Update on Hiring Abroad Toolkit

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• Over 300 active global research projects
• 700 faculty involved in international activities
• 2934 faculty global projects
• In 2014, over 6000 foreign payments to foreign vendors = $50M
Contributors

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Risks

It takes only a single employee..............

- Hiring a translator
- Engaging a local coordinator to run a semester study program
- Using researchers abroad to run foreign sites, labs, etc.

Employing even one person to provide services abroad can trigger significant legal and financial obligations!
From the Headlines

**Immigration Concerns**

**The Telegraph**
March 20, 2015
“Japanese academic forced to leave Britain due to visa rules”

**Hiring Concerns**

**Việt Nam News**
March 11, 2015
“Contractor fined for illegally hiring foreign labourers”

**Labor Concerns**

**New York News & Politics**
May 19, 2014
“NYU Abu Dhabi Workers Treated Terribly; NYU Shrugs”
Compliance Concerns

Employee & Employer

• Social tax withholdings and statutory benefit requirements in the location where services are provided

• Local labor laws, including mandatory benefits, pay, or leaves

• Employer registration requirements and creation of a “PE”

• In-country work authorization including visa or other entry or exit documentation
What are the Options

- Engaging Independent Contractors
- Hiring Locals Directly
- Partnering with a Local Organization
- Contracting with a Professional Employment Organization (PEO) or Global Employment Organization (GEO)
- Utilizing a U.S. employee on business travel
Independent Contractors (IC)

• Does the jurisdiction recognize the IC concept?

• Does the Worker Classification Checklist support IC classification?

• Does the local jurisdiction require foreign party compliance with any local regulation?
Hiring Local Employees Directly

Least Likely Option
Why?

• Is Penn a registered entity?
  – Current registrations in Botswana, China, Spain, Japan

• Does Penn have the right to hire an employee?
  – Sponsored research agreements may allow some flexibility or exemptions from compliance, but review and approval is required

• Can Penn Administer a local payroll or hire a third party to do so on our behalf, assuming the right to have a common law employee in country?
Partnering

- Does Penn have a partner in the country?
  - University
  - NGO
  - Other local organization

- Can the partner act as a withholding agent for the University?

- Is there an agreement between the University and partner regarding employment and costs?

- Is there a written agreement between the partner and employee, such as a secondment agreement? Is this necessary?

- Can the University utilize the partner’s existing employees through a contract or MOU?

- Can the partner “hire” a Penn identified resource if funded by Penn?
Can Penn work with a PEO to be the Employer of Record for individuals in country? If so, what is required?

What are the total estimated costs?
- Salary
- Employer/employee social taxes
- PEO service fee
- Other

What is the applicable duration for this type of arrangement?
Penn U.S. Personnel Working Abroad

• **Short-term: If less than 90 days**
  – Is business travel appropriate?
  – Can we obtain the appropriate visa based on location and activity (work, travel, business, other)

• **Longer-term: If greater than 90 days**
  – Will the University have a Permanent Establishment in the foreign country location if the employee is hired by the U.S. entity?
  – How will the local country withholding, statutory obligations, and individual’s tax liabilities be handled?
**Toolkit Offers**

- Decision Tree
- PEO Matrix
- International Contractor Agreement Template
Timeline

• Spring 2015: Hiring Abroad Tool-kit available on GSS website at
  https://global.upenn.edu/gss/resources

• Fall 2015:
  – Proposed MSA with one or more Global Employment Orgs. (PEO/GEO)
  – Added content for Penn U.S. Business Travel, including department HR/BA responsibility and “working location” designations
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