



Policies and Procedures for Classifying and Paying Independent Contractors

The Internal Revenue Service requires the university to properly classify Independent Contractors. These policies and procedures identify the steps, documents, and processes to use to ensure proper classification of and subsequent payment to Independent Contractors.

(213) 740-2281

www.usc.edu/disbursement

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INTRODUCTION AND PURPOSE

It is important for the university to properly classify Independent Contractors. Unlike employees, Independent Contractors do not have employment taxes withheld and are not eligible for university benefits. If an individual is misclassified as an Independent Contractor and should have been hired as an employee, the university/department could be assessed fines by the IRS and/or be required to pay damages to individuals. It is critical for USC managers intending to engage an Independent Contractor to comply with these policies and procedures.

STEPS, FORMS, AND PROCESSES

Charted below are steps for classifying and the documents and processes required for paying Independent Contractors. Noted are the different requirements for Independent Contractors paid using sponsored project accounts.

The information contained herein only applies to Independent Contractors who are U.S. citizens and permanent residents. Procedures may differ for non-resident aliens. For instructions on processing payments to non-resident aliens, departments should contact their Home Department Coordinators or Payroll Services ([Appendix A](#)).

Steps for Classifying and Documents/Processes for Paying Independent Contractors		
Step 1 Optional	<ul style="list-style-type: none"> ✓ Complete <u>Checklist: Employee vs. Independent Contractor Status</u> ✓ Proceed to Step 2 if <u>Checklist</u> indicates Independent Contractor status OR ✓ Do not proceed if <u>Checklist</u> indicates employee status 	Section 1.2
Step 2 Optional	<ul style="list-style-type: none"> ✓ Submit <u>Checklist</u> to Disbursement Control (recommended). OR ✓ Retain <u>Checklist</u> within department 	Section 1.2
Step 3 Required	<ul style="list-style-type: none"> ✓ Complete <u>Independent Contractor Agreement</u> ✓ Obtain <u>Agreement</u> signature from Independent Contractor ✓ Obtain <u>Agreement</u> signature from responsible USC manager 	Section 1.3
Step 4 Required for SPA Only	<ul style="list-style-type: none"> ✓ Submit <u>Independent Contractor Agreement</u> and a Resume or Curriculum Vitae to the Department of Contracts and Grants for allowability (stamp + signature) before sending to Disbursement Control 	Section 1.5
Step 5 Required	<ul style="list-style-type: none"> ✓ Submit <u>Independent Contractor Agreement</u> to Disbursement Control for contract signing. The signed <u>Agreement</u> will be retained within Disbursement Control and attached to applicable <u>Checklist</u> and the first Check Request 	Section 1.3
Step 6 Required	<ul style="list-style-type: none"> ✓ Submit a Check Request for each Independent Contractor payment to Disbursement Control OR ✓ Submit Requisition to Purchasing Services (for large projects) 	Section 2.1
Step 7 If applicable	<ul style="list-style-type: none"> ✓ Attach any applicable invoices and/or California Tax Withholding Exemption Certificates to Check Request or Requisition (in Step 6) 	Section 3.1
Step 8 If applicable	<ul style="list-style-type: none"> ✓ Submit any applicable travel/meal/supply related reimbursements via a Check Request/report of expenses or WEBBA QE to Disbursement Control 	Section 2.3
Step 9 If applicable	<ul style="list-style-type: none"> ✓ Complete any applicable <u>Amendments</u>, if changes are made to original <u>Agreement</u> ✓ Follow steps 3-5 for Amendment signing, including additional step for SPA accounts 	Section 1.6
Disbursement Control PSB 100 MC 1984	Purchasing Services UPC: PSB 100 MC 1921 HSC: PMB C200 MC 9045	Contracts and Grants UPC: STO 330 MC 1147 HSC: CSC 219 MC 9074

POLICIES AND PROCEDURES FOR CLASSIFYING AND PAYING INDEPENDENT CONTRACTORS

SECTION 1

DEFINITION, CHECKLIST, AGREEMENT, AMENDMENTS, AND RESOURCES

1.1 INDEPENDENT CONTRACTOR DEFINITION AND COMMON EXAMPLES

For guidance purposes, an Independent Contractor is an individual who is not on university payroll, has not been on payroll within the current calendar year, receives payment from the university documented by issuance of an IRS Form 1099, and meets the following conditions.

- Offers similar services to the general public on a consistent basis
- Provides services through a written contract (i.e., the university's Independent Contractor Agreement)
- Renders a service to the university for a specified amount of compensation for a specified result
- Performs services for which the university does not control the methods used to obtain the results

Below are examples of the most common types of Independent Contractors used by the university.

Consultant
A <u>Consultant</u> is an individual who provides professional or technical advice, opinions, or services to the university for a fee. Example: expert, advisor, trainer, editor/writer, referee, judge, translator, interpreter, screenwriter, proposal writer, etc.
An Academic Guest Speaker
An <u>Academic Guest Speaker</u> is an individual who possesses specific knowledge and who receives payment for an academic presentation. Example: academic seminar presenter, lecture series presenter, etc. Note: An Academic Guest Speaker who is the Instructor of Record is not an Independent Contractor. Instructors of Record are faculty and are classified as employees (<u>Appendix A</u>)
Performer
A <u>Performer</u> is an individual who provides entertainment to the university for a fee. Example: singer, DJ, band, juggler, magician, comedian, motivational speaker, speaker, etc. Note: Some performers are paid via an agency (as opposed to a direct payment to the performer). Most agencies are suppliers and need to be established and paid via Purchasing Services (Section 1.9).

