07-01.43 - CONTINGENT STATUS EMPLOYMENT FOR NON-EXEMPT AND EXEMPT EMPLOYEES

I. Policy Statement: This policy establishes guidelines on the appointment and compensation of individuals for Contingent Status Employment including in some instances the provision of certain benefits.

II. Reason for Policy: Towson University has established implementing procedures pursuant to the University of Maryland (“USM”) Policy www.usmd.edu/Leadership/BoardOfRegents/Bylaws/SectionVII/VII140.html.

III. Definitions:

A. Contingent Status Employment – is a Non-Regular Status of employment for Nonexempt or Exempt positions at Towson University (“University”).

B. Contingent Status Employee – is defined as a person (non-faculty employee) who (1) pursuant to a written agreement, provides personal services to an institution for pay; (2) is not employed as a Regular Status Employee in a budgeted Personal Identification Number (“PIN”) position (the contingent position is not a budgeted PIN position); (3) whose compensation, terms and conditions of employment are governed by this policy, and Policy VII-1.40, “USM Policy on Contingent Status Employment for Non-Exempt and Exempt staff”; and (4) has an employer-employee relationship with the institution in which the institution furnishes necessary supplies and equipment, and a place to work; has the right to control and direct the details, mean and results of the performance of the services; and has the right to discharge the person from employment.

C. Category I Employee – any Contingent Status Employee whose written employment agreement is for a term of six (6) months or less regardless of the percentage of time worked and regardless of whether it is seasonal or intermittent in nature (works “if and when needed”). Any Contingent Status Employee whose employment agreement is flat-rate exempt, is a Contingent Category I Employee.

D. Flat Rate Exempt – a Contingent Status Exempt Employee position whereby the functions are project related and specific outcomes are identified prior to the establishment of an agreement. Individuals hired as flat-rate exempt staff do not record time in increments of hours. Instead, a pre-arranged sum is established for their services to be performed between the individual and the University. This
sum must be at least $455 per week, in accordance with the requirements of the Fair Labor Standards Act (FLSA).

E. Category II Employee – any Contingent Status Employee whose written employment agreement is for more than six (6) months, but no more than twelve (12) consecutive months; is on a fulltime basis or on a part-time basis of 50% or more of fulltime employment; and is hired through a competitive recruitment and selection.

F. If and When, Seasonal and Intermittent Employment Status – an employment status determined by the Office of Human Resources (“OAH”) to be either on-call, associated with a specific seasonal assignment/activity and/or sporadic in nature.

III. Responsible Executive and Office:
Responsible Executive: Associate Vice President for Human Resources

Responsible Office: Office of Human Resources

IV. Entities Affected by this Policy: All divisions, colleges, departments, and operating units; all contingent category I and contingent category II employees.

V. Procedures:

A. General

1. Contingent Category I and II employees must meet the minimum qualifications for the position.

2. Contingent Category I and II employees shall be paid at a rate that at least meets the minimum of the pay range for the position’s job class. If the employment agreement (contract) is renewed, Cost of Living (“COLA”) as provided for Regular Status employees and a salary increase (merit) may be considered by the employing institution.

3. Contingent Category I and II employees shall not have any grievance rights under the State, the University System of Maryland, or the University policy, unless such policy specifically provides otherwise.

4. Contingent Category I and II employees shall not be entitled to participate in the Maryland State Pension System or Optional Retirement Program.

6. Effective July 1, 2007, departments may only hire Contingent Category II employees so long as the term of service in that function does not exceed two consecutive one year terms or 24 months. This provision does not apply to employees in positions funded through a Research/Service Grant, or through Clinical Revenue; Athletic Coaches; employees on Internships; and those employees who have chosen not to be converted to Regular Status employment.

B. Procedures

1. Employment Agreements for Contingent Category I and Category II employees shall be offered on the terms outlined and no other terms shall apply. The terms of the employment agreement are subject to the approval of the hiring department, University Budget Office and the Office of Human Resources.

   a. Contingent Category I Employees

      i. A competitive recruitment or selection process shall not be required unless otherwise stipulated by the Affirmative Action Office and/or the OHR.

      ii. Employment Agreements and Renewals

         (a) A Contingent Category I employee whose employment assignment lasts for a period of six (6) consecutive months and whose FTE is between 1% and 100%, may be eligible to have their contract renewed one (1) time for a lifetime maximum of twelve (12) months under Contingent Category I in that position.

