

Here today, gone tomorrow: Contingent workers in financial services

Financial institutions should be rigorous in managing contingent workers. The right strategy can mitigate future risks.



The heart of the matter

The contingent workforce is becoming an increasingly important part of human capital strategies among financial institutions. These “non-employees” have different rights and responsibilities—in large part, driven by regulatory requirements—and they present different risks to the companies that use them. For many financial institutions, it’s time to define, or enhance, their contingent workforce strategy.

When customers interact with your financial institution, are they talking to your employees? Maybe not. The insurance advertisement they see may have been written by an external agency. The advisor they meet could be an independent contractor. Even the analytics for underwriting in reinsurance may have been developed by consultants. The company logo on the badge may not match the logo on the paycheck, and this can have bigger implications than may be immediately obvious.

There are a lot of vague terms for contingent labor in use these days, including “the sharing economy” or “the gig economy.” We base our perspective on a definition from the US Department of Labor (DOL). From that view, the contingent workforce consists of individuals or companies that provide services for a client, are not employees, and have direct or indirect contractual agreements. For financial institutions, the contingent workforce comes in three flavors: third party service providers, independent contractors, and agency or “temp” resources.

The contingent workforce is a foundational and growing part of the US economy—particularly in the financial services sector. Yet it has been difficult to quantify the

number of contingent workers in the United States. The US Government Accountability Office (GAO) acknowledges that the definition of contingent work is key. The narrowest view, emphasizing temporary workers, puts the share of contingent workers in the single digits.¹ But using a much broader definition, including alternative work arrangements of various types, the GAO estimated that 40.4% of all workers in 2010 were contingent, up from 35.3% in 2006.² To add some precision, the DOL’s Bureau of Labor Statistics recently announced that it will work with the Census Bureau next year to collect new data of its own.³

We’ve observed estimates in the 10%-30% range in many financial institutions. But this assessment may be understated because many firms don’t have the right data to quantify the number accurately. Going forward, these estimates may shift in light of recent changes to the geopolitical landscape. Financial institutions will need to be mindful of potential changes to regulatory and legal frameworks, legal definitions, and potential tax breaks or other incentives. These could affect the way jobs are sourced or structured.

¹ GAO, “Contingent Workforce: Size, Characteristics, Earnings, and Benefits,” April 20, 2015, www.gao.gov, accessed November 14, 2016.

² *Ibid.*

³ DOL, “Innovation and the Contingent Workforce,” January 25, 2016, blog.dol.gov, accessed November 14, 2016.

Many companies recognize the real benefits contingent workers can offer: temporary access to niche or specialized skills, a flexible workforce that accommodates the ebb and flow of demand, and ways to reduce fixed costs.

But there can be tremendous risks, too. Most financial institutions have surprisingly limited visibility into their contingent workforce, such as their backgrounds, the data they can handle, and the facilities they can access. When financial institutions haphazardly manage their external talent, there can be serious consequences. Contingent workers can—intentionally or otherwise—cause legal or regulatory headaches for a financial institution. They can even damage a brand.

By adding the right visibility and controls, companies can take steps to manage these risks. And they should, because contingent labor is a key part of an overall workforce strategy. We encourage financial services leaders to get the most out of their contingent labor by strengthening their contingent workforce management programs through tangible commitment, organization, policies and procedures, governance, technology, and data. By honing contingent workforce management practices *now*, we think financial institutions will likely find themselves in a stronger position over the *long term*.

An in-depth discussion

Why do financial institutions turn to contingent workers?

In financial services, the business demand for contingent workers fluctuates now more than ever. Technology has led financial institutions to rethink employment strategies and workforce implications. The logic is unassailable: financial institutions want to be able to scale their teams, deploying a wide range of skill sets, but only as necessary. And contingent workers can help address both rising demand for certain skills and the need to lower costs.

Rising demand: addressing skill and capabilities gaps

One of the reasons financial institutions are turning more to contingent workers is that they cannot find full-time workers for certain positions. Some financial institutions, for example, failed to plan for baby boomers retiring in commercial underwriting, and had to scramble to find replacements with specialized skills. Others failed to plan properly to meet growing regulatory and technology needs with IT developers, project managers, or knowledge workers. Or consider investment banks that were previously attractive to millennials. Many star employees are being lured away by FinTech companies and other startups.

Worker preferences are changing in other ways. Some workers just don't want to work in a full-time role for lifestyle, school, or family reasons. Or, they prefer independent work, like many in the gig economy. Financial institutions often struggle to find other ways to attract and retain them.

