



State of Arizona Accounting Manual

Topic 55 Payroll and Personnel
Section 07 Employment at Multiple Agencies

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INTRODUCTION

When an employee of one agency is engaged to perform services at a second agency, special challenges arise involving such matters as the nature of the relationship with the second agency and how to compute and allocate overtime, EREs, etc.

POLICIES

1. When one agency (the secondary employing agency) engages the services of an employee employed by another agency (the primary employing agency), the nature of the relationship between the employee and the secondary employing agency depends upon circumstances.
 - 1.1. If the duties performed by the employee for the secondary employing agency are substantially the same (administration vs. administration; accounting and finance vs. accounting and finance; security or law enforcement vs. security or law enforcement; etc.) as the duties he renders to the primary employing agency, the individual is considered an employee of both agencies.
 - 1.2. If the duties performed by the employee for the secondary employing agency are substantially different (equipment repair and maintenance vs. nursing; facility inspection vs. training; etc.) from the duties he renders to the primary agency, the individual may be an employee of both agencies or an employee of the primary employing agency and an independent contractor with the secondary employing (or, under the circumstances, contracting) agency.
 - 1.2.1. The determination of the individual's status is made by applying the policies in place to distinguish an employee from an independent contractor. These policies involve, among other elements, the degree of control retained by the employer or principal and the risk borne by the employee or contractor.
 - 1.2.1.1. The greater the control over and the less risk borne by the individual, the more likely that he should be characterized and treated as an employee.
 - 1.2.1.2. The less the control over and the more risk borne by the individual, the more likely that he should be characterized and treated as a contractor.
 - 1.2.1.3. A more complete discussion of the criteria separating employees from independent contractors can be found in SAAM Section 5006, which should be reviewed and used in making determinations as to the status of the working relationships.

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- 1.2.2. Unless an individual clearly, demonstrably and unambiguously can be shown to be an independent contractor with respect to services provided by him to the secondary employing agency (and the underlying analysis be in writing and retained), he should be treated as an employee of both the primary employing agency and the secondary employing agency. Treatment of the individual as an employee is by far the most commonly encountered situation and one that reduces risk to the State by ensuring all Federal and State payroll related taxes, unemployment insurance, applicable overtime, workers' compensation fees, and benefits are accrued and paid.
2. If the individual is determined to be an employee of the secondary agency:
 - 2.1. Neither ETE nor HRIS permits one employee to be carried on its system in more than one agency. Only the primary agency has access to and the ability to enter information on the employee's time and attendance record in HRIS and an employee's time recorded through ETE can only be charged to the primary agency.
 - 2.2. In the case of an employee working for two agencies, an interagency service agreement should be executed between the primary employing agency and the secondary employing agency. The primary employing agency shall make all payroll-related payments through HRIS for the employee and charge the secondary employing agency.
 - 2.3. The secondary employing agency shall reimburse the primary employing agency for any compensation (straight time or overtime) paid the employee and the prorated costs of any employee related expenses (taxes, benefits, etc.) using an interagency transfer.
 - 2.4. If the positions at both agencies are not excluded and identical as to the treatment of overtime (non-exempt, exempt straight time), and if both positions contribute to the same State authorized retirement plan, unless the terms of the governing interagency service agreement provides otherwise:
 - 2.4.1. The secondary employing agency shall reimburse the primary employing agency for the regular wages, overtime wages (if any), as well as the costs of any employee-related expenses for the off-duty work. This can be done using an interagency transfer.
 - 2.4.2. An employee not exempt from overtime premium pay under the provisions of the Fair Labor Standards Act (FLSA) shall be compensated at the rate of one and one half (1½) times his straight time rate for hours worked in one work week in excess of forty (40) hours.
 - 2.4.3. The secondary employing agency is responsible for checking with the primary employing agency to determine whether the employee worked forty (40) or more hours during the week.

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- 2.4.4. Absent prior agreement to the contrary, attribution and payment of any overtime premium required as a result of working for two agencies shall be determined as follows:
- 2.4.4.1. If nonexempt employee works more than forty (40) hours during a workweek at the primary employing agency:
- 2.4.4.1.1. The primary employing agency shall be responsible for the overtime premium for any hours in excess of forty (40) up to the number of hours or fractional hours worked by the employee for the primary employing agency.
- 2.4.4.1.2. Any hours worked by the employee for the secondary employing agency shall qualify for the overtime premium, which shall be paid by the secondary employing agency.
- 2.4.4.2. If a nonexempt employee works forty (40) hours or less during a workweek at the primary employing agency, but more than forty (40) hours during his combined employment with the primary employing agency and the secondary employing agency:
- 2.4.4.2.1. The primary employing agency shall be responsible for compensating the employee at straight time for the number of hours (and fractions thereof) the employee worked for the primary employing agency.
- 2.4.4.2.2. The secondary employing agency shall be responsible for compensating the employee at his straight time rate for forty (40) hours less the number of hours (and fractions thereof) the employee worked for the primary employing agency. The secondary employing agency shall be responsible for the overtime premium for any combined hours worked in excess of forty (40) hours.
- 2.5. If one of the positions involves an excluded position, or if the positions are not identical as to the treatment of overtime (non-exempt, exempt straight time), or if the two positions do not contribute to the same State authorized retirement plan, or if the effective or contemplated interagency service agreement contains an allocation plan different from that outlined above, contact GAO Central Payroll for additional guidance.
3. Agencies should contact their representative at the Office of the Attorney General when drafting or entering into interagency service agreements that deal with the employment of an individual at more than one agency.