



Guidance for International Projects Harvard University

Issued November 16, 2011

Harvard's extensive global presence is growing. The University encourages this growth in worldwide research, teaching, and learning and expects it to accelerate. As global mobility increases, communications barriers continue to decline, and the quality of higher education rises around the world, Harvard faculty and students are and should be developing international partnerships and pursuing teaching and research opportunities the world over. Though they have always done so, they are doing so today in unprecedented numbers.

Harvard's effort to support academic work outside the United States follows two principles: (1) barriers to global work should be low and (2) the risks to the University and its schools, faculty, students, and staff that arise in the course of conducting international work should be managed effectively. The University's goal is to allow Harvard faculty and students to pursue important and interesting academic questions wherever they might lead, while enjoying the support of institutional structures that mitigate risk. Achieving that goal requires recognition that international projects present challenges and risks along with opportunities.

With this document, the Office of the Provost intends to provide faculty and administrators with clear, simple guideposts to major operational risks overseas, so that they may mitigate those risks with minimal impact on their underlying academic goals. Harvard's new Global Support Services (www.globalsupport.harvard.edu), created in 2011 within the Department of Campus Services to provide tools and guidance on international business operations, is available to help schools, faculty, and staff complete their projects within the bounds of these rules.

The shaping principle for these rules is that Harvard policies and procedures, and the laws of the United States and the host country, must be followed.

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Internal Approvals

Some projects will need review and approval from within Harvard. PIs or project managers should:

1. Consult with an appropriate Dean or high-level school administrator in almost all cases, and with the appropriate school-based committee on international projects and sites, if such a committee exists in the school.¹
2. Determine whether the project requires review by the Provost's Office (and possibly the University Committee on International Projects and Sites) by consulting the criteria [here](#) (LINK to Provost's criteria: <http://vpr.harvard.edu/content/criteria-provosts-review-new-projects-or-grants>)²
3. Consult with the Office of the General Counsel (OGC) and Global Support Services (GSS) to anticipate issues that may be raised by host country laws and customs, Harvard principles and procedures, and/or U.S. law.

¹ As of September 2011, school-based CIPS committees were in place at FAS, HKS, HLS, HMS, HSPH and GSE.

² For further information on reviews by the Provost's Office or UCIPS consult with Todd Washburn, Assistant Provost for International Affairs (todd_washburn@harvard.edu); Ken Carson, Assistant Provost for Research Policy (ken_carson@harvard.edu); or Cathy Breen, Director of the Office for Sponsored Programs, (catherine_breen@harvard.edu).

Guidance for International Projects: SUMMARY

ISSUE	SUMMARY	CONSULT WITH	FURTHER DETAIL
Employment	<ul style="list-style-type: none"> Approval from the relevant Dean required for a faculty member to work abroad for an extended period (greater than 2-3 months) Staff working abroad are ordinarily employed by a third party or as contractors; direct employment by Harvard is difficult, but may be possible in limited circumstances 	GSS OGC Provost's Office	Page 4
Export Controls, Foreign	<ul style="list-style-type: none"> Many countries require a license to export human and non-human biospecimens, personally identifiable data, art, antiques, and other items 	OGC	Page 6
Export Controls, U.S.	<ul style="list-style-type: none"> U.S. law prohibits export of certain items to certain countries, including some seemingly ordinary items that may have military applications U.S. sanctions against some countries (e.g. Iran) mean that significant lead time may be required to obtain necessary licenses to work there 	School-based export control officer OGC	Page 6
Human Subjects Research	<ul style="list-style-type: none"> Research with human subjects, including research performed by foreign co-authors, always requires approval from a Harvard IRB Additional approval from a foreign IRB is often required for research with human subjects outside the U.S. 	Cognizant Harvard IRB	Page 7
Procurement	<ul style="list-style-type: none"> <i>Real Estate:</i> Harvard does not ordinarily <u>purchase</u> real estate outside the U.S. <u>Leases</u> require review and approval by several Harvard offices. <i>Capital Equipment:</i> Purchases over \$5,000 require competing bids. Vehicles should be registered with a local (i.e. non-Harvard) institution <i>Cash payments</i> should be avoided, as should the transport of large sums of cash across national borders. <i>Subcontractors:</i> U.S. law requires thoroughly documented vetting of foreign subcontractors <i>Bribes and kickbacks</i> are illegal under U.S. and most nations' laws 	Cognizant School's Finance Office GSS OGC OSP/SPA	Pages 7-9
Professional Licensure and Clinical Care/ Research	<ul style="list-style-type: none"> A local license or certification is required to practice most professions abroad (e.g. medicine, nursing, law, lab science) Harvard projects cannot ordinarily provide clinical care 	<i>Local licensure:</i> relevant local authorities <i>Clinical care:</i> Provost's Office	Page 9
Signing Authority	<ul style="list-style-type: none"> Harvard personnel should not ordinarily sign agreements with foreign governments, subcontractors, or vendors 	OGC OSP/SPA	Page 9
Trademark/ Use of Name	<ul style="list-style-type: none"> The Harvard Trademark Program must approve any use of the Harvard name or insignia by collaborating entities or individuals 	Trademark Program	Page 10
Visas	<ul style="list-style-type: none"> Harvard personnel should enter and remain in foreign jurisdictions only under appropriate visas. 	GSS	Page 10