The belt tightens: reducing economic costs

Economic forces have spurred a new emphasis on contingent work. Financial

institutions are looking to do more with less—they always have—but now they're turning to contingent labor as another lever for making this happen.

Many financial institutions are trying to cope with compressed operating budgets by trying to reduce fixed costs. When demand varies, the thinking goes, inputs like labor should vary as well. So they often replace traditional employees with contingent workers, even if they cost more in the short run. The disadvantage posed by higher costs is offset by flexibility: a talent pool with the agility to shift alongside organizational priorities, economic volatility, and changing business strategies.

Many financial institutions use a practice known by some as “labor arbitrage” that involves looking for low cost talent outside of their local markets. It can include anything from moving a call center to a lower cost market in the United States (nearshoring) to hiring coders overseas. Many of these arrangements, regardless of size, are made on contingent terms.

Technology is an important driver, too. From robotic process automation to the emergence of artificial intelligence, companies are finding ways to replace comparatively expensive labor pools doing work that can be made more routine. This becomes self-reinforcing: non-core functions are typically the first to be made contingent, and then automated when technology makes it possible to do so.

Why is the focus on contingent workers heightened?

Given that contingent labor has been a feature of our economy for years, some readers may wonder if there is a reason to pay more attention to it now. We think so. In fact, we'd offer three reasons: third party risk, legal issues, and regulatory forces.

Third party risk: growing challenges

For all the business sense of a contingent workforce, there's a fundamental difference between employees and ad hoc (third party) help. Financial institutions may want more labor flexibility, but onboarding the growing number of contingent workers means managing the broad spectrum of third party risk (See Figure 1). We cover this topic in greater detail in "Significant others: How financial firms can manage third party risk."⁴

Of course, for financial institutions, a heightened focus on risk management of contingent workers is essential. For all the effort they put into cybersecurity, financial institutions now recognize that they routinely grant outsiders access to systems and facilities without much scrutiny. Unfortunately, a contingent worker with privileged access can cause a lot of damage through cyberattacks or worse. Organizations can prevent problems if they use due diligence: conducting thorough background checks, gathering fingerprints, providing proper education, and performing other risk-mitigation activities. Yet incidents continue to occur because many firms don't have fundamental control over their contingent worker program.

Figure 1: Using third parties comes with a broad spectrum of risk



⁴ For more information, see PwC's "Significant others: How firms can manage third party risk," May 2015, www.pwc.com/fsi.

Legal risk: the contingent workforce in the courts

Many financial institutions tend to downplay the likelihood that they'll face legal exposure from contingent labor. This can be a dangerous strategy, as some very prominent employers have found themselves with damaged reputations and multi-million dollar fines for employee misclassification. Co-employment lawsuits, for example, are becoming more common as contingent workers claim they are actual employees and deserve the same benefits as regular staff.

Regulatory risk: following the rules

Regulators of the financial services industry (and others) now pay a lot of attention to contingent work in ways we haven't seen before, both at home and abroad.

Within the last four years, regulators have introduced significant guidance pertaining to third party risk management at the Consumer Finance Protection Bureau (CFPB), the Office of the Comptroller of the Currency (OCC), the Federal Reserve Bank (FRB), the Federal Financial Institutions Examination Council (FFIEC), the Financial Industry Regulatory Authority (FINRA), and the Securities and Exchange Commission (SEC).⁵

For example, the FFIEC, an interagency body created to standardize oversight by various financial regulators, is involved in regulating financial institutions with contingent workers. The FFIEC recently reminded these financial institutions and their examiners that employee status doesn't change responsibility. The FFIEC noted, "Many financial institutions depend on third party service providers to perform or support critical operations. These financial institutions should recognize that using such providers does not relieve the financial institution of its responsibility to ensure that

outsourced activities are conducted in a safe and sound manner."⁶

Meanwhile, the DOL has been working actively to prevent, detect, and address employee misclassification. The government has added resources to identify worker misclassifications and recover unpaid taxes. The DOL also partners with the Internal Revenue Service (IRS) to promote enforcement and information-sharing.

State governments have become engaged as well. New York, Massachusetts, Illinois, and several other states have established statewide enforcement efforts around employee classification.⁷ This is an issue that will continue to see regulation develop and adapt.

For global financial institutions, this has magnified the need to meet local regulatory requirements. For example, background checks are becoming stricter and more standardized in different parts of the world, and definitions of contingent workers vary in different countries. The United Kingdom, for example, has specific rules for using agency workers, freelance contractors, and the self-employed.

