

Pittsburg State University

Independent Contractor Policies & Procedures

Policy Purpose Pursuant to IRS tax code, the University must make a determination between employee and independent contractor status when hiring an individual to perform a service. An incorrect classification can lead to significant penalties, as Federal law requires employers to withhold income taxes from employee's paychecks. This policy is intended to ensure that individuals are classified appropriately.

Definitions

Independent Contractor – An independent contractor is an individual who is hired to provide services not available elsewhere in the University. The University has the right to control only the result of the work and not the methods used to complete the work. Independent contractors typically are not supervised by a university employee and are only needed for a short period of time to complete a specific project.

Employee – An individual whom the University has control over the work to be completed and the methods used to complete the work.

Honorarium – A one-time payment given for professional services for which fees are not required. A payment for honorarium cannot be a condition for service, for it would then be considered a required fee as part of a contract.

Policy When making the classification between employee and independent contractor, the type of relationship must be examined as well as the level of behavioral and financial control the University has over the relationship with the individual. To make this determination, the individual must provide an invoice and/or contract. In the case of an honorarium, an official honorarium letter is accepted in lieu of a contract for service.

Relationship to University An independent contractor is responsible for their own professional expenses such as insurance, work benefits, and licenses. The following questions can help classify the relationship to the University:

Is the individual currently a PSU (or other state agency) employee who provides the same or similar service, or did they have an official appointment in the prior 12 months at PSU (or other state agency) and provide the same or similar service? If the answer to either question is yes, then the individual should be classified as an employee.

Will the individual perform the same or similar service on a continuing basis as part of the department's ongoing operation? If an individual is providing a service that is the same or similar to any type of work that the University already employs individuals to perform, then it should be treated as an employee relationship. Independent contractors are generally contracted with for a specific period of time and for a specific

project. If the individual will perform the service on a continuing basis rather than a specific period of time, then it should be treated as an employee relationship.

Behavioral Control

Will the department provide the individual with specific instruction regarding performance of the work rather than rely on the individual's expertise? The University can play a role in setting guidelines and deadlines for the service, but an independent contractor uses their own expertise to determine how the work should be done. If the University has control over the methods used to accomplish the work or trains the individual on how to perform the work, it should be considered an employee relationship.

Will the department provide the majority of tools, materials, and equipment to perform the service? An independent contractor should provide their own tools, materials, and equipment to perform the contracted service, and generally pays for the cost of doing business themselves. Please note that providing the individual with limited equipment such as a podium or projector would not make the individual an employee.

Financial Control

Will the individual be paid a flat fee for services provided? An independent contractor is usually paid a flat fee for the service provided. All costs, including out-of-pocket costs for meals, travel, etc. should be included in the final fee for service. It is a best practice not to reimburse an independent contractor for expenses incurred. These should be part of the total fee for service.

Does the individual provide the same or similar services to other entities or to the general public as part of a trade or business? An independent contractor should make their services available to the general public and not just PSU. They are free to seek out other clients as part of their trade or business.

Teachers, Lecturers, and Entertainers Teachers, lecturers, and entertainers are more difficult to classify as independent contractors, as they often relate closely to the core mission of the University. In general, these individuals are considered independent contractors when one of the following are true:

- The individual is a guest lecturer who will conduct only a few sessions of a class and not otherwise work at PSU in a different capacity
- The individual is teaching a course for which students will not receive credit for a University degree AND the individual provides the same or similar service to other entities or the general public as part of a trade or business

- The individual will primarily use course materials that are created or selected by the individual

Procedures Any department wishing to pay an individual as an independent contractor must complete the Independent Contractor vs. Employee Classification Worksheet. **This worksheet must be completed each time the individual is paid.** If it is determined that the individual should be classified as an independent contractor, the worksheet, invoice or contract for service, W-9 for new suppliers, and any other documentation should be submitted with a Pay Vendor Information form to GUS Cloud. If it is determined that the individual should be classified as an employee, the worksheet should be provided to Human Resource Services and the individual should be paid via payroll.