UNIVERSITY OF TORONTO

ENGAGING AND COMPENSATING RESEARCH SUPPORT WORKERS

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Introduction

The University of Toronto is dedicated to fostering an academic community in which the learning and scholarship of every member may flourish, with vigilant protection for individual human rights, and a resolute commitment to the principles of equal opportunity, equity, and justice. By extension, the University seeks to support domestic and international research activities in ways that are lawful, that are compliant with broader public sector financial requirements, and that are aligned with funding restrictions in research grants. The University recognizes that engaging research support workers (who may be students, trainees, employees, and/or contractors/ consultants) is an important research practice in a wide range of disciplines.

Purpose of Guideline

This document will assist Principal Investigators (PIs) in categorizing, engaging, and compensating research support workers. With this understanding, PIs can prepare accurate grant budgets to secure appropriate support and maintain compliance with University policies and applicable legislation.

Scope of Guideline

This Guideline applies to all research support activities where money is flowed, with additional information about where those activities may occur outside of Ontario.

Typical Ways to Engage Research Support Workers:

- Employing research support workers;
- Sub-granting research funds to an external institution or collaborator; and
- Contracting out expertise and/or advice.

How to Engage Research Support Workers

Identifying the correct mechanism to engage research support workers requires examining the type of duties, location of duties, and financial guidelines of the relevant research sponsor (if applicable). A workflow to assist in understanding ways to engage research support workers may be found in **Figure 1.**

Most research support workers can be categorized as follows:

- Students/trainees
- Other:
  - Employees (individuals over whom the University has a substantial amount of control in terms of when, where, and how the work is performed; for more details, please refer to the **Province of Ontario's definition of employee**)
  - Contractors/consultants (these are individuals retained to provide services without the level of control that exists for employees; for more details, see **Step 1**)

Note that in some cases, payment for the above may be made via a sub-grant.

When the Principal Investigator is contemplating engaging people who are not students or trainees, the relationship is employment with the University of Toronto, unless:

- There is a collaborator or Co-Investigator who intends to hire an employee or engage a contractor through a sub-grant;
- The activities can appropriately be conducted by an independent contractor, and the legal test for an independent contractor has been met; or
- The work activities are being conducted outside of Ontario (such cases to be discussed in advance with the divisional HR office).

Incorrectly engaging research support workers can lead to financial penalties under employment and taxation law, inability to provide payment for work, and potential violations of immigration law and other regulations. Moreover, errors in budgeting for research support may require PIs to change the type of support activities for funded research or eliminate these support activities altogether.

Correctly categorizing the relationship between the worker and the University helps to mitigate many of these risks.

The following steps provide additional details to guide decision-making:

Step 1. Identify the Type of Relationship(s)

Step 2. Explore Sub-granting

Step 3: Follow Procurement Practices and Policies

Step 1. Identify the Type of Relationship(s)

Before engaging an individual to perform work, it is important to consider first whether the University's relationship with the worker will be an employment relationship.

Principal Investigators should refer to the University's document **Employee Versus Independent Contractor – Taxation of Payments** to assist in differentiating between Employment and Non-Employment.

Divisional HR offices can help determine if the work is appropriately performed by an employee or a non-employee. They can also identify relevant posting requirements.

If the individual cannot be legally hired as an employee by the University of Toronto:

- The **Research Services Office or Innovations, Partnerships & Entrepreneurship Office** should be contacted to determine if a sub-granting arrangement is a viable option under the project. Where a sub-grant agreement is possible, the institution receiving the funds for their Co-Investigator would be the institution employing the individual(s).

For details please see Step 2: Explore Sub-granting

If the work is not employment and/or a sub-granting arrangement is not possible:

- An independent contractor arrangement may be possible, in which case University procurement processes must be followed.
- Divisional HR offices can help determine whether an independent contractor arrangement is possible.

Please see Step 3: Follow Procurement Practices and Policies

What Makes Someone an Employee versus a Contractor?

This chart provides key considerations to determine whether the research support worker should be categorized as an employee or a contractor, based on the nature of work and the way it will be performed.