⁵ For more information, see PwC's "Third Party Risk Management: One size doesn't fit all-Managing special third party relationships," September 2016, www.pwc.com.

⁶ Federal Financial Institutions Examination Council, "IT Examination Handbook Infobase, Appendix J: Strengthening the Resilience of Outsourced Technology Services," <http://ithandbook.ffiec.gov>, accessed November 14, 2016.

⁷ National Conference of State Legislatures, "Employee Misclassification," www.ncsl.org, accessed November 14, 2016.

What we've seen

Financial institutions have every reason to focus on their core, permanent employees first. But when you consider the rapid, if stealthy, growth in their use of contingent labor, the relative inattention to temporary workers could be a big omission. Here are four areas where financial institutions often struggle to manage risks associated with contingent workers:

1. Isolated governance, policies, and procedures for managing contingent workers

We often see that financial institutions have little control over how these workers are used—and where and when. Without a consistent infrastructure or standardized reporting, it is even harder to size the problem. If a regulator were to ask some fairly basic questions—starting with “how many contingent workers do you currently employ?”—many financial institutions would be hard-pressed to deliver an accurate response. From the size of payroll to the type of projects, these are key gaps. And in a legal environment in which length of tenure can affect the way employees are categorized, these gaps could have serious consequences.

Leading financial institutions address this by being much more intentional about the boundaries of their contingent workforce management programs. They apply the same level of rigor with background checks, fingerprinting, and education to contingent workers as they do to their employees, especially when sensitive information is involved.

Similarly, some firms use training as an effective way to mitigate risk for employees who hire, manage, or interact with contingent labor. When done well, training doesn't just share company policies and procedures, it helps build a culture of understanding the risks associated with managing and interacting with contingent labor.

We've also seen leaders redesign their contingent workforce programs by standardizing policies on how and when the financial institution should turn to contingent labor—and why.

2. Limited identification of the roles and responsibilities *within* the contingent workforce program

Running a contingent workforce program in a financial institution is all about coordination. Think about how many teams are involved when you onboard a contingent worker. HR, for example, coordinates the onboarding and works with the project team to identify the roles and responsibilities of the contingent worker; IT provides the computer and instructions on accessing the network; facilities identifies where the contingent worker will work; security provides badges, conducts fingerprinting, and runs background checks; procurement reviews, approves, and monitors the contract or service level agreement; legal reviews the contract and makes sure the role can be performed by a contingent worker; and finance makes sure payment is made. That's a lot of stakeholders, and that's just the start. Each team also has a role in monitoring and off-boarding the contingent worker.

With so many teams having a stake in the roles and responsibilities, what we've seen at many financial services institutions is that no one really knows who's responsible for what. And so the lack of clear roles and responsibilities makes enforcement of any policies particularly difficult. Leading financial institutions have well-defined roles and responsibilities that make their contingent workforce program fit seamlessly into their workforce program.

3. Informal contingent workforce strategy built into an overall workforce strategy

As we've noted, the way companies use contingent labor has expanded dramatically over the decades, and we see no indication that this will change. But most financial institutions—and, indeed, most companies in general—aren't taking a long view. Rather, while many organizations are maturing their overall workforce strategy, they tend to be more reactive around how they use contingent workers. Industry leaders approach this more strategically, by including all employment categories as part of the same long-term plan.

Some industry leaders have begun to plan for the next phase of contingent labor, asking themselves about what the future state of their human capital could look like. They have been devising scenarios to see what their different business lines might expect, and how this will change the requirements for procurement, training, security, and more. One key aspect of scenario planning is understanding changes in the workforce model, changes due to new risks, changes in the business model, changes in regulation, changes in business strategy, and the benefits from diversity in the workforce. For example, some industry leaders are building in future scenarios to account for millennials who want more flexibility, or would-be retirees who want to work on a contingent basis.

4. Ad hoc access to data that affects their contingent workforce

Financial institutions are some of the most sophisticated users of customer and operational analytics. So it's ironic that these financial institutions, which understand the benefit of measuring and reporting to drive evidence-based improvement, have often missed this chance with contingent labor. This leads to dangerous blind spots, not just of their programs but also of the workers themselves. Organizations face more than just legal and regulatory risks when they can't easily identify their contingent workers and what they can access. They also run the risk of ineffective reporting that could drive errors in strategic decision making. Leveraging and understanding reliable data is critical to understand an organization's contingent workforce.