         (b) A Contingent Category I employee whose employment status is approved by the OHR as If and When, Seasonal and/or Intermittent may have their employment agreement renewed indefinitely for up to twelve (12) months at a time.

      iii. Subject to the limitations stated above, a department shall contact the OHR on all Contingent Category I employment agreement extensions. The approval process shall include approval from the University Budget Office and the OHR. Extension requests shall be within the fiscal year of the original agreement and approval must occur prior to the ending date of the initial agreement.
iv. Shall not be entitled to receive service credit for leave earnings for the time served in this category unless they have worked 50% or more of fulltime, on a consecutive basis, immediately preceding appointment to a Regular Status position through a competitive process. Flat-rate exempt, grant/contract and/or agency funded Contingent Category I Employees are not eligible for service credit. The term “service credit” is not applicable to any retirement rights.

v. Shall not be entitled to receive salary credit for previous or current years of service.

vi. Shall follow the USM and TU salary guidelines and are not eligible for mid-year salary adjustments.

vii. Are not entitled to the conversion provisions described in I.B-4. below.

b. Contingent Category II Employees

i. Contingent Category II employees are required to be hired through competitive recruitment and selection.

ii. They are entitled to receive at least the minimum benefits as specified in this policy.

iii. They may have their employment agreement renewed so long as the term of service in that position is not to exceed the greater of 24 months or two (2) renewals by executing a new employment agreement. This provision does not apply to employees in positions funded through a Research/Service Grant or Contract or through Clinical Revenue, Athletic Coaches; employees on Internships; and those employees who have chosen not to be converted to regular status employment.

iv. Eligibility for and Conversion to Regular Status

(a) Accessing the long term need of a Contingent Category II function is an essential departmental obligation that must be timely performed; accordingly, effective July 1, 2007, within the first 12 months of the Contingent Category II function being filled, departments shall determine the long
term need of the Contingent Category II function. If the function is determined to be long term, the department shall work with their Divisional Budget Officer on acquiring a PIN. A PIN must be secured prior to the Contingent Category II’s completion of two consecutive one year terms. If a PIN and funding is secured the Contingent Category II employee can be converted to regular status in the function. If a PIN is not secured before that time, the Contingent Category II’s employment agreement will be terminated.

(b) Contingent Category II employees who, after three (3) years of Contingent Category II consecutive/continuous service at the same institution, and who remain employed by the institution, shall be converted to a Regular Status position, subject to all the policies and procedures of Regular Status employees, unless they fail to meet standards on their Performance Evaluation or their position is abolished.

(c) To comply with USM policy and procedures, the Contingent Category II Conversion guidelines will be followed for those hired as of October 22, 2004, and who remain employed by the University in accordance with the timeline outlined. The USM Conversion Schedule approved by the Board of Regents on October 22, 2004 and published in USM Policy VII-1.40 Contingent Employment for Non-Exempt and Exempt Employees, shall be followed for converting Contingent Category II employees hired prior to October 22, 2004 for fiscal years 2006, 2007, and 2008.

(i) Employees with 6 or more consecutive years of service shall be converted by July 1, 2005;

(ii) Employees with less than 6 but at least 3 years of consecutive service shall be converted by July 1, 2006;

(iii) Employees with less than 3 years of service shall be converted by July 1, 2007.
(d) The provisions in “4. Eligibility for and Conversion to Regular Status,” do not apply to employees in positions funded through a Research/Service Grant or Contract or through Clinical Revenue, Athletic Coaches, employees on Internships and those employees who have chosen not to be converted to Regular Status employment.

(e) Contingent Category II employees shall be entitled to service credit for leave earnings for the time served in this category, if appointed, without a break in service, as a Regular Status employee. The term “service credit” is not applicable to any retirement rights.

(f) They shall not be entitled to salary credit for the time served in this category, if appointed without a break in service as a Regular Status Employee. The term “service credit” is not applicable to any retirement rights.

