

College Operating Procedures (COP)



Procedure Title: Independent Contractors
Procedure Number: 04-0107
Originating Department: Office of Financial Services

Specific Authority:

Board Policy 6Hx6:5.02
Florida Statute 287.057, 1001.65, 1012
Florida Administrative Code 6A-14.041, 6A-14.0734

Procedure Actions: Adopted: 03/09; 09/10; 08/02/2021

Purpose Statement: To distinguish between professional services rendered to the College by individuals, corporations, and other business entities versus employees of the College.

Guidelines:

An independent contractor is broadly defined as an individual or organization contracted to perform a particular service whereby the person who does the work exercises a greater degree of control and direction than does the College over the manner in which the job is done. Individuals performing services for the College under conditions whereby the College exercises a greater degree of control and direction are treated as employees for tax withholding and reporting purposes. Independent contractors that are not incorporated are issued IRS Form 1099 with the amount paid for services.

This procedure applies to all professional services payments to independent contractors, including honoraria and reimbursements for travel, meals, and lodging. Professional services include the following types of activities:

1. Guest lectures, speeches, and presentations
2. Consultant services by individuals, partnerships, and corporations
3. Performances
4. Special purpose programs where the fee is based in part on attendance
5. Other services performed by nonemployees

Procedures:

I. General Requirements

- A. In order to determine whether a service provider is an employee or an independent contractor an Employee/Independent Contractor Determination Checklist, [Form BO-006](#), containing the questions that are considered as relevant facts by the IRS must be completed by the requesting department and forwarded to the Office of Financial Services for approval.

- B. The College infrequently enters into short-term agreements with individuals who are incoming employees with a start date in the near future, or separating employees who typically are finishing up a project or otherwise assisting in the transition to a new hire. Since these engagements may be established as transitional positions prior to becoming an employee or independent contractor the Checklist must be completed.
- C. If the relationship between the College and the provider of the service or product does not clearly meet all of the consultant/independent requirements, the individual must be hired as a College employee. The Office of Human Resources will consult with the department and will provide other options available to employ the individual.
- D. Any exception to this policy requires approval of the Vice President of Operations/CFO, and may necessitate a review by legal counsel.

II. Contractual Requirements

- A. Upon completion and certification of the checklist by the Office of Financial Services the requesting department must prepare an Independent Contract Agreement, [GC-03/BO-041](#) (Form BO-041 is still being used) and obtain the appropriate signatures.
- B. The signed contract and IRS Form W9 should be submitted when a purchase requisition is entered into Banner via the Portal.

III. IRS Requirements

- A. All individuals, partnerships, and corporations receiving independent contractor payment(s) must have a W9 on file with the College before any payment can be made.
- B. For tax reporting purposes, an independent contractor may not designate his or her fee to be paid to a charitable organization. Payment for services must be made to the individual or organization contracting to provide the service.
- C. On an annual basis the College will issue a 1099 tax form for the amounts paid to the provider for income tax purposes.
- D. If the service provider is a nonresident alien a Data Collection Form, [Form BO-008](#), must be filled out in order to obtain information necessary to determine whether the College may make a payment to the provider given their current immigration status. If a determination is made that the provider may offer their services to the College they shall be paid through payroll with the applicable withholdings applied to their payments. If the provider wishes to claim exemption from U.S. income taxes because their country of permanent residence has a tax treaty with the United States, they must attach either IRS Form 8233 for personal services (Exemption from withholding for Compensation on Independent Personal Services of a Nonresident Alien Individual).

IV. Exceptions

- A. The Checklist is not required if related expenses are being reimbursed. Original receipts totaling the expense reimbursement amount are required.
- B. Corporations, partnerships, or other business entities with an employer identification number (EIN), athletic officials functioning under the NCAA or similar rules, or individuals performing external peer review services as part of a program or departmental accreditation can be hired as independent contractors without the determination of independent contractor status.

V. Conflict of Interest

Any potential conflict of interest must be evaluated by the College's General Counsel and should be indicated on form [BO-037](#) when submitting contracts.