Companies often have thousands or even millions of data points about internal employees and contingent workers, and this gives companies a range of opportunities to make better decisions about how they use labor. Some leading companies actively seek to normalize the kind of information they capture, processes around its use and retention, and more. This data needs to clearly tell you where your contingents are and what access they have. Improved technologies can help a company enhance data integrity and governance.

Our recommendations

It's time for many financial institutions to define, or enhance, their contingent workforce management strategy. As we have shown, this is more involved than hiring additional help to accommodate a sudden increase in demand. To navigate successfully through the maze of risks and opportunities, you need a coherent and flexible framework that creates a structure around your contingent workforce and helps finance, human resources, procurement, and business divisions manage risk. The following inputs can inform the development of your contingent workforce strategy:

Business strategy: Make sure you're aligning your contingent workforce to your business strategy and organizational objectives. This will help guide your integrated contingent workforce management program and facilitate success.

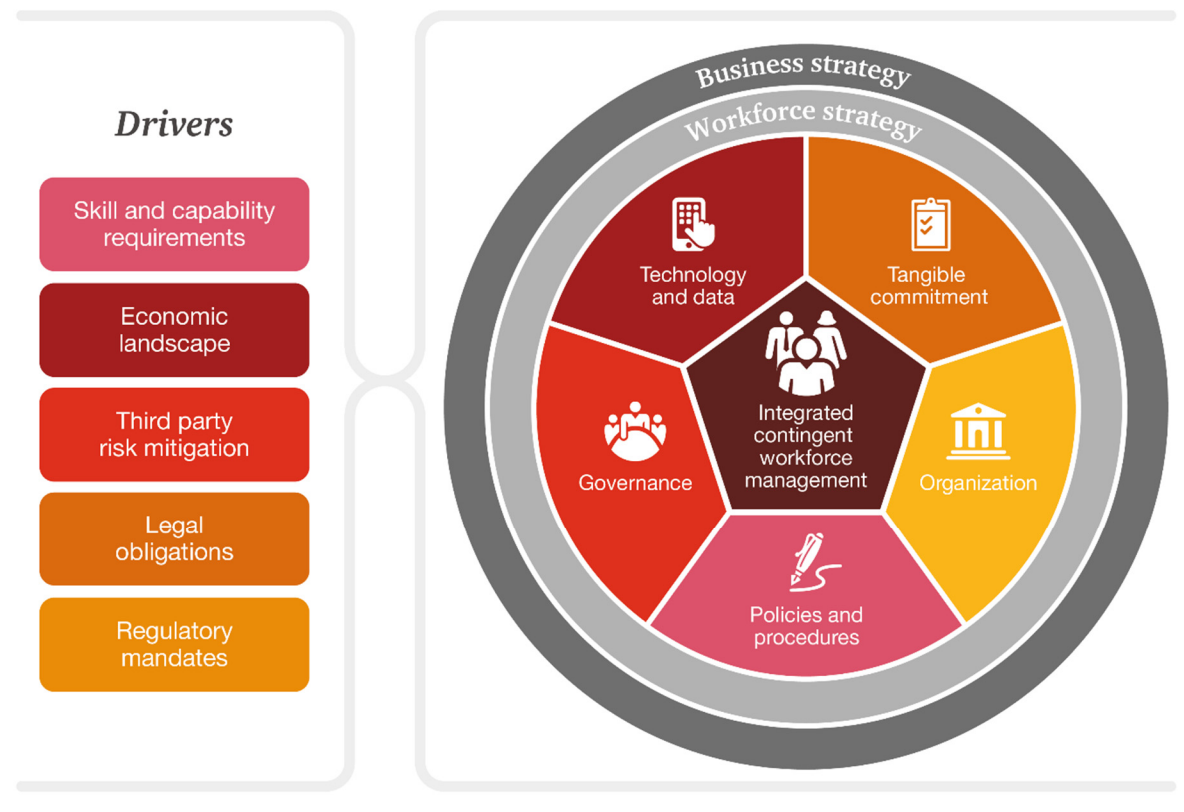
Workforce strategy: When planning your future workforce, make contingent labor a key talent pool. This means considering contingent options when determining:

- What skills are needed to execute on the business strategy?
- Who will provide these skills and in what volumes (for example, through contingent, fixed, or hybrid labor models)?
- When will these skills be required, where will these skills be delivered, or where will the work be performed?
- How will contingent labor risks be mitigated?

