

ROSALIND FRANKLIN UNIVERSITY
OF MEDICINE AND SCIENCE

Accounting/Business Office

**SERVICE PROVIDER PAYMENTS (CONSULTANTS, AND
INDEPENDENT CONTRACTORS) POLICY AND PROCEDURES**

POLICY STATEMENT

This policy applies to anyone wishing to contract for services to be paid by Rosalind Franklin University (RFU) regardless of the source of funds. A department intending to engage a service provider as an independent contractor must follow the University's policy and procedures. Departments must determine whether a service provider should be classified as an employee or as an independent contractor before any services are performed or requisitions are processed.

REASON FOR POLICY

Departments must apply common standards in order to reduce risks and ensure cost-effective and equitable business practices. The Internal Revenue Service and other government agencies assess significant penalties for misclassification of employees as independent contractors. Misclassification can also create other potential liabilities and affect service performance and employee morale.

WHO SHOULD READ THIS POLICY

All employees who engage individuals or entities to perform services, process transactions related to the services, authorize charges, or manage overall risk for the University/Department.

OVERVIEW

The procurement of services, unlike the procurement of goods, requires an evaluation of whether a service provider should be classified as an employee or independent contractor. This evaluation and classification must be performed **before** engaging an individual or entity to perform services, and before any services begin. It must be based upon IRS guidelines, not on administrative ease or relative costs.

If a worker is an employee, the employer must meet the overhead costs of withholding income and FICA/Medicare taxes and match the employee's share of FICA/Medicare taxes. In addition, the employer may incur obligations for employee benefit plans, such as vacation, sick pay, worker's compensation insurance, health insurance, and pension plan contributions.

If the worker is classified as an independent contractor, the worker pays the quarterly estimated income taxes, as well as Social Security taxes under the Self-Employment Contributions Act (SECA).

Caution: The departments engaging the service provider have primary responsibility for independent contractor review, and may be held financially responsible for any taxes, interest, or penalties due to misclassification.

Temporary Employee Services: A temporary employee is an individual who provides services to the University on an irregular or occasional basis. These services are provided on a substitute basis for activities normally performed by a University employee. Examples include:

1. Physicians who provide temporary coverage (weekend, etc.) for clinical activities are considered temporary employees not independent contractors.
2. Individuals who have academic appointments and provide non-clinical services such as lecturing or teaching on a sporadic or minimal basis are considered temporary employees not independent contractors.
3. Individuals who provide services normally performed by exempt or non-exempt staff for no more than six months in a calendar year are considered temporary employees not independent contractors.

All temporary employees must be approved by Human Resources and paid through the University's Payroll Department.

Present and Former Employees: If the service provider you wish to hire is a present or former University employee (paid through the University's payroll within the previous 12 months), or a current University employee he or she will usually be classified as an employee and not as an independent contractor. Contact Human Resources for approval and processing steps.

Students: Payment for services provided by University students will usually be classified as an employee and not as an independent contractor. Contact Human Resources for approval and processing steps.

SERVICES EXEMPT FROM INDEPENDENT CONTRACTOR REVIEW

Honoraria Payments: An honorarium is a payment that is primarily intended to confer distinction or to symbolize respect, esteem, or admiration. It is paid at the discretion of the University, is not a fee charged by a person being paid, and is not contractual in nature. Honoraria may be provided to individuals such as guest speakers or presenters who participate in Grand Rounds, educational, scientific, clinical meetings, events, or projects. The value of an honorarium is not related to the performance of service.