Guidance for International Projects

Members of the Harvard community need to comply with the following policies when they conduct international work:

EMPLOYMENT

- **There are several options for stationing an employee abroad on a long-term basis. Staff members working abroad on Harvard's behalf are ordinarily employed by third parties or as contract employees. Under specific circumstances, provided full and appropriate preparations have been made, local law compliance has been assured, and the Provost's Office and the School's Dean of Faculty have approved, faculty or staff may be employed directly by Harvard while working abroad.**

If a *faculty member or administrator* seeks to remain abroad for a long period (that is, exceeding a few months at a time), this should always be worked out in close consultation with, and with approval from, the cognizant school's Dean of Faculty.

Ordinarily, if Harvard faculty or administration would like to station *staff* working abroad on a Harvard project for an extended period of time (again, exceeding a few months at a time), these staff should be employed by a third party in the country of their employment, rather than being employed by Harvard directly. This third party may be an affiliated entity set up by Harvard, a partner institution, or a vendor such as a Professional Employer Organization (PEO) or temp agency. OGC and GSS are able to advise on and assist with these arrangements.

Under exceptional circumstances, the University may employ staff directly and station them abroad, for a defined period of time. In every case, if a faculty member or administrator seeks to station abroad a staff member who is a direct Harvard employee, they should consult with the Office of the Provost, the OGC, GSS, and the cognizant school administration, as it necessitates significant preparation to assure appropriate compliance with both U.S. and non-U.S. regulations, the safety and welfare of the person stationed abroad, and consistency of the placement with University and school priorities.

Issues to Consider When Placing Harvard Personnel Abroad

Stationing a Harvard faculty member or staff member abroad for more than a few months at any one time may trigger requirements to pay local taxes, to contribute to social security/national welfare funds, and to obtain a work vis. It can be difficult and expensive for the faculty or staff member (and for the University and the cognizant school) to comply with these local requirements, and some local taxation requirements may increase a U.S. national's personal income tax burden.

When a faculty member or administrator seeks to station abroad for more than a few months any person who is directly employed by Harvard, the cognizant school and department, as well as University administration, first should consider and resolve a

Guidance for International Projects: Detail for FACULTY, STAFF, and STUDENTS

variety of practical issues. These include: how requirements of U.S. and host-country taxation, employment, employee benefits, and immigration laws will be met over time; how costs of compliance with these laws will be paid; how Harvard's administrative systems will accommodate those requirements and whether they can be accommodated using Harvard's existing payroll and benefits systems. The cognizant school and department should also consider how such employees will be supervised; whether there is adequate insurance to cover risks associated with these employees' overseas responsibilities; and whether stationing an employee abroad will require Harvard to register to do business in the relevant country. This last measure – registering to do business in another national jurisdiction – is a highly consequential step that requires review from the University Committee on International Projects and Sites (UCIPS) and close consultation with the OGC and GSS. The costs associated with a failure to comply with local laws, such as fines and penalties, will be borne by the Harvard school that employs the faculty or staff member. The overall assessment is whether the risk incurred by the faculty or staff, the school, and the University are justified in relation to the programmatic benefit gained by stationing the person(s) abroad.

