

# Procedural Guide for Independent Contractors and Limited Engagements

## Purpose

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The purpose of this guide is to provide faculty and staff with detailed guidance for reviewing, engaging, and paying independent contractors and limited engagement (LE) service providers to ensure compliance with federal, state, and local regulations. The guide is divided into four sections.

**Definitions** – provides a breakdown of the various types of payments and terms utilized within the guide.

**Forms** - provides a detailed listing of the various forms that are used when engaging and paying an independent contractor or limited engagement service provider.

**Process** - provides a step-by-step process to follow when a situation arises that potentially requires the use of an independent contractor or limited engagement service provider.

**FAQs** – provides answers to common questions that arise when dealing with an independent contractor or limited engagement service provider.

## Definitions

**Hiring Manager:** For the purposes of this policy, the ‘hiring manager’ is the individual responsible for the hiring of an individual service provider, or temporary employee, or for procuring services of an independent contractor.

**Human Subject Fee:** A Human Subject Fee is a payment that represents remuneration and/or reimbursement to individuals (employees and non-employees) participating as subjects in a research project. ([See Policy #2319.1 - Payment of Human Subject Fees](#))

*Related Object Codes:*

5316: Human Subject Payments-Direct; 5317: Human Subject Payments-Advance to P.I.

**Honorarium:** An Honorarium payment is a gratuitous payment of money or other thing of value to a person for the person’s participation in a usual academic activity for which no fee is legally required. Honorarium payments are provided as a token of appreciation for participation in an activity or event, and not as a contractual obligation to pay for services rendered. ([See Policy #2319.2 – Payments Made for Honoraria](#))

*Related Object Code:*

5314: Honorarium

**Usual Academic Activity:** Usual Academic Activity is activity conducted for the benefit of the honorarium- paying institution and includes lecturing, teaching, consulting, conducting research, attending meetings, symposia or seminars, or otherwise sharing knowledge. Readings and performances are considered academic activities, so long as the activity is open without charge to the public and/or students.

**Limited Engagement Fee:** A Limited Engagement Fee is a payment to a non-employee, non-student individual for providing a service of an academic nature, short duration, and/or low dollar amount (\$1,000 or less per transaction; \$5,000 per year max). This is intended for guest speakers, guest lecturers, artists, performers, writers/editors, board members, critics, preceptors, and mentors meeting the fee guidelines. ([See Policy #2319.3 – Payments Made for Limited Engagements](#))

*Related Object Code:*

5313: Lecture Fee

**Independent Contractor Services:** Independent Contractor services are services provided by an individual doing business with the University as a supplier of general goods or services, such as consulting services. The University has the right to specify the results to be accomplished but not the means and methods by which those results are to be accomplished. Independent contractors typically supply their own workplace, are not supervised, have control over their work schedule, have a set of skills not found elsewhere within the University, and provide the same or similar services to the general public as part of a continuing trade or business. These individuals are not eligible for employee benefits and are not covered under the University's workers compensation program. Effective January 1, 2018, the University is required to withhold Pennsylvania state tax on payments to individuals who are Resident Aliens, non-Pennsylvania residents and who are performing services in Pennsylvania. The University will comply with all U.S. federal, state, or local withholding requirements on income or other payroll taxes on behalf of individual. ([See Policy #2319.4 – Procurement and Reporting of Independent Contractors](#))

*Related Object Codes:*

5300: Accounting & Audit Services; 5301: Legal Services; 5302: Management Consulting Services; 5303: External Training & Staff Development; 5306: External Computer Consulting Services; 5308: External Computing Infrastructure/Usage Costs; 5319 External Other Professional Services

**Employee/Employer Relationship:** This determination is central to the question of how an individual should be paid for services provided to the University. Individuals who are currently employees of the University or individuals who have been employees of the University would, in most cases, be compensated through the University's payroll system. Individuals, who are independent contractors, as determined by the hiring manager in concert with their Human Resources representative, should be processed in accordance to [Policy #2319.4.4](#) as noted above.

**Temporary Worker:** A temporary worker is an individual who is hired to augment staff for a predetermined specific period of time. To determine whether the temporary employee should be placed on Penn's HR/Payroll System or hired through a third-party vendor, contact your Human Resource representative. Temporary workers may be eligible for some benefits, including medical coverage and paid sick time.

**Nonresident Alien:** A non-U.S. citizen who doesn't pass the green card test or the substantial presence test. If a person does not meet either the [Green Card](#) or [Substantial Presence Test](#), that person is classified as a nonresident alien.

