



Payments for Professional Services

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Payments for Professional Services

This handout will focus on the procedures and paperwork necessary to properly classify and pay an **individual or unincorporated sole proprietor** performing professional services without a purchase order or contract/agreement from the university.

Introduction

The University of Texas at Austin, in the normal conduct of business and as part of the routine services necessary for the functioning of its programs, requires a variety of services that cannot be performed in an efficient and timely manner by university employees. Departments may obtain the services of individuals outside the university to fulfill these needs. The type of services required will determine the approvals and paperwork necessary and will dictate which of the three procurement methods discussed below will be followed. Prior approval and authorization will be dictated by the appropriate procurement option described below: Authorization of Professional (Individual) Services (APS or electronic **PBS**), purchasing, or business contracts and agreements.

Authorization of Professional (Individual) Services Procedures

Prior approval through an APS form or **PBS** document is required for one-time, short-term, or sporadic services provided by an individual or unincorporated sole proprietor (vendor ID starts with 2 followed by Social Security Number) when payments are anticipated to total \$25,000 or less in any fiscal year. The APS or **PBS** only covers one fiscal year period at a time.

The nature, scope, and frequency of the services provided will determine if the individual providing the services is treated as an independent contractor (no employee-employer relationship) or as a short-term casual employee.

Normally, continuing full-time appointments of two weeks or longer should be handled using standard Human Resource Services procedures.

Examples of services to be authorized using an APS or **PBS**:

- guest speakers at lectures, seminars, and colloquia
- visiting researchers

- other professionals that do not provide teaching or researching services, such as professional editors, research subjects, education students' teaching mentors, professional musicians, etc.

Special situations require the paper APS as an authorization for travel expenses.

Spousal/family members' travel. Travel reimbursements (or directly billed travel, such as centrally billed airfare, car rentals, and hotel or apartment charges) are authorized as a fee payment to the individual conducting business with the university or interviewing with the university, not to the spouse or other family member accompanying the university visitor. Spousal and other family members' travel is fully taxable, and an IRS form 1099 MISC will be issued to the university visitor if the total of all spousal/family members' travel exceeds \$600 during one calendar year. University employee spousal travel is prohibited, except as authorized by the UT System Business Procedures Memorandum 65-07-02. Please see www.utsystem.edu/BPM/65.htm for more detail on this policy.

Moving expense. Direct billings for newly hired university faculty and staff require a paper APS. Direct billings for new hires and their family members are authorized using the paper APS form for centrally billed airfare, car rentals, and directly billed apartments or other temporary lodging. The paper APS is a substitute authorization that can be sent to the travel agency, car rental agency, hotel, etc., as a substitute for the offer letter. The offer letter is used to authorize reimbursements paid directly to the individual (the newly hired university faculty or staff member).

Purchasing Procedures

Existing purchasing guidelines should be followed for the procurement of many services. Examples of services which should be obtained using purchasing guidelines include the following:

- Procurement of **repetitive** services such as monthly preventative maintenance and services of equipment (i.e. Xerox, IBM, etc.).
- Procurement of services subject to **bidding requirements** for readily available, non-sole sourced services such as t-shirt design services or logo design services provided by an advertising agency.
- **Maintenance** services, both routine and emergency, such as cleaning and pest control. However, if the university is the only client of the service provider, an employer/employee situation may exist.
- A purchase of services that will result in a **tangible deliverable** such as printing, photo, or film processing.

For the performance of general services where the engagement of a specific individual is not required and there is competition in the market place, bidding procedures should be followed.

Business Contracts and Agreements

Services with negotiated terms between the service provider and the university normally require a written contract. These contracts must be reviewed, approved and signed by individuals in the Office of the Vice President and Chief Financial Officer who have received delegated signature authority.

Business Contracts and Agreements

The employee/employer relationship still must be determined, even on a contract. A copy of the Employee/Independent Contractor Classification Checklist must be attached when the contract for personal services exists between the university and an individual or unincorporated sole proprietorship.

Employee/Independent Contractor Classification Checklist

Consultant Agreements are considered special procedure business contracts and must comply with additional review and approval requirements as detailed in Business Procedure Memorandum 43.