As noted, there are several options for stationing an employee abroad on a long-term basis. Since registering to do business is the most costly and consequential of these, schools whose faculty or administration seek such long-term placements should first consider other options. For example, rather than permanently stationing the person abroad as a Harvard employee, it is often possible to engage that person through a subcontract with a local partner already doing business in the jurisdiction, or to enter into a vendor/leased employee arrangement with a local employer service company (often called a PEO), which will hire the person as a local employee and then assign the person to serve a Harvard project.

In some cases, it may be appropriate to engage personnel as independent contractors rather than station them as direct Harvard employees in the foreign jurisdiction. In considering alternatives for stationing an employee abroad, faculty and staff should consult with the cognizant school's human resources office and GSS. If the project is supported by sources of funding external to the University, the cognizant sponsored programs office(s) (OSP, HMS SPA, HSPH SPA, OTD) must also be consulted.

Another alternative is for the University and the cognizant school, in a country where there are recurrent and ongoing projects, and frequent requests for postings abroad for Harvard faculty and/or staff, is to establish a local entity, controlled by Harvard, which may act as the local employer in place of Harvard itself. The OGC, the UCIPS, and the Office of the Provost have experience in advising on the establishment of overseas entities and, in addition to the cognizant Dean, should be consulted if a faculty member or administrator is considering this significant step.

Situations also arise in which a Harvard faculty or staff member may be invited by a sovereign government or government subdivision, or a university or institute located abroad, to serve for a defined period of time in a visiting academic or public service capacity. When such a placement is consistent with school objectives and represents a

significant opportunity for the faculty or staff member's professional growth, the University supports these placements. When such an invitation is extended, faculty and staff should inform the relevant Dean of Faculty and human resources staff of their school. The school should consult the OGC and the Office of the Provost in these instances, as UCIPS approval may be needed. In addition, the OGC and the Provost should review the formal contractual arrangements or memoranda of understanding with the government agency, parastatal or academic institution that has extended the invitation. The school, likely through its faculty or staff to whom the invitation has been extended, should ask the entity extending the invitation to assist in compliance with local taxation and visa requirements.

EXPORT CONTROLS

- **Faculty, staff and students should comply with national laws relating to the export from foreign jurisdictions of biospecimens, identified data, art, and antiquities.** Many countries require an export license or permit to export human and non-human biospecimens, identified data (i.e., data that identifies individuals), and art and/or antiquities. The cognizant PI should try to anticipate restrictions in this regard and to seek advice on complying with relevant restrictions. That advice may come from foreign collaborating institutions, which may have information on local export licensing requirements, and/or from Harvard's Office of General Counsel, which may be able to identify local counsel in the relevant country. Even inadvertent violations of export regulations can have serious consequences, including criminal prosecution, imperiled ability to use exported materials and objects for research and publication, and damage the reputation of the PI, the school, and Harvard.

Furthermore, with respect to non-human biospecimens, U.S. Fish and Wildlife and Endangered Species laws may require permits for their importation into the U.S. The Office of the General Counsel can advise on U.S. import and export issues.

- **Faculty, staff and students should abide by the United States export control regulations and by sanctions enforced by the U.S. Treasury Department's Office of Foreign Assets Control (OFAC).** U.S. law prohibits the export to specific countries of certain items and technologies, including some seemingly ordinary items that could have a military use; and also prohibits a broad range of interactions with certain individuals, entities, and countries, including initial export of items from the U.S., re-export of items, sharing non-public information at an international conference, conducting research in a particular country, engaging in an international collaboration, or shipping to another country equipment, materials, or other items necessary for research (often including common items such as laptops, cellphones and PDAs). In some cases, a Harvard department or individual must secure a license *well in* advance of a trip abroad. Information about these restrictions is available at <http://www.hsph.harvard.edu/research/export-controls/>.
<link> Each school has a designated export control officer who can assist in these issues.

