

PROCEDURE FOR CONTRACTING WITH INDEPENDENT CONTRACTORS/CONSULTANTS

(to be used for individual service providers having federal tax classification of individual/
sole proprietor or single member LLC, as per question 3 on their W-9)

OVERVIEW

An independent contractor (IC), by definition, is an individual service provider who contracts with an employer to provide specialized or requested services on an as-needed or project basis.

UTILIZATION OF INDEPENDENT CONTRACTORS

The services provided by independent contractors are often required by the University in situations where the individual possesses a unique skill set not currently available within University; when the individual has credentials necessary to meet agency or sponsored program requirements or for other, short-term University needs.

Independent contractors are not considered employees of the University so they are exempt from employee related laws; the University is not required to withhold federal, state and local taxes from payments made to them and they are not included in the University's benefit or pension program.

Individuals providing personal, consulting, analysis, coaching and instructional services, or those serving as an agency advisory board member, are the most commonly utilized independent contractors at the University.

CLASSIFICATION DETERMINATION

As per the [University's Independent Contractor Status Policy](#), classification of an individual as an independent contractor is completed by Human Resources (HR). HR utilizes the Internal Revenue Service's guidance in three (3) key areas (behavioral control, financial control and type of relationship) in making the classification determination. [Independent Contractor - Form A](#) is the form that needs to be completed for this classification purpose.

Responsibility for compliance with this University policy lies jointly with HR and the University department or Principle Investigator (PI), if grant or agency sponsored.

PROCESS & TIMELINE

The process to determine the classification of an individual service provider as an employee or independent contractor involves the following steps:

1. University department completes [Independent Contractor – Form A](#) and upon submission the completed form is sent to the [Compensation Department](#) in HR.
2. HR conducts proper classification determination utilizing IRS guidance, University Policy, state, local and federal law.
 - a. If HR determines that individual should be classified as an employee while providing services, HR will advise department of decision and the department will follow normal, established University hiring procedures;
 - b. If HR determines that individual should be classified as an independent contractor, HR will forward approved Form A back to department. Department will then need to submit request through the [Request for Contract Review Portal](#). In the portal, department should

select “Goods/Services/Software (provided to UT)” as Type of Contract, upload approved Form A as well as the individual’s W-9. The contract request will route electronically to Purchasing Services for contract drafting/processing.

Note: The timeline for completion of this process will vary based upon obtainment of all required documentation.

EXCEPTIONS & QUESTIONS

Individuals providing one (1) time services such as lecturers, speakers, entertainers, etc do not need to go through the classification determination process. For these type of service requests, directly submit contract request through the [Request for Contract Review Portal](#) and select “Speaker/Performer” as Type of Contract. The contract request will route electronically to Legal Affairs for contract review.

Questions related to this procedure should be directed to compensation@utoledo.edu in HR.