



# **Individual Service Providers: Classification & Payment**

**Spring 2017**

# Agenda

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- **Background**
- **Determining Worker Classification**
  - Employee
  - Honoraria
  - Limited Engagement
  - Independent Contractor
- **Independent Contractor Process**
  - Citizens and Resident Aliens
  - Nonresident Aliens
  - Other Considerations
  - Sample Situations
- **Questions and Discussion**



# Background

# Overview

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- **Compliance requirements**
  - U.S. Department of Labor and IRS
  - Internal audit findings
- **Actions taken to date**
  - Formed advisory committee
  - Updated policies, processes, and forms
  - Piloted with schools/centers
- **Implementation process**
  - Ongoing rollout supported by training and documentation

# Policy Revisions

Policy	Title	Description of Updates
2319	Payment to Individuals for Human Subject Fees, Honoraria, Limited Engagements and Independent Contractor Services	<ul style="list-style-type: none"> <li>• Policy renamed and repurposed as preamble for 2319.1–2319.4</li> <li>• Definitions of different types of service providers updated</li> <li>• Eliminates provisions for how specific types of service providers are paid</li> </ul>
2319.1	Payment of Human Subject Fees	<ul style="list-style-type: none"> <li>• <i>No changes - Policy updated August 2015 as part of Disbursements' Greenphire implementation</i></li> </ul>
2319.2	Payment for Honoraria	<ul style="list-style-type: none"> <li>• Renames existing 2319.2 and limits scope of policy to payment of honoraria</li> <li>• Includes honoraria for U.S. citizens and resident aliens, as well as honoraria paid to nonresident aliens</li> </ul>
2319.3	Limited Engagement	<ul style="list-style-type: none"> <li>• New policy to define payment for a narrow list of services provided by individuals on a one-time or once-per-year basis</li> <li>• Addresses payment to U.S. citizens and nonresident aliens</li> </ul>
2319.4	Procurement and Reporting of Independent Contractors	<ul style="list-style-type: none"> <li>• New policy - Brings into compliance process for procuring, paying, and reporting on services provided by independent contractors</li> <li>• Ensures determination/classification of an individual as an independent contractor occurs <b>prior</b> to agreement with individual or performance of services</li> <li>• Excludes current faculty, staff and students; former employees, including retirees; tutors; and instructors as independent contractors</li> </ul>



# **Determining Worker Classification**

# Honoraria

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## ■ Definition

- Gratuitous payment (or other thing of value) to person for participation in usual academic activity for which no fee is legally required
- Token of appreciation – not a contractual obligation for services rendered
- Travel expenses are reimbursed through GTR worksheet. Individuals must follow Penn's travel reimbursement policy

## ■ Exclusions and Limits

- Made to individuals only, not a business, corporation, or partnership
  - Not negotiated or contracted
- Payments of honoraria to University staff, faculty, or students prohibited

# Limited Engagement

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- New category of service - waives completion of independent contractor classification forms
- Applies to individuals who perform one-time or once-per-year services
  - Academic guest speaker, artist, presenter, special lecturer, distinguished speakers at University functions
- Limited Engagement Agreement Form
  - Send to Purchasing for review and signature
  - Signed Limited Engagement agreement, invoice, and tax forms then sent to AP
- Travel expenses associated with this engagement should be included on invoice. These reimbursements will be charged to the service fee and will be reportable on the 1099-Misc.