Contingent workforce management framework

We encourage you to look at your contingent workforce across five fundamental facets, which build on our contingent workforce management framework: *tangible commitment, organization, policies and procedures, governance, and technology and data*.

Figure 2: Contingent workforce framework





Tangible commitment

Organizational leaders should make a tangible commitment to their contingent workforce management program. This commitment means establishing an appropriate mindset that permeates all levels of the organization to encourage accountability, reduce risk, and identify efficiencies. Everyone needs to know where you stand.

- **Leadership responsibility:** It starts at the top. Responsibility, accountability, and buy-in need to start with leadership to help foster a culture that enables success.
- **Awareness and communication:** If you want to strengthen compliance and accountability, employees should be aware of and communicate all program standards and changes.
- **Actions and words:** Do as you say. Thoughts, words, and actions should align to reflect a consistent mindset across your enterprise. Support your employees who demonstrate desired behaviors as they adapt to organizational change, and address infringement of policies in a timely manner.



Organization

Today, few organizations have end-to-end ownership of contingent workforce management. This disconnected approach can lead to confusion about the role each function plays.

- **Structure and reporting lines:** A well-defined structure and clear reporting lines can help bring efficiencies to your contingent workforce management program.
- **Clarify roles and responsibilities:** You should be sure that you clarify and build capacity both in roles dedicated to managing contingent workforce programs as well as other functional stakeholders who provide support. Be clear about the roles you want contingents to fill or not to fill.
- **Cross-functional collaboration:** Companies with mature contingent workforce practices often have structures and environments that support cross-functional collaboration. For example, some may rely on their human resources function for labor concerns, risk for security and access, compliance for training, finance for budget impacts, and procurement for sourcing related activities. Your organizational structure should support collaboration across all functions that involve contingent labor.
- **Third party management:** When organizations hire contingent labor, they often don't apply the same rigor that they use with other procurement decisions. You should recognize where there may be differences. For more guidance, see "Significant others: How financial firms can manage third party risk."⁸

⁸ PwC, "Significant others: How financial firms can manage third party risk," May 2015, www.pwc.com/fsi



Policies and procedures

You shouldn't have a contingent workforce program without a set of formal, standardized policies and procedures. Focused, clear, and well-socialized policies and procedures can help you deliver effective governance. Consider:

- **Designing policies for the whole enterprise:** Define policies that are sufficiently scalable to foster consistency across your organization. Contingent workforce policies might encompass hiring, background checks, onboarding, system access, facility access, offboarding, tenure rehire, or conversion to full-time employee. These policies should be created in line with your organization's risk tolerance.
- **Deciding what's in and what's out:** You may not want to be exhaustive, and you certainly want to be sure that you don't create an unmanageable rule book that just sits on the shelf. Adaptable policy topics could include:
 - What procedures do you need pertaining to background checks?
 - What needs to happen when a new contingent worker starts? Or when one leaves?
 - How will you train your team? Note that this includes both sides of the equation.
- Hiring managers need to understand how contingent labor works, what the financial institution's policies are, and what happens if they get it wrong. The temporary workers will need to understand a different set of company policies and standards of conduct, and they'll need training that is specific to their role and within the limits of relevant regulations.
- What limits will you put in place on knowledge transfer to/from contingent workers? You'll want to have clear guidelines given concerns about intellectual property, risk, and general productivity.
- What data, system, and security controls do you need? Companies must protect the information they collect, so make sure you establish clear protocols pertaining to data, systems, and even facility access. Financial institutions may intend to keep access to information on a need-to-know basis, but this happens only with effective controls. Some proactive financial institutions take simple steps to help establish controls such as restricting contingent labor from emailing outside the company or setting up specific email domains for contingent labor.
- **Using the internal audit team:** A company's internal audit group can go a long way toward assessing and monitoring relevant policies and procedures. An internal audit team needs to ensure that policies and procedures are up to date and that controls are in place to effectively monitor the program.



