

Independent Contractor Procedure

Basis for Procedure

Departments often engage the services of individuals who are not employees of the Research Foundation, including independent contractors, guest lecturers, entertainers, suppliers, and others. It is important to correctly classify independent contractors and employees to ensure appropriate compensation method and tax obligation. This procedure will assist in how to correctly classify and pay them.

1. Prior to contacting a possible Independent Contractor, the project director should determine whether the expense is allowable under funding agency restrictions and Research Foundation policies. Any prior approvals required by award or agency regulations must be obtained.
2. When first engaging the individual, it is important to know if they have, will, or currently work as a SUNY or RF employee in the current calendar year. **An employee cannot receive a W2 and a 1099 for the same tax year.** If either of the above relationships pertain to the individual they will need to be hired as an employee.
3. [Classify the worker](#) as an Independent Contractor(IC) or an Employee. When looking to identify an individual as an Independent Contractor, there are some factors that will assist you in making that classification. Some of these factors include, but are not limited to:
 - ICs maintain a separate business with its own premises, materials and equipment.
 - ICs offer their services to the general public and can provide documentation of other clients.
 - ICs have obtained or applied for a federal employer identification number (EIN). ICs often have employees working for them.
 - ICs agree to specific work for a specific amount of money (i.e., a fixed fee, hourly/daily rate) and control the means of performing the work.
 - ICs may realize a profit or suffer a loss in connection with performing the work or services. ICs may suffer a liability for failure to complete the scope of work.
 - ICs have the right to control how, when and where the services are to be performed.
 - ICs typically do not have a continuing relationship with the college or the Research Foundation.

In general, an employee is subject to the control of the employer as to what work must be done and how the work must be done. It is not necessary that the employer direct or control the manner in which the services are performed; it is enough that the employer has the right to do so.

A helpful tool in making this distinction is the IRS 20 Factors of the [“Common Law Test”](#).

4. Determine the worker's [citizenship status](#). An Independent Contractor must be classified as a US citizen, resident alien, or nonresident alien for tax reasons.
5. Complete the RF [Independent Contractor form](#) with the consultant to include all necessary signatures on the form. A current resume and completed W9 will also need to be submitted if there are not already one on file.
6. All paperwork to the Accounts Payable office within OSPRC. **This must be done before services are rendered to ensure proper classifying has taken place.**
7. A payment will be produced by The Research Foundation.

A more detailed description of the process of engaging independent contractors can be found on the RF's website [here](#).

It is important to classify the worker properly and submit all paperwork to OSPRC **prior** to the services being rendered.

Questions can be routed to the Accounts Payable office in OSPRC

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