# Independent Contractor

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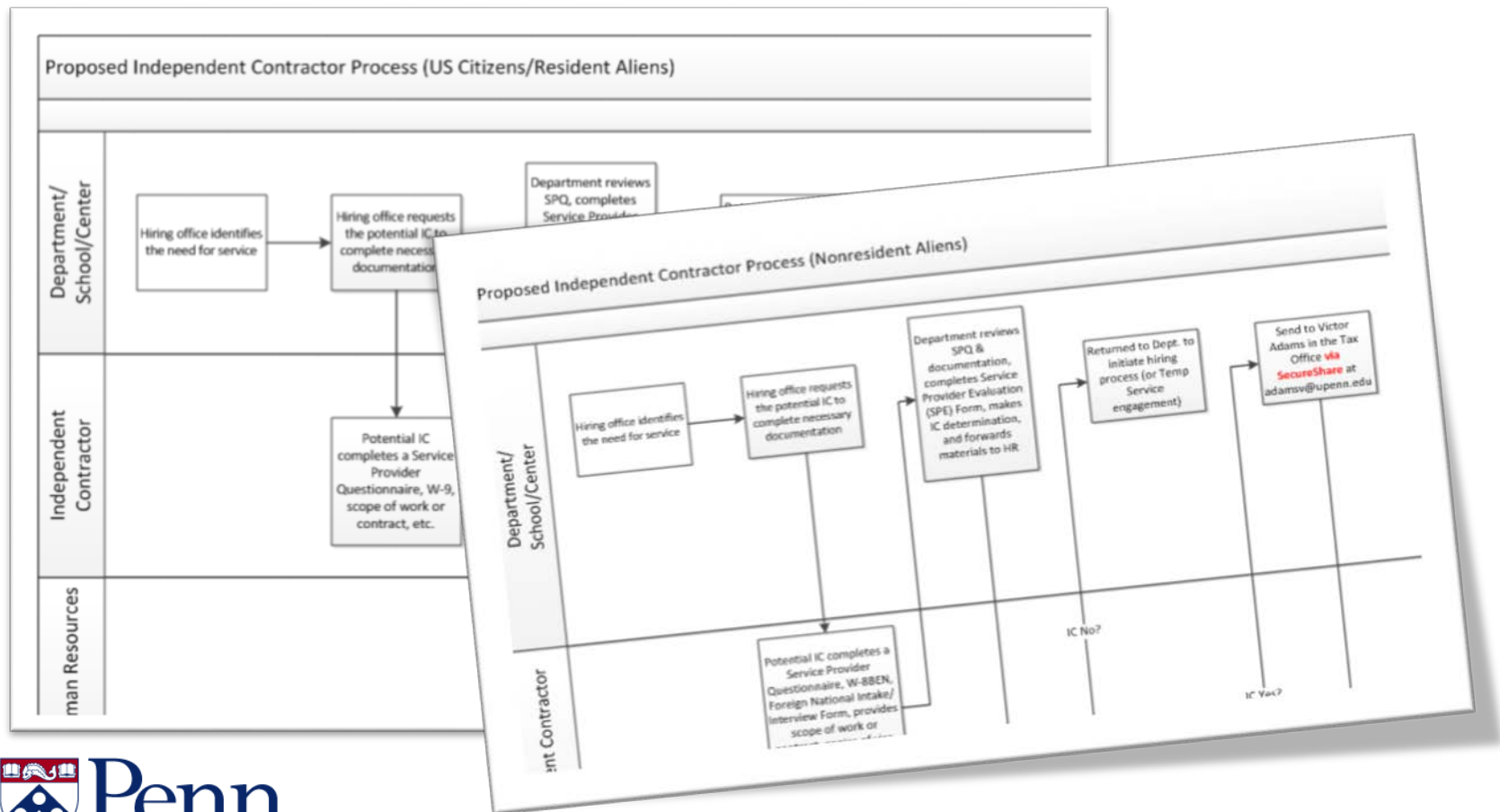
- Classification must occur **prior** to agreement with individual or performance of services
  - *Service Provider Questionnaire (SPQ)* completed by the potential service provider
    - SPQ replaces the C-12 form
  - *Service Provider Evaluation Form* completed by hiring manager, in concert with school/center HR director
- Procured through Purchase Order
- Exclusions from Independent Contractor classification
  - Current University faculty, staff and students
  - Former University employees, including retirees – If the individual is providing a service that is the same or similar to his/her previous position or that of a current employee
  - Tutors
  - Instructors
  - Academic Coaches and Advisors



# **Independent Contractor Classification Process**

# Determining IC Classification

- Process for Citizens and Resident Aliens
- Process for Nonresident Aliens



# Key Steps – Citizens and Resident Aliens

## Prior to any service being performed...

### School/Center/Department:

- Requests service provider complete *Service Provider Questionnaire* and provide *W-9 form* and *Scope of Work/Contract*
- Reviews questionnaire and completes *Service Provider Evaluation*
- Forwards documentation to school/center HR

### School/Center HR Director:

- Reviews documentation and determines classification

### Independent Contractor

*Paperwork returned to School/Center/ Dept. for IC processing (in partnership with Purchasing)*

### Employee

*Paperwork returned to School/Center/ Dept. to initiate hiring or to engage as a temporary employee*

