

2319.4 PROCUREMENT AND REPORTING OF INDEPENDENT CONTRACTORS

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PURPOSE

The purpose of this document is to outline the policies and procedures related to procuring the services of independent contractors doing business as individuals with the University.

ROLES AND RESPONSIBILITIES

Schools and Centers

- The hiring manager must ensure that the individual service provider has been classified through the Worker Classification process as an independent contractor as outlined in the [Procedural Guide for Independent Contractors and Limited Engagements](#).
- The hiring manager is responsible for sending Purchasing, via Penn Marketplace, the Service Provider Questionnaire, Service Provider Evaluation Worksheet, and related forms to initiate the supplier set-up process.
- The hiring manager is responsible for ensuring a Purchase Order request is created for all purchases from the independent contractor, including service fees and any business and travel expenses included in the agreement. All payments, including payment for business and travel expenses, are tax reportable to the independent contractor and should be coded as such. Business and travel expenses should be included in the fee structure of the independent contractor.
- The business administrator is responsible for receipting independent contractor invoices as required by BEN Financials in accordance to University procurement policies and procedures.
- The hiring manager is responsible for forwarding any independent contractor contracts to Purchasing Services for review and signature.

Human Resources

- Human Resources is responsible for determining whether the individual should be engaged as an employee, managed through a personnel employment service, or contracted as an independent contractor based on the information provided in the completed Service Provider Questionnaire and Service Provider Evaluation Worksheet.
- Human Resources is responsible for communicating the classification decision to the hiring manager.

- Human Resources is responsible for managing the Individual Service Provider (ISP) [Helpdesk](#), serving as a resource for providing assistance through "gray areas" in reviewing independent contractor status.

Purchasing Services

- Purchasing Services is responsible for coordinating supplier setup for each independent contractor and performing necessary due diligence upon supplier setup.
- Purchasing Services will review incoming documentation and refer any inconsistencies to the hiring manager and/or Human Resources for review and resolution.
- Purchasing Services is responsible for executing most contracts forwarded by the independent contractor, and/or determining if additional contract language (beyond the Purchase Order contract) or signatures are required by the University.
- Purchasing Services is responsible for notifying the hiring manager when the independent contractor has been added to the supplier database.

Tax Department

- The Tax Department is responsible for monitoring government compliance requirements regarding independent contractor determination and ensuring that any changes are communicated to the appropriate University department(s).

POLICY

The determination that an individual is an employee or independent contractor must be made prior to any business commitment with the individual and prior to the individual's performance of service. Early determination ensures proper worker classification, that proper payment is provided, and taxes are withheld and reported appropriately.

The Department of Labor as well as the Federal Tax Code define an independent contractor and/or employee. Improper classification of an employee as an independent contractor may subject the University to significant tax penalties as well as penalties under other federal regulations. It is imperative that common standards are applied in classification and contracting, and that each case is fully documented and auditable.

When engaging with an individual service provider, the following procedures must be adhered to:

- 1) The individual service provider must complete the Service Provider Questionnaire and submit applicable documentation.
- 2) The hiring manager, in concert with his or her School/Center Human Resource director, must:
 - a) understand and comply with the University guidelines in determining independent contractor classification.
 - b) complete the [Service Provider Evaluation](#) form to document the determination of independent contractor classification.
- 3) Upon determining that the individual service provider is an independent contractor, the business administrator must follow University procedures for the procurement of services through Purchasing

Services, including ensuring that an approved purchase order has been created. Competitive bidding and achieving fair pricing (ensuring industry/market standards) are important considerations in the negotiation of fees for service.

- 4) Independent contractors who are not U.S. residents may be paid for their services and expenses depending on their Visa type. Please review the [Payments to Foreign Nationals policy and procedures](#) from the Tax and International Operation's website.
 - a) Contact Tax Department with further questions.
- 5) Independent contractors who are performing services outside of the U.S. may need additional review. Please review the [Hiring Abroad Toolkit](#). Contact Global Support Services or Tax and International Operation with further questions.

Exclusions

- 1) Current University, University of Pennsylvania Health System (UPHS) and any UPENN subsidiaries, faculty, staff, and students: Any current University, UPHS or subsidiary faculty, staff or students must be treated as employees for all work regardless of the source of payment (University funds, grant) – i.e., no individual may receive both W-2 and 1099 income from the University.
- 2) Former University employees: If a former employee is providing a service that is the same as or similar to that of a current employee, he or she must be paid as an employee and not as an independent contractor.
- 3) Tutors: Any individual working as a tutor, whether or not he or she is currently on the University payroll, must be treated as an employee.
- 4) Instructors: Any individual conducting workshops, classes, or seminars on University premises for any University department must be treated as an employee unless it is for a Limited Engagement as outlined in [Policy #2319.3](#).

Academic Coaches and Advisors: Any individual working as an academic coach or advisor must be treated as an employee.