HUMAN SUBJECTS RESEARCH

- **When conducting research with humans, faculty, staff and students need to obtain approval from a Harvard IRB. If the research will be conducted outside the U.S., they must also respect applicable national laws relating to the conduct of human subjects research, which often includes the requirement to obtain additional approval from a local IRB or local research ethics committee.** A Harvard IRB must approve all human subjects research conducted abroad by, in collaboration with, or under the direction of Harvard faculty. Even unpaid consultations with foreign collaborators who are engaged in human subjects research requires Harvard IRB review if the Harvard researcher expects to be an author on any paper that results from the research or receives any information that would identify a human subject. Often it is also necessary to secure the approval of a local foreign IRB or research ethics committee. Local collaborators and local IRBs can inform the project about local laws that may affect the research, such as privacy or other laws that may restrict the export from other countries of personally identifiable data. In addition, for any funding application that will support human subjects research conducted abroad by faculty or post doctoral fellows, approval must be obtained from the Office of the Provost **before** the funding application is filed. Harvard researchers also should note that as part of their human subjects research obligation for studies conducted among populations not proficient in English, they must assure adequate informed consent from non-English-speaking subjects, consistent with the terms of approval from the Harvard IRB and any local IRB.

PROCUREMENT

- **Faculty and staff who are considering leasing real estate abroad must seek prior approval.** Note that Harvard does not ordinarily purchase real estate abroad. Approval by a vice president of the University (usually the VP for Campus Services), and in some instances the Corporation, is required for the University or any of its employees to commit to real estate leases or purchases. The approval process may be initiated through each school's financial administration and/or cognizant Office for Sponsored Programs, and agreements must be reviewed by the Office of the General Counsel. The process of leasing or purchasing real estate abroad also requires review and approval by UCIPS, as it often will trigger foreign registration requirements and suggests that Harvard is seeking to establish a permanent or semi-permanent presence in a foreign jurisdiction.
- **Harvard faculty and staff considering the purchase of capital equipment or supplies whose value exceeds \$5,000, including motor vehicles and SUVs, need to comply with procurement regulations.** Federal regulations and good business practices require that for equipment and supplies that exceed \$5,000 in value, there must be a procurement process that secures at least three competing bids from potential vendors. In some cases, local conditions make it infeasible to meet this requirement. Exceptions may be made for specific, well documented reasons. Research and departmental administration staff are well versed in these requirements, including inventory tagging and tracking, and faculty should work through them. In no case should such purchases be

made in the personal name of a Harvard faculty member, staff member or student, unless this is unavoidable and has been approved in advance by the cognizant Office for Sponsored Programs. Other than in truly exceptional circumstances, motor vehicles should be registered in the name of a local collaborating institution, which would then assume responsibility for maintenance and local insurance requirements. Before purchasing or leasing motor vehicles, all safety, security and insurance implications should be considered and resolved, including who can safely drive the vehicle; GSS can advise on these matters.

- **Harvard faculty, staff and students should not pay local labor in cash, or pay cash for local procurement of supplies or equipment, unless it is unavoidable and has been approved in advance by school administration.** Managing large sums of cash when abroad may entail a personal security risk, and may violate United States or other national currency regulations. It is illegal, for example, to carry more than \$10,000 in cash or cash equivalents (e.g., traveler's checks) across U.S. borders without declaring the funds in a customs declaration. Limits in other countries are sometimes lower. In general, for purchases and payments that must be made by Harvard rather than by subcontractors, a local Harvard bank account may be established with a local bank; each school's financial administration is familiar with this process and can help in establishing an account and a mechanism for a reliable flow of funds into the account. All bank accounts used by the University must be arranged through Cash Management. Cash Management and GSS can also advise on alternative arrangements when local bank accounts are impractical. For information about requesting and managing a bank account abroad, see http://vpf-web.harvard.edu/ofs/policies/documents/unive_bank_accou.pdf.
- **Harvard faculty and staff should exercise diligence in selecting subcontractors in research and other projects abroad.** Federal law governing use of federal funds, as well as good business practices, require that faculty and staff exercise a high degree of diligence in selecting local collaborators, whether they are secured through subcontract or vendor agreements. A casual acquaintance with a potential collaborator, or choosing a collaborator or subcontractor based on reputation alone, is not sufficient to discharge this obligation. Careful background and reference checks should be performed; when work in licensed professions is called for by a project, proof of local professional licensure and of the institutional appointments of collaborators should be secured; and the administrative and financial infrastructure supporting a collaborator should be examined. For example, a faculty member should not propose as a collaborator a professional who is employed by an institution that, if made a subcontractor, has inadequate resources to track time and effort of project staff, or satisfy financial reporting and procurement requirements.