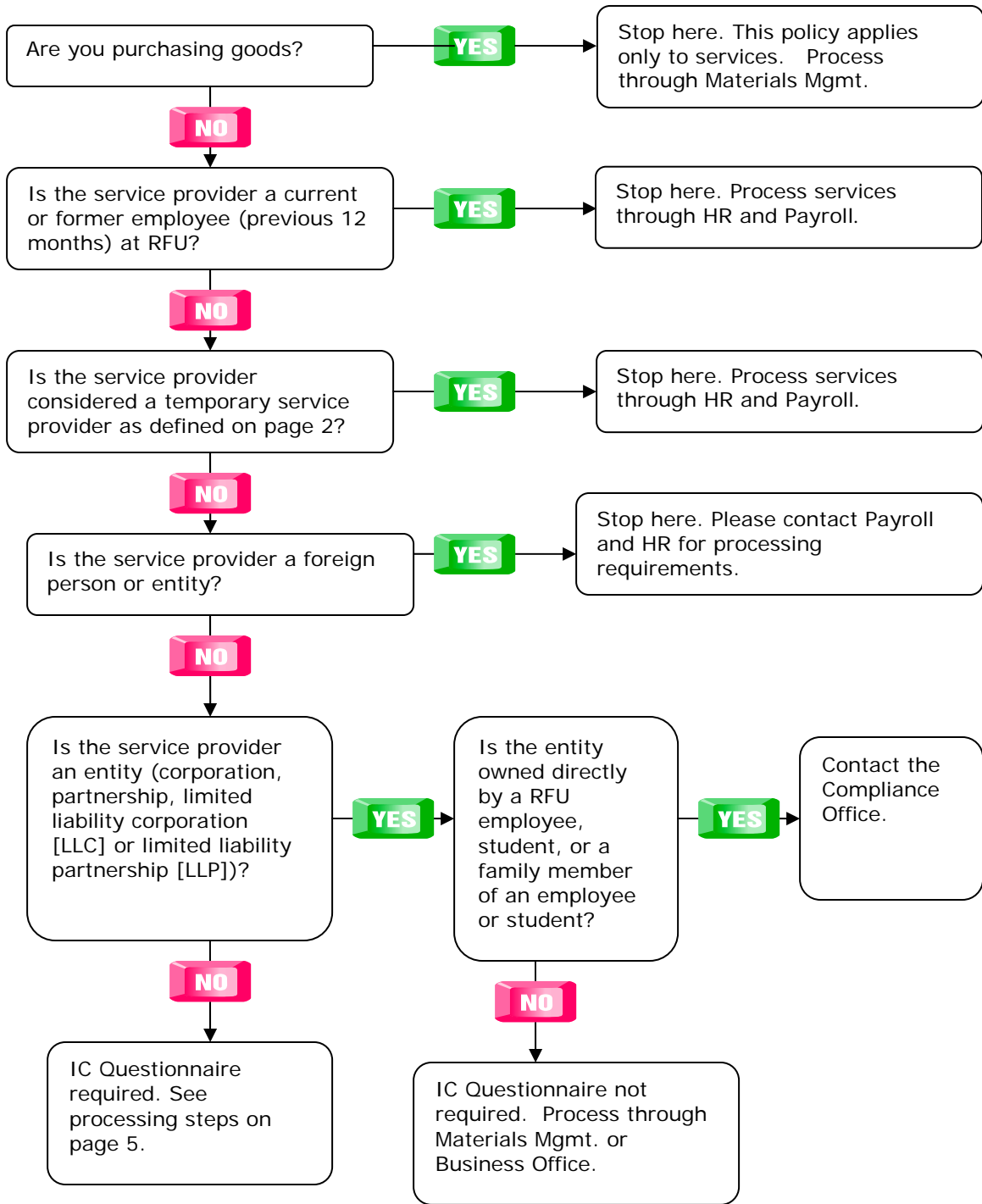
Honorariums are exempt from independent contractor review and can be paid via a check request through Accounts Payable; however a signed W-9 Form is typically required from the service provider.

Subject Fees: Subject fees are paid to individuals for voluntary participation as subjects in research projects. Subject fees are not considered payments for services, and are exempt from independent contractor review. Subject fees can be paid via a check request through Accounts Payable; however a signed W-9 Form is required from the participant.

Low Dollar Services Providers: If a service provider's total fee paid by the University is not greater than \$600 for the calendar year, payment can be processed via a PO or check request with no further independent contractor review required. A signed W-9 is typically required from the service provider. However, service providers who perform teaching or lecturing services are generally paid as employees.

DETERMINING SERVICE PROVIDER STATUS

The flowchart below is designed to assist in the determination of how a service provider will be paid.



Caution: Review the flow chart (above) before proceeding.