Factors Impacting Categorization as Employee vs. Contractor*

Employee	
• Is available to do whatever work is assigned by the University (within scope of job) • Is not responsible for costs of doing the work • Is provided with an office or workstation and any required tools to do the job • Has a job description • Has a reporting relationship • Receives performance appraisals • Is remunerated regularly • Has an employment agreement	• Provides a specific product or service as part of their own business endeavour • Controls where, when, and how the services are provided • Provides own supplies, services, offices • Pays their own business expenses • Remuneration at own risk • Services are provided to the University of Toronto • Has a contract for services

Please note these are not the only factors, and are not necessarily determinative.
Source: **Employee versus Independent Contractor and Taxation of Payments (HRIS vs FIS)**

If the Research Support Worker is a Foreign National

When the research support worker is a foreign national, they must have the proper authorization to work in Canada and for the University.

In general, foreign nationals are authorized to work in Canada only if they hold:

1. A study permit (these permits may place limitations on the number of hours of work); or
2. A work permit (these permits may limit the type of activity and for whom these activities may be conducted as well as the location); or
3. A visitor record that explicitly permits them to conduct specific activities.

Students (including International Visiting Graduate Students) will typically hold a study permit, while visiting professors and trainees will hold either a work permit or a visitor record outlining limitations in their ability to work.

The Principal Investigator's divisional HR office should be engaged prior to hiring or engaging a foreign national research support worker as there may be additional steps required to obtain the correct type of permit. These steps may include more comprehensive posting requirements in some circumstances.

Applicable U of T Resources

- Immigration – The Division of People Strategy, Equity & Culture
- Research & Innovation | University of Toronto
- Research Procurement – Procurement Services

Step 2. Explore Sub-granting

"Sub-granting" is defined as reallocating grant funds to a Co-Investigator at an external institution by means of a formal sub-grant agreement.

Where the sponsor permits, Principal Investigators can share a portion of their research funding with a Co-Investigator at another institution. The Co-Investigator will use their portion of funding to undertake efforts involving research support workers. These efforts may include recruiting and supervising students, postdoctoral fellows, and/or other personnel. The Co-Investigator manages the support workers in accordance with their respective institutional policies and procedures.

When considering sub-granting research funds, Principal Investigators must work closely with the Division of the Vice-President, Research & Innovation (VPRI)—specifically, the **Research Services Office or the Partnerships team in the Innovations, Partnerships & Entrepreneurship Office**—to ensure that the associated costs with sub-granting are considered in their budget proposal, and that their primary sponsor agreement permits the sub-granting of research funds.

Once reviewed by the relevant VPRI office, PIs must request to initiate a formal sub-grant agreement through standard processes. Questions may be directed to the individual named beside "Research Officer" in the University of Toronto Research Account (UTRAC).

More information about sub-granting is available at **How to Share Funds with Co-Investigators: Sub-grants.**

Applicable University Resources for Sub-granting

- What Qualifies as an Eligible Expense for a Research Award?
- Manage Funding
- How to Share Funds with Co-Investigators: Sub-grants

Step 3. Follow Procurement Practices and Policies

If it is determined that research support work can and should be performed by an independent contractor, Principal Investigators must ensure they are following the appropriate procurement practices to engage the individual.

The University of Toronto is required to follow the **Broader Public Sector Procurement Directive** and University of Toronto **Procurement Policies**.

The University of Toronto's Procurement Services Office provides for categories of procurement based on dollar amount. If a PI is contracting with an individual, whether inside or outside of Ontario, these categories provide guidance on what processes they are required to work through to procure such services.

Request for Proposal (RFP) processes (competitive bids) can take several months depending on the complexity of the work assignment to work through. Knowing the process associated with the dollar amount of the contract being provided is therefore essential in research planning. Purchasing thresholds are as follows:

- Under $10,000: **Informal procurement**
- $10,000 to $49,999: Two written quotations are required – **Invitation to Quote**
- $50,000-$99,999: Minimum of three written quotations are required – **Invitation to Quote**
- $100,000 and over: Public Tender – **Competitive Bid Request**

Depending on the dollar amount of the services being contracted, PIs will need to work through specific requirements and processes, such as seeking quotes or engaging in a formal competitive bid process. Divisional finance and procurement support staff should be engaged to ensure appropriate processes are followed prior to engaging a contractor. For the most up-to-date procurement thresholds, please refer to the **Procurement Services website**.