- A new arrival on a J-1 or F-1 visa is generally a non-resident alien.
- Generally, students (F-1 or J-1 visa status) will not meet the substantial presence test until they have been in the U.S. for 5 calendar years. Visiting teachers/researchers (J-1 visa status) will not meet the substantial presence test until they have been in the U.S. for two (2) calendar years.

**Resident Alien:** A foreigner who is a permanent resident of the country in which he or she resides but does not have citizenship. To fall under this classification in the U.S., a person needs to either currently have a Green Card or have had one in the last calendar year.

- Resident aliens generally are taxed on their worldwide income, similar to U.S. citizens.
- To be classified as a resident alien, the individual must meet one of two tests:
  - [Green Card Test:](#) A nonresident alien is a lawful permanent resident of the U.S. at any time if he/she has been given the privilege, according to the immigration laws, of residing permanently as an immigrant. This status usually exists if the Bureau of Citizenship and Immigration Services has issued a green card.
  - [Substantial Presence Test:](#) A nonresident alien is classified as a resident alien for tax purposes if he/she was physically present in the U.S. for 31 days during the current year and 183 days during a 3-year period that includes the current year and the 2 years immediately before that.

**Human Resources (HR):** For these policies, HR refers to the Schools/Centers HR director/staff. For those Schools/Centers without HR director/staff positions, refer to their Business Office.

## Forms

Below are links to and descriptions of the forms used to review and process payments to independent contractors and limited engagement service providers. The Process section reviews when each form should be used.

### [Service Provider Questionnaire](#)

*Prior to formally engaging an individual, the hiring manager sends this form to individual/supplier/vendor for completion.*

The purpose of this form is to gather information from an individual **prior to** engaging him/her to assist in determining whether their relationship with the University is one of independent contractor/client or employee/employer. This form should not be used with Limited Engagements. An individual should not be engaged until this form is completed and a classification determination is made using the Service Provider Evaluation Worksheet.

### [Service Provider Evaluation Worksheet](#)

*Hiring manager (or his/her assignee) completes and sends to HR*

The purpose of this form is to assist hiring departments in collaboration with Human Resources in the evaluation of an individual's relationship with the University. This form should be completed by the hiring department based on the information provided in the Service Provider Questionnaire, along with any other relevant information they have concerning the project. Human Resources is responsible for making the final classification determination. In situations where the activity is taking place outside of the United State, [Global Support Services](#) (GSS) and/or [Tax and International Operations](#) (TIO) will provide guidance to Human Resources in making the classification determination. In situations where activity involves grants, students, or human subjects, please follow guidance provided on SPE. [Limited Engagement Agreement \(U.S. Citizens\)](#)

*Prior to formally engaging the individual, the hiring manager/department completes this form, sends to Purchasing for review and signature, and, when returned from Purchasing, includes it with the PDA form when it is sent to Accounts Payable.*

The purpose of this form is to formally document the relationship between the University and a U.S. citizen providing a service of an academic nature, short duration, and/or low dollar amount (\$1,000 or less per engagement; \$5,000 per year max). This form should be completed prior to engaging an individual to provide services to the University. A new Limited Engagement Agreement (U.S. Citizen) needs to be completed for each engagement. If engagements become more frequent, the relationship needs to be reviewed by Human Resources to determine whether a different classification is more appropriate.

#### [Limited Engagement Agreement \(Nonresident Aliens\)](#)

*Prior to formally engaging the individual, the hiring manager/department completes this form, sends to Purchasing for review and signature, and, when returned from Purchasing, includes it with the PDA form when it is sent to Accounts Payable.*

The purpose of this form is to formally document the relationship between the University and a nonresident alien providing a service of an academic nature, short duration, and/or low dollar amount (\$1,000 or less per engagement; \$5,000 per year max). This form should be completed prior to engaging an individual to provide services to the University. A new Limited Engagement Agreement (Nonresident Aliens) needs to be completed for each engagement. If engagements become more frequent, the relationship needs to be reviewed by Human Resources to determine whether a different classification is more appropriate.

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## Process

Outlined below are the procedures that should be followed when a situation arises requiring the potential use of an independent contractor or limited engagement service provider. The first sub-section details the process for independent contractor situations. The second sub-section details the process for limited engagements.