(g) Contingent Category II employees who are converted to Regular Status before occupying their current position for a period equal to an applicable probationary period shall be in probationary status until the position has been occupied, as a Contingent Status Employee and a Regular Status Employee, for the full probationary period. A regular Non-exempt employee shall be eligible for a 2.5% probationary increase upon successful completion of the probationary period, in accordance with University Policy 07-01.21, Probation for Regular Non-exempt Employees.

v. Contingent Category II employees shall receive a written performance review at least once every twelve (12) months in accordance with Towson University Policy XXXX, Performance Evaluations for Regular and Contingent Category II Exempt Employees and Towson University Policy XXXX, Performance Evaluations for Regular and Contingent Category II Non-Exempt Employees.

vi. Contingent Category II employees shall follow the USM and TU salary guidelines. Mid-year adjustments to salaries may be requested by a department and approved by the
OHR, as a result of increase in level of responsibility, equity issues and salary market data.

B. Contingent Employment Agreements

1. Each written agreement for a Contingent Status employee shall specify:

   a. the appropriate contingent category: Category I or Category II. If it is a Category I appointment, it shall specify whether it is Seasonal, Intermittent, Flat-rate; or percentage of time worked;

   b. the salary/hourly rate of pay;

   c. the duration of the contract, including a provision that both the employee or employer have the right to terminate the agreement for any reason following notice as specified in the agreement;

   d. the duties to be performed; and

   e. the specific benefits and rates of leave accrual provided.

C. Benefits

1. The minimum benefits to be provided to all Contingent Category I and II employees, on an annual basis, are listed below. These benefits shall be pro-rated for contracts of less than one (1) year and for less than fulltime employment.

   a. Leave

      i. Contingent Category I employees are not eligible for paid leave.

      ii. Contingent Category II employees are eligible for paid leave. See Towson University Policies XXXX, Policy on Annual Leave, XXXX, Policy on Sick Leave, 07-07.30, Policy on Holiday Leave, XXXX, Policy on Administrative Leave, XXXX, Policy on Jury Duty Leave, and XXXX, Policy on Legal Action Leave, for Contingent Category II leave benefits. Individual contracts shall address whether leave that is not to be used by the end of the contract term can be carried over to another contract; whether the University shall pay the employee for it, excluding sick leave; or whether it is forfeited.
b. Health Insurance Program and Prescription Plan

i. Contingent Category I and II employees may participate in the State Health Insurance programs and Prescription Plan available to State employees by paying 100% of the premiums directly to the State Health Benefits Division.

ii. Participation shall be in accordance with regulations of the State Department of Budget and Management.

c. USM or Institution-Sponsored Insurance Programs

i. Contingent Category I and II employees may participate in USM or Institution sponsored insurance programs (e.g. long-term disability; life insurance; auto and homeowners insurance) by paying 100% of the premiums directly to the provider.

d. Tuition Remission

i. Contingent Category I employees are not eligible for tuition remission.

ii. Contingent Category II employees may participate, at their home institution only, in the USM’s Tuition Remission program. Refer to Towson University Policy 07-04.10, Policy on Tuition Remission Benefits.

e. Tax Deferred Programs

i. Contingent Category I and II employees may participate in employee-only contribution Tax Deferred Investment programs approved by the State of Maryland and/or the USM as permitted by law and regulations.

f. Mandatory Payroll Deductions

i. Contingent Category I and II employees shall have the required mandatory deductions via payroll deduction, e.g., Maryland and Federal Income Tax withholding, and Federal Insurance Contributions Act (FICA) which includes Social Security and Medicare.
g. Mandatory Employer Paid Subsidies

i. Contingent Category I and II employees shall have the required mandatory employer paid subsidies, e.g., Unemployment Insurance, Workers Compensation Insurance, and FICA.

2. Negotiable Benefits

a. At the discretion of the employing institution, a Contingent Category II employee may be offered benefits supplemental to the minimum benefits listed in Section III. A. above consistent with those available to Regular Status employees in a similarly situated job class and employment category.

3. Other

a. Contingent Category I and II employees may participate in other programs with either voluntary payroll deductions (e.g. U.S. Savings Bonds, charitable contributions) or direct contributions (e.g. State Employees Credit Union (SECU)).

Related Policies: USM Policy VII-1.40
TU Policy 07.01.40
TU Policy 07-01.41
TU Policy 07-01.21
TU Policy 07-07.30

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