UT System Business Procedure Memorandum 43

Use of the term “consultant” should be restricted to only those situations meeting the strict State of Texas definition of the term. Consultant services are strictly defined by the State as:

“A study conducted for a state agency or advice provided to a state agency under contract that does not involve the traditional relationship of employer and employee. The term does not include a routine service that is necessary for the functioning of a state agency's programs.”

A consultant is someone who advises us on how to undertake a project, such as a contractor who is hired to advise us on how to remove asbestos from university buildings. In contrast, someone who performs a task that is within the scope and mission of the university, such as giving a lecture, collaborating on a research project, or teaching a continuing education course, is **not** a consultant.

Consultant services that meet this strict definition and are procured through formal contracts are limited, cumulatively, to \$25,000 per **fiscal** year. If payments are expected to exceed \$25,000 in a fiscal year, prior approval of all contracts for the consultant during that fiscal year must be obtained from the university’s President

and UT System. Assistance in acquiring the necessary prior approvals is available from the Office of the Vice President and Chief Financial Officer.

Note: Procedures for payment for consulting services are not included in the scope of this handout.

Employee or Independent Contractor?

How is This Determination Made?

The Internal Revenue Service (IRS) classifies workers as independent contractors or employees according to the common law standard. Under the common law, the classification of an individual as an employee or independent contractor is defined by the law of agency. That is, whether one party, the principal, is legally responsible for the acts of another party, the agent, and depends on the principal's right to direct and control the agent.

Following this standard, the IRS regulations provide that an employer/employee relationship exists when the person for whom the services are performed has the right to control and direct the individual who performs the services. This control refers not only to the result to be accomplished by the work, but also the means and details by which that result is accomplished. An employee is subject to the will and control of the employer not only as to what work shall be done but also how it shall be done.

The IRS has compiled a list of 20 factors used in court decisions to determine worker status, commonly referred to as the "Twenty Factor Test." This test is an analytical tool and not the legal control test for determining worker status. A correct determination can only be made by examining the relationship of the worker and the business. Depending on the nature of the business, elements of the Twenty Factor Test may or may not apply.

The university has developed a checklist incorporating elements of the Twenty Factor Test relevant to the university environment. The Employee/Independent Contractor Classification Checklist (a.k.a. the checklist) is a separate form and is used with the Authorization for Professional (Individual) Services (APS or **PBS**) form to properly classify an individual's worker status when the individual is engaged to perform services. For professional service contracts, the Office of the Vice President and Chief Financial Officer **requires** the Employee/Independent Contractor Classification Checklist to be **attached to the contract**.

Employee/Independent Contractor Classification Checklist

Why Must the University Make This Determination?

The university must be concerned with making the proper worker classification of individuals engaged to perform services because the university will be responsible for unpaid taxes due to misclassification. If the institution improperly classifies an individual as an independent contractor rather than an employee for tax purposes, the institution will be responsible for the applicable employer and employee portions of employment taxes as well as penalties and interest for these payments. For this reason, please make sure you read and complete the checklist carefully and correctly.

Payments

All individuals paid for professional services must be classified as either an independent contractor or as a short-term, casual university employee.

A “casual employee” is an individual who has been determined to be an employee for income tax purposes based on the evaluation of the individual's relationship with the university and the degree of control over the individual. The term casual employee was created by the university to distinguish this type of employee from regular full, part-time, or temporary university employees appointed through Human Resource Services.

The procedures and paperwork necessary to pay an individual providing services to the university will depend exclusively on the classification of the individual as a casual employee or an independent contractor. The Employee/Independent Contractor Classification Checklist is intended to assist departments in making this determination. This checklist is required in addition to the Authorization for Professional (Individual) Services paper APS or electronic **PBS** and **must** be completed at the time prior approval for the service is obtained.

Compensation

The total cumulative compensation an individual or unincorporated sole proprietor may receive during a fiscal year for professional services authorized by an APS or **PBS** is limited to \$25,000.

Exception: Services performed outside the United States by non-U.S. citizens that would normally be classified as employee services, are not subject to U.S. tax and can be paid using the APS or **PBS**.

- Payment for these services will not be subject to this compensation limit.

- They also need not be processed through the payroll system and can be processed on a **VP2** document.

Approvals

All forms must be approved **prior** to the performance of services. This is extremely important to ensure that the individual is properly classified as an employee or independent contractor and the appropriate paperwork is completed.

