2. Contractor Status Questionnaire
  3. Foreign Visitor Supplement - if required
- All forms are forwarded for signature to appropriate levels noted on the forms. Contracts over \$5,000 require approval by the appropriate vice president or his/her designee. Individual VP offices may implement a lower dollar-amount threshold for the required signature.\*
- All forms are routed to Director, Tax Compliance who serves as the Contracting Officer designee.
- The signed contract is returned to the originating organizational unit, and a copy is retained by the Contracting Officer designee.
- Services are not to be performed by the contractor until the contract is fully executed by both parties.

### ***Limited Services Engagement Form:***

- The organizational unit entering in to an agreement with an independent contractor completes a Limited Services Engagement Form and acquires a signature from the contractor. Link to form is available below in Related links.
- This form does not require additional signatures.

### ***Payrolling or Temporary Agency:***

To engage a payrolling or temporary agency, contact Purchasing.

**Payment to Individuals for Services:**

The organizational unit requests a payment to the independent contractor by submitting form A-114, with appropriate signatures, to Accounts Payable. Each A-114 must include:

- An invoice or timesheet from the independent contractor, indicating the work the contractor has already done.
- A copy of the fully executed Personal Services Contract or Limited Services Engagement Form

The organizational unit must not request a payment for any work before the independent contractor’s completion of that portion of the work.

Payments made to independent contractors are recorded in UC Flex.

**GL Accounts to Be Used**

<b>UC Flex GL Account</b>	533100 (Services)
	533101 (Consultant Services)

*\* Organizational units may institute policies more, but not less, restrictive than this policy (2.3.1) if desired.*

**Related links:**

- [Contractor Status Questionnaire](#)
- [Foreign Visitor Supplement](#)
- [IRS Publication 1779, “Independent Contractor or Employee...”](#)
- [Limited Services Engagement Form](#)
- [Personal Services Contract](#)
- [Tax Compliance](#)

**Phone Contacts:**

Accounts Payable	556-6746
Human Resources	556-6925
Payroll Operations	556-2451
Purchasing	556-6742
Tax Compliance	556-5899