Governance

- Deciding who owns the program:** There may not be a right answer, but there needs to be *an* answer. In some cases, this may rest with procurement. In others, it might sit within human resources or finance. Selecting the right place for this to reside and creating an appropriate oversight committee depends on several factors such as the desire to maintain close alignment to the overall talent strategy, an appetite for a single point of contact for all things goods and services, and learning from organizations who have already built expertise on this topic.
- Communicating program standards and changes:** Make sure the right people receive timely communications on changes to policy and procedures. This includes hiring managers, contingent workers, and vendors.
- Understanding risk and regulations:** A deep understanding of organizational risks and regulations associated with effectively managing a contingent workforce should permeate all levels of your organization. How will your organization minimize these risks?
- Monitoring program effectiveness:** Once you've come to think about how your financial institution uses such workers across the enterprise, you'll want to know if you're using them well. Determine which indicators should be tracked, such as the nature of the work performed, the hourly and total costs of contractors, and relevant measures of vendor performance. Establish a robust approach to reporting on core attributes to executive and leadership levels to encourage a greater sense of program accountability.



Technology and data

Having the right technologies in place can go a long way in helping financial services organizations manage their contingent workforce. These might include vendor management systems (from a procurement view) or human capital solution software. Here are several ways to use them:

- **Creating a central data source:** You should have “one source of truth” for data pertaining to a contingent workforce. Ideally, you’d combine data repositories to include information such as personal data, tenure, payment history, contracts, skills, and more. You should understand the costs associated with maintaining this information in your human capital management
- **Automating and integrating what you can:** To keep information consistent, you should streamline information flows wherever possible. The automation and integration of relevant systems will help streamline information flows. Proactive organizations integrate their contingent workforce platforms with security systems, thus automatically disabling contingent staff’s security and system access when their contract dates close.
- **Sharing reports:** Once you have a central data repository, you can keep the right people informed. Identify relevant metrics and produce reports that will help the rest of your organization meet its objectives.

Scenario planning

As with other undertakings, financial services leaders need to keep an eye toward the future as well as deal with the changing geopolitical landscape, even as they strengthen contingent workforce programs for today. A dose of scenario planning, with a focus on third party risk management, can help:

What if regulations increase? Suppose the DOL and other governmental groups, both in the US and abroad, were to tighten regulations pertaining to external talent. Would you be ready to impose better controls and provide more thorough reporting?

What if regulations loosen? Suppose you weren’t as concerned about maintaining such strict boundaries between permanent and temporary staff. How might your workforce strategy change based on changes to regulatory or legal frameworks and legal definitions? How might this change the way you train, encourage, or manage these workers? How would you shift your focus to managing talent strategically to drive optimal performance? Is your current contingent workforce governance model and the associated roles and responsibilities clearly defined and regularly reviewed?

What if all work becomes contingent? Trends suggest that we could see many more jobs move into the “as needed” category. How could you turn this into a source of competitive advantage? And how might the end-to-end talent life cycle change? Is your organization prepared with the right system and facility access controls to manage the risks associated with an ever growing population of contingent labor?

What this means for your business

When they start looking more closely, many financial institutions will likely be surprised by the extent to which they rely on a contingent workforce. This hiring accumulates over time, almost without notice. Unwittingly, financial institutions may discover that they have more operational risk than they expected, less financial leverage over their suppliers than they could have, and inadequate governance over a significant part of their business.

Current regulation can restrict a financial institution's ability to manage contingent talent in the same ways as permanent employees. Quite simply, talent management programs that are mainstream (and considered critical) to improving the performance of regular employees can be "off limits" for many contingent workers. This can create a direct conflict between an organization's business strategy and the way it manages team performance. As the contingent worker population looks to grow, how does this compromise a company's performance prospects? In some ways, regulation of contingent workers is also at odds with improving the performance of this important talent pool. Even the best companies grapple with this performance dilemma.

When you manage contingent workers, you quickly realize ways in which they differ from permanent employees. There are different techniques to motivate the team and generate productivity. In some cases, regulations actually force financial institutions to act differently and restrict their ability to manage talent in a way that supports performance and productivity.

We encourage you to take steps to gain more control over your financial institution's use of contingent workers. By doing so, you're likely to see a number of important benefits:

- You'll be more likely to stay ahead of regulatory and legal compliance requirements.
- You'll get more economic value out of your spending on these workers through close monitoring and even better contractual terms.
- You'll reduce operational risks, including those involving security.
- You'll be more prepared for a future in which contingent workers are likely to be an even bigger part of your human capital strategy.

Contingent labor offers an intriguing mix of opportunities and challenges. There is no magic bullet for managing these workers, and every financial institution will want to determine the strategy that makes the most sense for its unique circumstances. But it's clear that if you approach this with a unified strategy, accounting for how the market is changing, you'll manage your risks more effectively. And while your contingent workers may be here today and gone tomorrow, the value you get out of your program is likely to stick around for a lot longer.

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