Prior approval for the paper APS form must be obtained by both of the following:

- Chair/Director or Equivalent Administrative Officer
- Designated Final Approver (DFA) or appropriate Dean/Vice President/Provost

Also, the Grant or Contract Certification section of the APS form **must be** completed by the principal investigator on all APS forms for expenditures from federal grant or contract funds. Individuals providing services as independent contractors must accept the Terms and Conditions for Federally Sponsored Projects on the Employee/Independent Contractor Classification Checklist.

Prior approval on the electronic **PBS** document is obtained from:

- the appointment account electronic signer.
- electronic signers from all accounts listed.
- Dean/VP electronic approval.

Current University Employees

On occasion, obligations may be accepted that are in addition to those associated with regular employment justifying additional compensation. All consulting, lecturing, or other professional activities shall not conflict with any regularly scheduled activities such as organized classes. The total of all additional compensation cannot exceed \$25,000 per fiscal year.

Within the same department. Normally, fees for lecturing or other professional services in addition to full-time salaries will not be paid to faculty or professional staff in the same department or administrative unit. The primary exception is for continuing education activities. In addition, full-time university personnel may not receive additional salary payments from state funds.

Part-time employees providing services that are the same or similar to their regular duties should be compensated by increasing their appointed time. Compensation for

dissimilar services *may* be allowed via the APS form or the electronic **PBS** document subject to review and approval as stated previously in the Approvals section.

Approval. In addition to the normal approvals, employees **must** also be approved by the chairman or director where the employee is appointed on the paper APS form or from the electronic signer of the employee's appointment account on the electronic **PBS** document.

Compensation to full-time university employees from federal grants or contracts is permissible in rare instances where the service is across departmental lines or involves a separate or remote operation, and the work is in addition to the regular departmental load.

Note: Such arrangements must be specifically approved in the grant or in writing by the sponsoring agency.

Former university employees. Former employees of the university who were paid as employees during the prior 12 months must continue to be paid through Payroll Services because the institution has maintained a continuing relationship with the employee. Exceptions may be made to this guideline on a case-by-case basis when local funds are used.

Payment Procedures

APS form and Employee/Independent Contractor Classification Checklist

- The APS form should be completed for all individuals providing professional services as noted in **Payments**.
- The APS form should be completed by the department and **must** be approved as described in **Payments**, or the electronic **PBS** document should be completed and approved.

See www.utexas.edu/business/accounting/news/pbsofcmgr.html for specific instructions, FAQs, and video demonstrations of the electronic **PBS** document.

For either the paper APS or the electronic **PBS**, The Employee/Independent Contractor Classification Checklist **must** also be completed. The individual providing the services need not complete the checklist; it may be completed by departmental personnel as long as any necessary information is obtained from the

individual. The individual will be classified as a casual employee or an independent contractor based on the answers provided to this checklist.

Accurate and honest completion of this checklist is crucial to the payment process. This will determine the nature of the relationship with the individual and the appropriate paperwork to be completed based on the classification of the individual as an employee or an independent contractor. Follow the procedures outlined below for whichever classification is determined.

Casual employee

If the individual is deemed a casual employee according to the checklist, an employee record should be established and the individual should be paid through the payroll process per instructions below. Casual employees are not required to be appointed. The following forms and procedures are required to process payments to casual employees:

Payroll Services Employee Information Form (PSEI), formerly PO8. All employees who are being paid through Payroll Services must complete a PSEI form. This form allows us to create a master record for payroll purposes. This form has four sections and must be completed before employees can be paid.

Form W-4, Employee's Withholding Allowance Certificate. All new employees must complete a Form W-4 for the current year.

Payroll Services

W-4 form

PSEI form

Note: Completed forms should be delivered to Payroll Services, G0200, MAI 134.

Form I-9, Employment Eligibility Verification. The Immigration Reform and Control Act of 1986 requires all employees to complete the Department of Homeland Security (DHS) Form I-9 - Employment Eligibility Verification. In compliance with DHS regulations, these forms should be given to all employees immediately upon hire and be completed within three working days. The employee must complete the form and a departmental official must view and certify the appropriate identification and employment eligibility documents.

The original I-9 form and copies of the supporting documents provided as eligibility for employment must be sent to Human Resource Services (HRS) within three workdays. Payment will process, however, the employee's first paycheck will be held if an I-9 form has not been filed with Human Resource Services.