### Worker Classification Process

1. Need for service is identified.
2. Hiring office requests the potential independent contractor to complete:
  - a. [Service Provider Questionnaire](#).
  - b. [W-9 Form](#) for U.S. citizens/Resident Aliens or a [W-8BEN Form](#), copies of Visa (if applicable), [Foreign National Information Form](#), Passport Biographic Page, U.S. Entry Stamp in passport for nonresident aliens, [Certification of Foreign Source Income](#) (as applicable).
  - c. Please note: If an independent contractor is a nonresident alien providing services in the US, there may be restrictions to the work he/she can perform for the University based on his/her visa status. Please contact the office of [Tax and International Operations](#) prior to engaging a nonresident alien as an independent contractor to understand the limitations of his/her visa status and the additional paperwork required for processing payment. Global Support Services also has put together a helpful guide on [Payments and Reimbursements to Foreign Non-Affiliates](#) that will assist you in this area.
  - d. If the activity/service takes place outside of the United States, there are additional considerations. Global Support Services has developed a [Hiring Abroad Toolkit](#) to determine if the individual can be engaged as an independent contractor or whether a PEO (Professional Employment Organization) should be utilized. Please contact GSS prior to engaging an individual for services transpiring outside of the US.
  - e. If an independent contractor submits a contract he or she has created, this agreement should be forwarded with the remainder of the paperwork through the process. Purchasing Services is responsible for reviewing and signing all Personal/Professional Service Agreements on behalf of the University, including agreements for activity outside of the United States.
3. Using the completed Service Provider Questionnaire and what they know about the project, the hiring department completes the [Service Provider Evaluation Worksheet](#).
  - a. If the determination is made that the individual should be engaged as an independent contractor, the hiring department forwards the Service Provider

Questionnaire and Service Provider Evaluation Form along with the hiring manager's description of services to be provided to Human Resources for determination.

- b. If the determination is made that the individual should be engaged as an employee, the hiring department should continue to work with Human Resources to complete the hiring process. Note: If the individual is hired as an employee but is not located near main campus, the University has a reciprocal agreement with various institutions across the country to verify the I9 on behalf of the University. You can find the nearest location to the employee by contacting your Human Resources representative.
4. Human Resources reviews the completed Service Provider Questionnaire, Service Provider Evaluation Form, hiring manager's description of services, and any other relevant documentation provided by the individual service provider to determine the correct classification status for the individual. Human Resources is responsible for making the final classification determination. If the activity is taking place outside of the United States, Human Resources should contact Global Support Services or Tax and International Operations for classification guidance.
  - a. If the determination is made that the individual should be engaged as an independent contractor, the paperwork is returned to the hiring department for independent contractor processing.
  - b. If the determination is made that the individual should be engaged as an employee, the hiring department continues to work with Human Resources to complete the hiring process. Note: If the individual is hired as an employee but is not located near main campus, the University has a reciprocal agreement with various institutions across the country to verify the I9 on behalf of the University. You can find the nearest location to the employee by contacting your Human Resources representative.
5. If the individual being engaged as an independent contractor is a nonresident alien, the Service Provider Questionnaire, Service Provider Evaluation Form, and W-8BEN Form (along with any applicable additional paperwork for nonresident aliens) must be forwarded to Victor Adams in the Tax Office via Secure Share at [adamsv@upenn.edu](mailto:adamsv@upenn.edu). ) for review and approval. The email subject line should use the following format: "IC Onboarding – Last Name, First Name."

The Tax Office reviews the documentation and verifies that the nonresident alien can be paid for the services and confirms their tax treaty status. The Tax Office returns the paperwork to the hiring department.

- a. If it is determined that the nonresident alien is not eligible to receive compensation for the described services based on his/her visa status, the hiring department informs the nonresident alien and engages a different independent contractor to perform the services.

- b. If it is determined that the nonresident alien is eligible to receive compensation for the described services and is tax treaty eligible, the hiring department continues to Step # 6 below.
  - c. If it is determined that the nonresident alien is eligible to receive compensation for the described services and is not tax treaty eligible,
    - i. The hiring department consults with Purchasing Services ([sourcing@exchange.upenn.edu](mailto:sourcing@exchange.upenn.edu)) to put together a contract between the independent contractor and the University. Purchasing Services is responsible for reviewing and signing all Personal/Professional Service Agreements on behalf of the University.
    - ii. Once the contract is executed by the independent contractor and Purchasing Services, the individual can be engaged to begin providing services.
    - iii. After completion of the project (or at the intervals agreed upon in the contract), the independent contractor sends an invoice to the hiring department.
    - iv. The hiring department processes the payment through Accounts Payable via a PDA-F form. The NRA Treatment Form, invoice, Service Provider Questionnaire, Service Provider Evaluation Form, and W-8BEN Form (and any applicable related documentation) should be included with the payment request.
6. The hiring department submits the completed Service Provider Questionnaire, Service Provider Evaluation Form, and W-9 Form/W-8BEN Form (along with any applicable additional paperwork for nonresident aliens) to Vira Homick and Debbie Schmidt at [homickv@upenn.edu](mailto:homickv@upenn.edu) and [debbies@upenn.edu](mailto:debbies@upenn.edu) via Secure Share. Email subject line should use the following format: "IC Onboarding – Last Name, First Name."
7. Purchasing Services sends the independent contractor the Independent Contractor Registration Form to collect the information needed to onboard them as a new supplier.
8. Once the Independent Contractor Registration Form has been completed and returned by the independent contractor. Purchasing Services:
- a. Performs vendor due diligence.
  - b. Determines whether an additional contract is necessary beyond the standard purchase order agreement. If an additional contract is deemed necessary, Purchasing Services will reach out to the hiring department with the applicable agreement for the situation. Purchasing Services has contract templates available that are structured for various types of engagements that can be uploaded as part of the PO process. Purchasing Services is responsible for