# Key Steps – Nonresident Aliens

## Prior to any service being performed...

### School/Center/Department:

- Requests service provider complete and submit *SPQ, W8-BEN, Foreign National Intake/Interview Form, and Copies of visa, passport biographic page, and U.S. entry stamp*
- Reviews documentation and completes *Service Provider Evaluation*
- Forwards documentation to school/center HR

### School/Center HR Director:

- Reviews documentation and determines classification

### Independent Contractor

*School/Center/ Dept. sends documentation to Tax Office (adamsv@upenn.edu via Secure Share)*

### Employee

*Paperwork returned to School/Center/ Dept. to initiate hiring or to engage as a temporary employee*

# Other Considerations

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- **Independent Contractor**
  - Role of Purchasing
- **Regular Employee**
  - Position must be posted
  - I-9 forms for those out of region
- **Temporary Penn Employee**
  - Professional Service Provider
  - Affordable Care Act
- **Temporary Employee from Outside Agency**
  - No payrolling

# Pay & Travel Reimbursement

Worker Classifications			
	EMPLOYEE	GUEST	INDEPENDENT CONTRACTOR
Pay	Payroll	AP Honoraria/ Award	Accounts Payable Invoice
T&E	Concur	AP GTR Worksheet	
Accountable Plan	Yes	Yes	No
Limited?			Not Limited      Limited
PO?			PO                  PDA Form
Questionnaire			Yes                  No
1099		Yes Honoraria/ Award	Yes - All      Yes - All

# Service Provider Questionnaire



## *University of Pennsylvania Service Provider Questionnaire*

The information on this form is used to determine whether an individual providing services is an independent contractor under IRS guidelines. This form must be completed and signed by the individual performing the services, and reviewed and signed by the individual responsible for contracting for the services, prior to the rendering of any services. No payment for any services will be made otherwise.

Scope of Work:

Please provide a brief description of the services that will be provided.

*For Internal Use Only:*

Supplier# \_\_\_\_\_



# Service Provider Evaluation Worksheet



## SERVICE PROVIDER EVALUATION WORKSHEET

- This worksheet must be completed by the individual needing a service provider in concert with the applicable HR personnel **PRIOR** to hiring or processing through Purchasing.
- Do **NOT** submit this worksheet to the service provider.
- Do **NOT** complete this worksheet until after the service provider has returned a completed Service Provider Questionnaire. Provide a copy of the Service Provider Questionnaire to the Human Resource Personnel reviewing this form.
- Attach a brief description of services in your own words.
- Included in this worksheet is guidance provided by the IRS and [DOL](#) to help with the determination and classification as employee vs. independent contractor, which is designed to assist you in evaluating the relationship between the service provider and the University of Pennsylvania.
- If the service provider you wish to hire or contract with is a current University Employee, he or she must be paid as an employee and not as an independent contractor.
- An independent contractor will not be reimbursed for travel expenses via the CONCUR system. These fees must be included as part of the service provider's invoice to the University, if allowed by the terms of the engagement. Any payment of such fees by the University will be included in the total earnings reported at calendar year-end.
- **Once the answer to a question below is "TREAT AS AN EMPLOYEE," no further questions need to be addressed. Continue the process for employment with your School or Center Human Resource Manager.\***

Submission Date: \_\_\_\_\_

Name of the Service Provider being evaluated: \_\_\_\_\_

Name and Title of the individual who completed this form: \_\_\_\_\_

Name of School/Center and Department or Unit: \_\_\_\_\_

# Rollout Milestones

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- **Independent Contractors New to Penn** – A school/center/department that wants to hire a new independent contractor on after **January 1, 2017** must complete the new service provider classification process.
- **Existing Independent Contractors *with* Contracts** – A school/center/department that has an independent contractor under a current contract and wants to renew that contract upon its expiration must complete the service provider classification process when the current contract expires.
- **Existing Independent Contractors *Without* Contracts** – The service provider classification process must be completed by **July 1, 2017** for any independent contractor currently working at Penn but who does not have a contract. We will provide formal notice of this requirement by January 31, 2017 so that schools/centers/departments have ample time to review the arrangements they have with service providers.
- **Compliance Date** – By **July 1, 2017**, all existing service providers/independent contractors will have been reviewed and issues resolved.

# Next Steps

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- Continuation of ISP training/awareness campaign
- Management, Audit, and Exception Reporting

# Questions and Discussion

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- Website
  - [www.hr.upenn.edu/service-provider-classification](http://www.hr.upenn.edu/service-provider-classification)



***Thank you***