
INDEPENDENT CONTRACTOR SERVICES

Purpose:

To establish policy for the contracting of independent services.

Additional Authority:

Idaho Code §67-5726

[IRS "20 Questions" Guidelines](#)

Scope:

Applies to all university agreements with independent contractors.

Responsible Party:

Finance and Administration, 426-1200

Definitions:

Employee—a firm or individual who is responsible to the University for the results of certain professional or highly technical advice or assistance under terms of an engagement, but is subject to the University's control as to the means and methods of accomplishing those results.

Independent contractor—a firm or individual who is responsible to the University for the results of certain professional or highly technical advice or assistance under terms of an engagement, but is not subject to the University's control as to the means and methods of accomplishing those results.

POLICY

I. Policy Statement

Significant legal consequences and penalty assessments may result if an individual who meets the legal definition of an employee is erroneously hired as an independent contractor. The University may be audited at any time to determine appropriate use of independent contractors. This policy is intended to ensure that independent contractors are appropriately classified as such.

II. Overview

- A. When the University requires special skills for a limited period of time, such services can be obtained from an independent contractor. However, the person or firm providing the services must satisfy certain

requirements as an independent contractor. If the listed criteria are not met, the individual must be hired as an employee and paid through the university payroll system.

- B. State law prohibits the University from retaining its current employees as independent contractors. Former state employees (including former university employees) cannot serve as independent contractors for services related to their previous jobs for at least thirty days after their last day of employment.
- C. An agreement for consulting services in connection with a grant/sponsored project may be entered into when a contract or grant authorizes such consulting services. The university management may determine that the services are so urgent, special, temporary, or highly technical that they cannot be performed economically or satisfactorily by existing university personnel during the normal course of the personnel's duties.
- D. The contracting department must determine employment or contractor status, and a written agreement must be completed, before services are rendered.

III. Independent Contractors

- A. An individual or firm who is providing contracted independent services to the University will be free from the control or direction of the contracting department over the performance of those services, both under the contract and in fact. If the contracting department wishes to directly exercise control over the performance of services it should commit an employee to providing those services.
- B. An individual or firm whose services have been contracted by the University should not look to the University as the source of benefits in cases of illness or injury, or when the contract terminates.
- C. If the individual or firm whose services have been contracted by the University has employees or assistants who will do work under the contract, the contractor must submit proof of unemployment compensation insurance and Workers' Compensation coverage for the employees. This proof must be filed with the agreement. A sole proprietor or working partner of a partnership that does not have employees may elect to apply for an exemption from Workers' Compensation, or pay for coverage at his or her own expense. However, they must acknowledge, in writing, that they are not entitled to benefits from the University in case of illness or injury, or when the contract expires.

IV. Examples of Independent Contractors

- A. The following categories of individuals or firms and types of services are generally qualified to serve as independent contractors (who are not faculty, staff or student employees):
1. Architects, engineers and other professional persons or firms operating established businesses offering services to the public.
 2. Artists, entertainers, musicians, or photographers who perform short-term engagements for multiple clients.
 3. Persons who maintain a home occupation for a particular talent or training and will perform similar services for the University.
 4. Physicians, dentists, lawyers or other professional persons who maintain independent private practices, including off-campus clinics or sole practitioners providing clinical training and supervision for students at their places of business.
 5. Speakers for short-term courses or workshops or other non-credit lecturers who maintain some independent related business or occupation.
 6. Auditors, appraisers, arbitrators, evaluators, referees, test proctors, etc.
 7. Cooperating teachers for student teachers in off-campus school locations who are not also Boise State University faculty or administrators.

V. Competitive Selection

- A. The contracting department must maintain records that provide justification for the contractor's selection and the basis for cost.
- B. Independent contractor services are usually procured through negotiation with potential suppliers. However, procurement must be competitive to the maximum extent practicable, and must follow [BSU Policy #6130 "Purchasing."](#)

VI. Procedure

- A. If an individual or firm does not meet the independent contractor definition they must be hired as an employee and paid through the university payroll

system following appropriate rules and regulations. All current employees of the University must be paid as employees through the university payroll system.

- B. To secure the services of an independent contractor, review the [Independent Contractor Checklist](#), located on the University Forms and Documents website, for the appropriate process.