reviewing and signing all Personal/Professional Service Agreements on behalf of the University.

- c. Establishes the independent contractor in the vendor database and notifies the hiring department via email.
9. The hiring department initiates the purchase order process and engages the independent contractor for services.
10. After completion of the project (or at the intervals agreed upon in the contract), the independent contractor sends an invoice directly to Accounts Payable referencing the PO number to receive payment. Invoices can be mailed to the address below or emailed to [dofapsupp@pobox.upenn.edu](mailto:dofapsupp@pobox.upenn.edu) after a Penn Vendor Invoice Emailing Agreement is completed.

Accounts Payable  
4<sup>th</sup> Floor Franklin Building – Room 440 3451 Walnut Street  
Philadelphia, PA 19104

## Limited Engagement Process

**Limited Engagement Fee:** A Limited Engagement Fee is a payment to an individual (non-employee/faculty, non-student) for providing a service of an academic nature, short duration, and/or low dollar amount (\$1,000 or less per transaction; \$5,000 per year max). This is intended for guest speakers, guest lecturers, artists, performers, writers/editors, board members, critics, preceptors, and mentors meeting the fee guidelines. ([See Policy #2319.3 – Payments Made for Limited Engagements](#))

If the provider's services falls under the Limited Engagement agreement:

- Have them complete and sign the [Limited Engagement agreement](#) and provide a W9
- Forward the Limited Engagement agreement to [sourcing@exchange.upenn.edu](mailto:sourcing@exchange.upenn.edu) for review and signature
- The signed Limited Engagement agreement will be returned to the hiring office
- A PDA is the prepared and forwarded to AP with the signed Limited Engagement agreement, w9, and statement of work/supporting documents, if appropriate.

### Limited Engagement Process under grant funding:

- Service on a Data Safety Monitoring Board
- Service on a Scientific Advisory Board
- Service on other Advisory Boards (e.g. Community Advocate or Patient Engagement)

Business offices should:

- Contact Missy Peloso ([epeloso@upenn.edu](mailto:epeloso@upenn.edu) or 215-746-0234) prior to submitting the Limited Engagement Agreement form for individuals serving in these roles on sponsored projects.
- ORS will provide documentation that the activity meets the Limited Engagement criteria that may be used to support the PDA request for payment.
- Have individual service provider complete and sign the Limited Engagement agreement and provide a W9
- Forward the Limited Engagement agreement with ORS documentation to [sourcing@exchange.upenn.edu](mailto:sourcing@exchange.upenn.edu) for review and signature
- The signed Limited Engagement agreement will be returned to the hiring office
- A PDA is the prepared and forwarded to AP with the signed Limited Engagement agreement, w9, ORS documentation and statement of work/supporting documents, if appropriate.

#### Limited Engagement doing service outside of the US:

If services falls within the LE guidelines, no additional approval needed by GSS. **[Guidelines: A Limited Engagement is a payment to an individual (non-employee/faculty, non-student) for providing a service of an academic nature, short duration, and \$1,000 or less per transaction; \$5,000 per year max. This is intended for guest speakers, guest lecturers, artists, performers, writers/editors, board members, critics, preceptors, and mentors meeting the fee guidelines]**

- Have the individual service provider complete and sign the Limited Engagement NRA agreement, W-8BEN, provide a Certificate of Foreign Source Income
  - *The Tax Residency Status and Immigration Status sections do not need to be completed*
- Forward the Limited Engagement agreement to [sourcing@exchange.upenn.edu](mailto:sourcing@exchange.upenn.edu) for review and signature
- The signed Limited Engagement agreement will be returned to the hiring office
- The signed Limited Engagement NRA agreement, W-8BEN, Certificate of Foreign Source Income, and statement of work/supporting documents, if appropriate, are attached to the PDA-W and send to AP for payment