

# Individual Service Providers: Classification & Payment

**FY 2024**

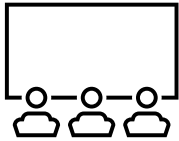
## *Transition to Division of Finance*

- January 2024
- Send completed, signed forms by submitting a ticket through the [BEN Helps Support Portal](#).
  - Service Provider Questionnaire (SPQ)
  - Service Provider Evaluation Worksheet (SPE)
  - Limited Engagement Agreements
- Minor updates to the forms (SPQ, SPE, LE)
- [Individual Service Provider Classification](#) website

## *What is an independent contractor?*

- a worker who provides services to the University
- non-employee
- paid through Accounts Payable
- not a Penn faculty, staff, or student

## *What is a limited engagement?*



- a service of an academic nature, short duration, and low dollar amount
- \$1,000 or less per transaction, \$5,000 calendar year max
- guest speakers, guest lecturers, artists, performers, writers, editors, board members, critics, preceptors, mentors
- not for Penn faculty, staff, or student



# *Compliance Requirements*



Internal Revenue Service

U.S. Department of Labor



## IRS Common Law Rules

The degree of control and independence of workers fall into three main categories, and each must be considered when determining if a worker is an employee or independent contractor.

Behavioral Control	Financial Control	Type of Relationship
Does the business control or have the right to control how the worker does their job?	Does the business have the right to control the economic aspects of the worker's job?	How does the worker and the business see their relationship with each other?
Factors to consider include:	Factors to consider include:	Factors to consider include:
Type of instructions given	Significant investment	Written contracts
Degree of instruction	Unreimbursed expenses	Employee benefits (i.e., 403(b), insurance vacation pay, etc.)
Evaluation systems	Opportunity for profit or loss	Ongoing relationship
Training	Services available to the market	Services provided as key activity of the business
	Method of payment	

## Financial Policies

Policy	Title	Description of Updates
<a href="#">2319</a>	Payment to Individuals for Human Subject Fees, Honoraria, Limited Engagements and Independent Contractor Services	<ul style="list-style-type: none"><li>defines the types of service providers that fall under Policy 2319</li></ul>
<a href="#">2319.3</a>	Limited Engagement	<ul style="list-style-type: none"><li>defines payment for this subset of independent contractors</li><li>requires classification of a service provider as an independent contractor be made <b><i>before</i></b> agreement with individual or performance of services</li><li>addresses payment to U.S. persons and nonresident aliens both inside and outside of the U.S.</li></ul>
<a href="#">2319.4</a>	Independent Contractor Policy	<ul style="list-style-type: none"><li>outlines policies, procedures, roles and responsibilities</li><li>requires classification of a service provider as an independent contractor be made <b><i>before</i></b> agreement with individual or performance of services</li><li>excludes students, tutors, instructors, and current and former faculty and staff</li></ul>

## *What is a **honoraria**?*

A gratuitous payment of money, or any other thing of value, to a person for the person's participation in a usual academic activity for which no fee is legally required.



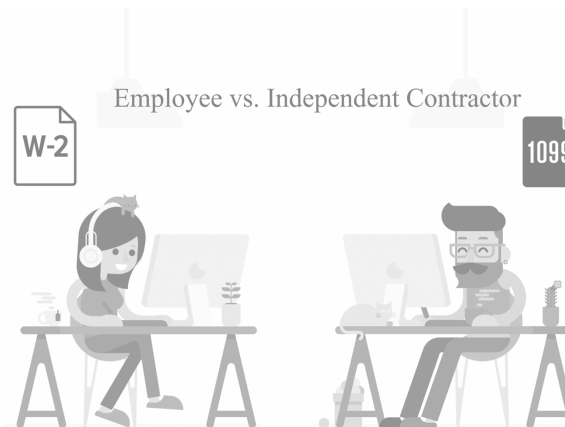
## *A **human subject fee**?*

A payment that represents remuneration and/or reimbursement to individuals participating as subjects in a research project.





# Determining Worker Classification



## *What is an independent contractor?*

- a worker who provides services to the University
- non-employee
- paid through Accounts Payable
- not a Penn faculty, staff, or student

# ***Independent Contractor Forms***

[Service Provider Questionnaire](#)

[Service Provider Evaluation Worksheet](#)

## *ISP Process Overview*

School or Center

- Requests service provider complete & sign Service Provider Questionnaire
- Reviews Service Provider Questionnaire and completes Service Provider Evaluation
- Forwards SPQ & SPE to Compliance Specialist via [BEN Helps Support Portal](#)

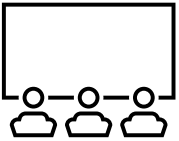
CTC&P Compliance  
Specialist or GSS

- Reviews SPQ and SPE and determines classification
  - **Independent Contractor** – Compliance Specialist returns paperwork via BEN Helps for IC processing
  - **Employee** – Compliance Specialist returns paperwork via BEN Helps to initiate hiring process

School or Center

- **Independent Contractor** - School or center representative creates a Purchase Order in the [Penn Marketplace](#), attaches the signed SPQ, SPE, & supporting documents
- **Employee** – School or center representative contacts HR to initiate hiring process

## *What is a limited engagement?*



- a service of an academic nature, short duration, and low dollar amount
- \$1,000 or less per transaction, \$5,000 calendar year max
- guest speakers, guest lecturers, artists, performers, writers, editors, board members, critics, preceptors, mentors
- not for Penn faculty, staff, or student



# *Limited Engagement Forms*

[Limited Engagement Agreement – U.S. Persons](#)

[Limited Engagement Agreement – Nonresident Alien](#)

[Limited Engagement Agreement – Global](#)

## *Limited Engagement Process Overview*

School or Center

- Requests service provider complete & sign Limited Engagement Agreement
- Forwards the LEA to the Compliance Specialist via [BEN Helps Support Portal](#)

CTC&P Compliance  
Specialist

- Reviews Limited Engagement Agreement, signs, and returns form via BEN Helps Support Portal

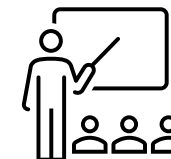
School or Center

- School or center representative creates a non-PO Payment Request in the [Penn Marketplace](#), attaches the signed LEA & supporting documents

## ***Nonresident Alien Service Providers***

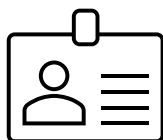
- An individual is a nonresident alien for U.S. federal tax purposes if they do not pass the [Green Card Test](#) or the [Substantial Presence Test](#).
- There may be restrictions to the work a nonresident alien can perform in the U.S. based on their visa status.
- The Payroll Accountant verifies whether the nonresident alien's visa type allows payment.





## *Payments to Students and Employees*

- Students  $\neq$  independent contractors
- Current & recent employees  $\neq$  independent contractors
- Supplemental Pay



## *Cost of Misclassification to the School or Center*

- \$50 per unfiled W-2
- Penalty of 1.5% of wages paid
- 20% of employee's share of FICA taxes
- 100% of the matching taxes the employer should have paid
- Failure to pay penalty = 0.5% of the unpaid tax liability for each month up to 25% of the total tax liability
- Up to \$10,000 penalty per worker for intentional misclassification



***Questions?***