- **Under no circumstances may Harvard faculty, staff and students offer bribes, “pay-offs” or “kick-backs” in attempts to influence officials of foreign governments or institutions.** Offering bribes, emoluments or remuneration in any form to an official of another government to influence them to do what they may not otherwise do is illegal under the laws of the United States and other nations. If approached by an official soliciting a bribe, Harvard faculty, staff and students should politely decline; if pressed and if, for example, personal safety is at issue, then they should exercise good judgment, immediately reporting to school and University officials the circumstances of the solicitation and any payment. For more information see www.ogc.harvard.edu/FCPA_101904.php.

PROFESSIONAL LICENSURE

- **Harvard faculty, staff and students should not practice licensed professions abroad, such as medicine, nursing, pharmacy, laboratory science or law, without first obtaining local licensure or certification.** Practicing any profession without local licensure or certification can, in most countries, be grounds for prosecution, and also carries with it a risk of uninsured liability for malpractice. If Harvard faculty, staff or students intend to practice a profession abroad, they must secure appropriate local licensure well in advance of their arrival in a jurisdiction. They also should consult the University Insurance Department at (617) 495-7971 to obtain professional malpractice coverage, if it is available.

If the planned professional practice involves any direct patient care or other medical interventions with patients or research subjects, or if a Harvard project will directly support clinical care of patients that is delivered by a subcontractor or vendor, this must be disclosed to Harvard explicitly in project descriptions, grant applications and research protocols. In general, Harvard does not allow Harvard projects to engage in direct clinical care of patients, as clinical care lies outside the core mission of the University; it therefore would be highly unusual for full-time, employed Harvard faculty and staff, (whether abroad or in Massachusetts) to engage in direct clinical care of patients or research subjects. Any such arrangement would require specific approval from the Provost and the pertinent Dean of Faculty.

SIGNING AUTHORITY

- **Only specified individuals are authorized to sign agreements on the University’s behalf.** No other individuals are authorized to sign agreements with foreign governments, provincial officials, municipal or parastatal officials, or subcontractors, vendors or landlords. Faculty may be involved in negotiating agreements, but only in concert with their school officials, the Office for Sponsored Programs, or the Office of the General Counsel. In general, all agreements with governmental units, offices, or parastatals must be negotiated with advice from the OGC. Questions about negotiating and signing such agreements can be directed to the Office for Sponsored Programs, or to the OGC, which can be reached at (617) 495-1280.

- **Before signing any agreement while abroad, faculty, staff and students should first consult with OGC, because signing agreements while located in another national jurisdiction can have broad or unexpected implications.** The fact that a Harvard representative signed an agreement in a particular country may be seen as compelling evidence that Harvard does business in that country.

TRADEMARK/USE OF NAME

- **Harvard faculty, staff, and students must obtain approval from the Harvard Trademark Program before granting approval to use the name “Harvard,” or any other Harvard names or insignia, to collaborating individuals or entities.** Harvard use-of-name policies fully apply outside the United States. Foreign collaborators are often keenly interested in promoting their association with Harvard, and this promotion may take many forms, including the request to use the Harvard name in the titles of local entities or facilities or programs, or attempts to use Harvard’s shields or other indicia to brand written work product, or even objects such as vehicles. Requests to use the “Harvard” name must be reviewed and approved by the Harvard Trademark Program (617.495.9513, trademark_program@harvard.edu) well in advance of any such use of the name. For guidance on these issues, please consult: http://provost.harvard.edu/policies_guidelines/names_insignias.php and www.trademark.harvard.edu

VISAS

- **Harvard faculty, staff and students should enter and remain in foreign jurisdictions only with appropriate visas.** A visa is always required for travel unless the country to be visited offers a “visa waiver” for short-term stays (e.g. U.S. citizens do not need a visa to visit Canada for fewer than 180 days, though they may need one if their purpose is to study or work); visa waiver eligibility depends on the traveler’s country of citizenship. Research, studies, conferences, or business meetings may necessitate a business visa (or a more specialized visa such as a student or research visa) rather than a tourist visa. Commercial services are widely available to secure, before departure from the United States, appropriate visas for these purposes. It is important to consider the visa laws and historical practices of a country in which a project or program is sited, and to do so well in advance of travel to that jurisdiction by Harvard faculty, students or staff, so that these issues can be anticipated and resolved in non-urgent circumstances.