Consulting Services

Some work conducted by independent contractors can be further defined as consulting work and must be sourced through a competitive process. Engaging a consultant requires a minimum of 3 supplier quotations for engagements under $100,000, and an open competitive procurement process of dollar amounts at or over $100,000. This is required regardless of whether the consultant is working in Ontario.

If these processes cannot be engaged, a **Procurement Policy Exemptions Justification Form** must be completed and authorized by the President of the University.

Applicable U of T Resources

- Guide to Financial Management
- How to Purchase Goods and Services
- Consulting Services
- Research Procurement – Procurement Services
- Procurement Policy Exemptions Justification

Atypical Payments for Services

At times, Principal Investigators may need to pay for unforeseen research-related services with individuals who may not have access to a bank account, or where services were provided in a moment of urgent need with no invoice, receipt, or details provided.

These scenarios may include:

- Paying for personal security in regions of a country where such support is necessary;
- Providing cash to individuals who have conducted field work that was unexpected and cannot be invoiced; and
- Providing goods in exchange for services to individuals who have provided services in places where it is unsafe or culturally unacceptable to accept cash, or where there are alternative currencies (i.e., non-monetary currencies are the norm).

In these instances, payments can be made in the following ways:

1. Payment by the PI's credit card (preferably from a corporate card) upon receipt of an invoice from vendor. PI should then seek reimbursement by an expense report.
2. Payment by the PI in cash upon receipt of invoice from vendor. PI should then seek reimbursement by an expense report.
3. Payment by the PI in cash upon receipt of signature from vendor on a generic receipt (i.e., from a receipt book or log). PI should then seek reimbursement by an expense report.
4. Payment by the PI in cash or non-monetary currency where the vendor does not provide an invoice or signed receipt. PI should then seek reimbursement by an expense report, providing a log of the payment(s) and a missing receipt affidavit.

Business and/or financial officers can assist in identifying alternative payment mechanisms where appropriate.

Research Support Workers Outside of Ontario

There are additional complexities when engaging research support workers outside of Ontario. These complexities are compounded if the activities take place outside of Canada.

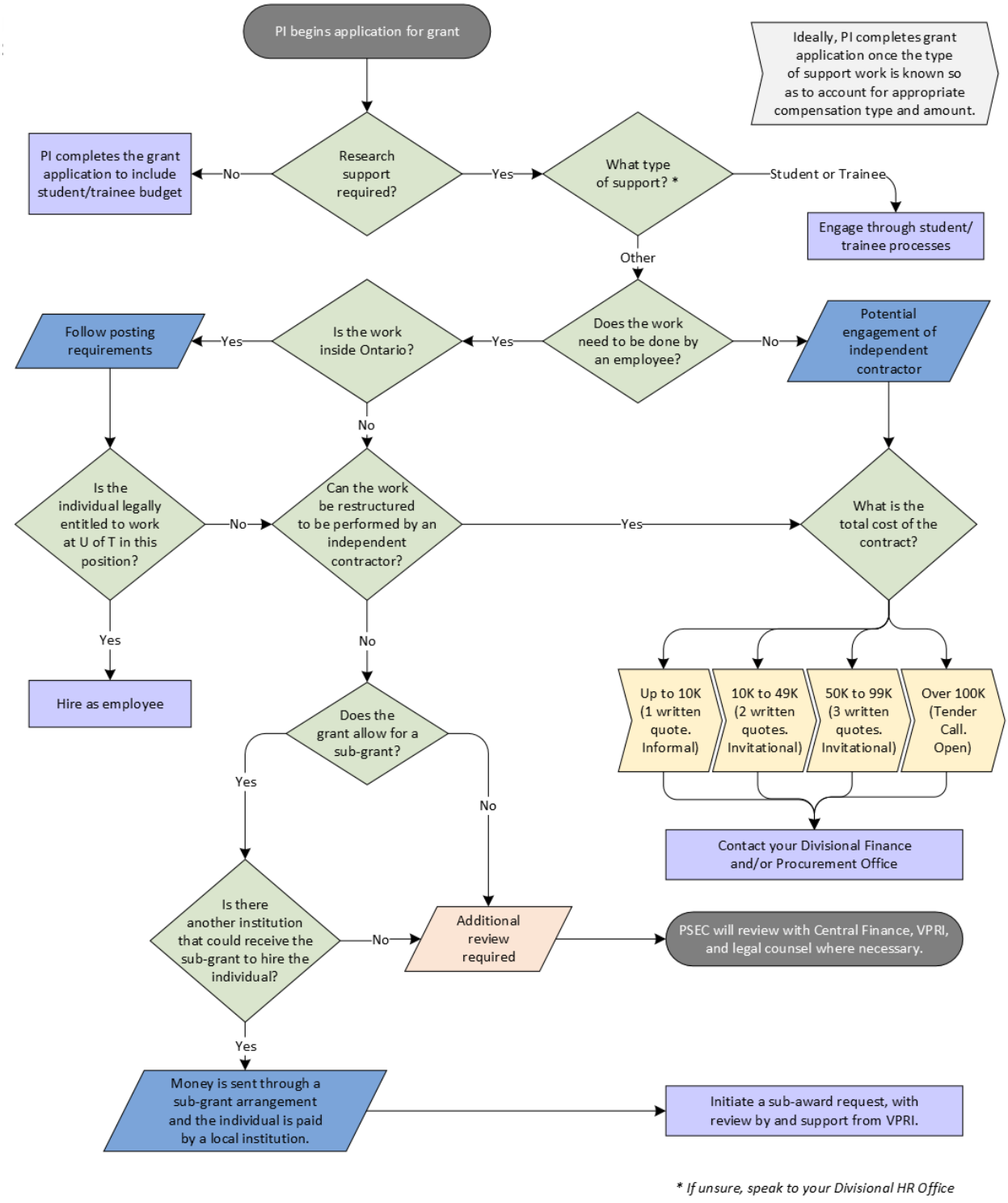
Below are some legal principles that underlie the risks:

- The University of Toronto is a business entity in the Province of Ontario within Canada, and operates in compliance with the laws of Ontario and the laws of Canada, as applicable within Ontario;
- With very limited exceptions, the University is not registered as a business entity in any countries outside Canada, and therefore cannot legally employ employees in other countries. To do so would likely breach certain laws (e.g., employment, payroll, and taxation laws) of most foreign jurisdictions;
- Generally speaking, the University of Toronto is legally required to adhere to the applicable laws (e.g., taxation, payroll, and employment laws) and employment standards of the jurisdiction in which where the worker resides and where the work is performed;
- Failure to abide by local laws can result in the worker needing to cease activities, and potentially facing financial and legal penalties in their foreign jurisdiction;
- The University of Toronto could potentially face heavy penalties and/or criminal charges for violating laws (e.g., taxation, payroll, and employment laws) within jurisdictions outside of Canada; and
- Failing to register employees with applicable tribunals when they are working within Canada but outside Ontario can result in costs and penalties (e.g., in the event of a workplace injury).

For research support employees outside of Ontario, the Principal Investigator's divisional HR office will work with PSEC to identify possible mechanisms to engage research support workers. These mechanisms may include the following:

- Engaging the worker as a contractor in some circumstances;
- Sub-contracting funds to another PI at an institution in the other jurisdiction; or
- Identifying Canadians in Ontario who may be able to do the activities.

Figure 1


PI begins application for grant
Ideally, PI completes grant application once the type of support work is known so as to account for appropriate compensation type and amount.
Research support required?
No
PI completes the grant application to include student/trainee budget
Yes
What type of support? *
Student or Trainee
Engage through student/ trainee processes
Other
Does the work need to be done by an employee?
Yes
Is the work inside Ontario?
Yes
Follow posting requirements
No
Potential engagement of independent contractor
No
Can the work be restructured to be performed by an independent contractor?
No
Is the individual legally entitled to work at U of T in this position?
Yes
Hire as employee
Yes
What is the total cost of the contract?
Up to 10K (1 written quote. Informal)
10K to 49K (2 written quotes. Invitational)
50K to 99K (3 written quotes. Invitational)
Over 100K (Tender Call. Open)
Contact your Divisional Finance and/or Procurement Office
Does the grant allow for a sub-grant?
Yes
No
Is there another institution that could receive the sub-grant to hire the individual?
No
Additional review required
PSEC will review with Central Finance, VPRI, and legal counsel where necessary.
Yes
Money is sent through a sub-grant arrangement and the individual is paid by a local institution.
Initiate a sub-award request, with review by and support from VPRI.
* If unsure, speak to your Divisional HR Office