PROCESSING STEPS

Prior to engaging a service provider, the method of payment must be determined. The forms must be signed and approved **prior to** the services provided. If after answering the questions outlined in the preceding flowchart, an Independent Contractor review is required, the process for procuring independent contractor services generally requires a **minimum of two** separate forms:

1. **Independent Contractor Checklist** (see *Forms*): the department completes this checklist based on information obtained from the service provider. This checklist is used to evaluate the service provider's classification as either an independent contractor or employee. Based on the Independent Contractor Checklist and considering the IRS Guidelines, if the service provider is deemed not to be an independent contractor, then consult with the Human Resources Department to put the service provider on the payroll as an employee.
2. If the service provider qualifies as an independent contractor, the department should complete either:
 - a. **Guest presenter form** if services are for guest presenters,
 - b. **Purchase order** and procure the services through Materials Management, or
 - c. If the services cannot be procured through a Purchase Order then a **written contract** that documents the terms and conditions by which the independent contractor is hired. If a written contract is not provided then the University's **professional services agreement** (see *Forms*) should be used.

The Procurement Card cannot be used to pay for Independent Contractors services.

If it is not clear which category a service provider falls into, contact the Business Office or Human Resources for assistance. The Business Office and Human Resources have the authority to override a department's decision to classify a service provider as an independent contractor in order to ensure consistency throughout the University.

EXPENSE REIMBURSEMENT FOR INDEPENDENT CONTRACTORS

The payment for the fee for service must be made using a PO/Written Contract and the independent contractor may receive a Form 1099 from the University. However, the payment of related travel expenses may be handled in one of three ways:

- 1) Travel expense to be reimbursed in compliance with Rosalind Franklin University's Travel Policy and Procedures using a Travel Expense Report.

Original receipts are required for all travel expenses \$25 and greater. Any travel expense (\$25 or greater) that cannot be substantiated with an original receipt will be reported as taxable income. Meals are reimbursed at actual cost.

- 2) The amount of agreed travel expenses is included with the fee for service. No travel receipts are required. The full amount of the fee plus travel expenses will be reported on Form 1099 as taxable income to the lecturer/service provider. He/she should maintain original receipts as part of his/her business records.
- 3) A service provider may not wish to receive a fee and asks only for reimbursement of travel expenses. In this case, travel expenses will be reimbursed using a Travel Expense Report in compliance with Rosalind Franklin University's Travel Policy and Procedures. Original receipts are required for all travel expenses \$25 and greater. Any travel expense (\$25 or greater) that cannot be substantiated with an original receipt must be paid using a Check Request and will be reported as taxable income.

Employees of Rosalind Franklin University should not personally incur travel expenses on behalf of lecturers or independent contractors and expect to be reimbursed.

Prepaid Airline Tickets: Independent contractors should make their own airline reservations, pay for their tickets, and then request reimbursement from the University. Departments may also prepay travel for University guests. To purchase a prepaid airline ticket, the Department must process a Travel Approval Request Form before the purchasing. If the lecture or independent contractor arrangement is canceled, it is the Department's responsibility to make sure that the prepaid ticket is canceled and the money refunded.

RELATED DOCUMENTS

Document

Where to Obtain

Fair Labor Standards Act	http://www.dol.gov/dol/compliance/comp-flsa.htm
IRS Revenue Ruling 87-41	www.irs.gov
IRS Pub 1779: Employee Independent Contractor Procedures	www.irs.gov
IRS SS 8: Determination of Status Various Sponsor Guidelines	www.irs.gov
Independent Contractor Checklist	Link to Form
Professional Service Agreement	Link to Form

Appendix: Common Law Rules

The classification of a worker as an employee or independent contractor turns on the application of the so-called "common law" rules. These rules focus on the degree of control the employer exercises (or has a right to exercise) over the worker and the degree of independence of the worker. The employment tax regulations describe this rule as follows:

Generally such relationship [of employer and employee] exists when the person for whom the services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. In this connection, it is not necessary for the employer to actually control or direct the manner in which the services are performed; it is sufficient if he/she has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work to the individual who performs the services.

In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he/she is an independent contractor. An individual performing services as an independent contractor is not as to such services an employee under the usual common-law rules.