Human Resources Employee Records Services

Employment Eligibility Verification (I-9)

GLACIER and nonresidents. If the individual is a non-U.S. citizen ("alien authorized to work" on the Form I-9), the individual must also complete a profile in the GLACIER Nonresident Tax Compliance System. If the individual does not also have an appointment, the department should send an e-mail to Payroll Services (pr.nrtax@austin.utexas.edu) requesting that the individual needs to be loaded into GLACIER. Within two business days, the individual will receive a secure e-mail message containing GLACIER login instructions including a temporary login ID and password.

GLACIER is designed to properly evaluate the individual's social security and federal income tax withholding status based on the individual's visa status and length of stay in the United States. Depending on several factors, the nonresident may be exempt from social security tax and may also be eligible for an exemption from federal income tax withholding. GLACIER replaced the Payment Request Form (PRF) in November 2007.

Once the individual has completed his or her GLACIER profile, GLACIER will prepare a Tax Summary Report and an updated IRS Form W-4. If a tax treaty provision is available, and the employee wishes to claim it, GLACIER will also generate an IRS Form 8233.

Employees should take all GLACIER generated forms along with copies of their passports, visas, and immigration documents to Payroll Services in the Main Building, Room 134. It is crucial that this form be filled out correctly, so contact Payroll Services if you have any questions about the process.

Note: Other than the GLACIER record, which should be updated annually, the above forms need only be completed once for each employee. If the individual already has an active employee record, these forms need not be completed.

Payroll Services

International Office

All employees must have a valid social security number (SSN) to be paid through payroll. If the nonresident does not have a SSN he or she must obtain one in person at the Social Security Office.

Payroll voucher. Payments to casual employees will be based on the flat rate specified on the APS or **PBS** form. Normal payroll deductions for federal income tax withholding and social security tax will be taken from these payments. The applicable employer-paid fringe benefits: Employer OASI match, Unemployment Insurance, and Worker's Compensation, will be charged to the appropriate fringe accounts for the payment.

After the services have been performed, the employee must sign the APS or **PBS** form. Payments to these employees should be processed on an electronic **OV7** document in *DEFINE for professional services payments. An **OV7** document should be created for each payment to be made to the casual employee.

The electronic **OV7** cover sheet along with the approved APS or **PBS** form and checklist and any other supporting documents should be sent to Payroll Services. These payments will be made on the semi-monthly payrolls and regular voucher cutoff deadlines apply to these payment documents.

Reimbursement of expenses. Reimbursement of travel expenses for a casual employee (whose payments are processed through Payroll Services) should be paid on a local funds voucher or an electronic **VP2** document in *DEFINE rather than an employee travel voucher (electronic **VP5** document). **An RTA is not necessary for reimbursement of these expenses when a fee is paid for services through Payroll.** The transaction should be coded with object code 1260 and an itemization of expenses, receipts, and approved APS or **PBS** should be submitted with the voucher to the Office of Accounting.

Independent Contractor

If the individual is deemed an independent contractor according to the checklist, a vendor record **must** be established, and the individual should be paid through the accounts payable process. The following forms and procedures are required to process payments to independent contractors:

Payment Information Form (PIF). All individuals receiving payment from the university as independent contractors must complete a PIF. A social security card and/or photo ID are required to properly establish a vendor record and must be submitted with the PIF.

The PIF should be sent to the Vendor Identification Number (VID) section of the Purchasing Office where a VID will be established to process payments to the visitor. The PIF should be completed with the visitor's accurate name, SSN, or federal taxpayer identification number, and signature. A VID can be established prior to the performance of services if the necessary information can be obtained via fax or mail from the payee. The PIF should be sent by fax to Purchasing at 471-5178. You can also contact them at 471-3273 with any questions or concerns.

Purchasing Office VID information

PIF form

Nonresidents. All individuals **must** designate citizenship status on the PIF. If the individual is a non-U.S. citizen and neither a permanent U.S. resident nor a U.S. resident for federal income tax purposes, any payments made for independent personal services are subject to 30 percent federal income tax withholding. This withholding requirement is applicable to any fee, honorarium, or other payment for services.

Contractor Services

Payments to International Non-Employees Handout

Office of Accounting Contractor Services Contacts

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Finance Manager

Travel, Independent Contractor, and Scholarship Sections

Independent Contractor Desk

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