1.2 CHECKLIST TO ENSURE PROPER CLASSIFICATION

Proper classification is important and is in the best interest of the department and university. Therefore, the responsible USC manager should complete the university's Checklist: Employee vs. Independent Contractor Status prior to engaging an individual (Forms and Documents: www.usc.edu/disbursement).

Completing the Checklist accurately is important and is the responsibility of the USC manager requesting the engagement. An employee who intentionally provides false information will be subject to disciplinary action, up to and including termination. Departmental budgets are financially responsible for the settlement of any resulting disputes.

The Checklist contains questions and a corresponding 'answer key' that will indicate to departments (at time of Checklist completion) whether the individual can be classified as an Independent Contractor. The chart below explains what steps to take, depending on the Checklist's outcome.

Next Steps Based on Checklist Outcome		
If Checklist Outcome is "Unclear"	If Checklist Outcome is "Independent Contractor"	If Checklist Outcome is "Employee"
<p>The department can contact Disbursement Control for assistance with classification.</p> <p>Whenever in doubt, the individual should be classified as an employee, even if the individual requests to be established as an Independent Contractor.</p>	<p>The individual can be engaged in an <u>Independent Contractor Agreement</u>.</p> <p>It is recommended that the <u>Checklist</u> be submitted to Disbursement Control.</p> <p>As an alternative, the <u>Checklist</u> can be retained within the department.</p>	<p>The Individual <i>cannot</i> be engaged in an <u>Independent Contractor Agreement</u>.</p> <p>Instead, the individual must either be hired as an employee or temporary agency staff.</p> <p>If the department disagrees with the <u>Checklist's</u> outcome, the <u>Checklist</u> (with an explanation) should be submitted to Disbursement Control for review.</p>

1.3 INDEPENDENT CONTRACTOR AGREEMENT

After the Checklist has indicated that the individual is an Independent Contractor, follow the steps below to prepare an Independent Contractor Agreement (Forms and Documents: www.usc.edu/disbursement).

- Complete Independent Contractor Agreement
- Obtain Agreement signature from Independent Contractor
- Obtain Agreement signature from responsible USC manager
- If applicable, submit Independent Contractor Agreement and a Resume / Curriculum Vitae to the Department of Contracts and Grants for allowability (stamp) before sending to Disbursement Control (Section 1.5)
- Submit Independent Contractor Agreement to Disbursement Control for contract signing. The signed Agreement will be retained within Disbursement Control and attached along with the Checklist to the first Check Request.

1.4 ESTABLISHING INDEPENDENT CONTRACTOR WITH USC VENDOR CODE

Once Disbursement Control receives the Independent Contractor Agreement, the Independent Contractor will be assigned a USC Vendor Code (if one does not already exist). Once an Independent Contractor has been established in the university's supplier database and assigned a USC Vendor Code, Section 1 of future Independent Contractor Agreements can be left blank (Section 1.3). On a biennial basis, Purchasing Services will request from the Independent Contractor an updated Section 1. Independent Contractors who do not respond to the university's request will be removed from the university's system. Once the Independent Contractor is removed from the system, the department will need to complete Section 1, along with all other Agreement components in order to use the Independent Contractor again.

1.5 INDEPENDENT CONTRACTORS ON SPONSORED PROJECT ACCOUNTS

Some Sponsored Project Accounts (e.g. the National Science Foundation) limit the daily rate that can be paid to an Independent Contractor. For this and other reasons, payment requests to Independent Contractors on Sponsored Project Accounts require review for allowability by the USC Department of Contracts and Grants (Appendix A). Once the Agreement has been signed and stamped by Contracts and Grants, the Agreement can be sent to Disbursement Control.

1.6 AMENDMENT TO INDEPENDENT CONTRACTOR AGREEMENT

Any subsequent changes to an Independent Contractor Agreement must be supported by a written Amendment (Forms and Documents: www.usc.edu/disbursement). An Amendment needs to be signed by the Independent Contractor, responsible USC manager, and, if on a sponsored project account, Contracts and Grants. The Amendment then needs to be submitted to Disbursement Control for final signing. The Amendment will be retained by Disbursement Control and attached to the subsequent Check Request.

1.7 DISBURSEMENT CONTROL RESOURCE

Departments who have questions about Independent Contractors should contact Disbursement Control, as Disbursement Control has dedicated Independent Contractor experts. Disbursement Control will work on behalf of departments with Payroll Services, Purchasing Services, Contracts and Grants, etc.

Note: All Independent Contractor documents submitted to Disbursement Control (Checklist, Agreements, Amendments, Invoices, Check Requests, etc.) can be viewed as an Image in [WEBBA.CHECK.I](#).

1.8 NON-RESIDENT ALIENS INDEPENDENT CONTRACTORS

All payments to Independent Contractors who are non-resident aliens must be submitted to Payroll Services (Appendix A) for review before payment can be made. This includes Check Requests for Independent Contractor expense reimbursements. The regulations set by the Internal Revenue Service (IRS) and U.S Citizenship and Immigration Services (USCIS) that affect employees who are non-resident aliens also affect Independent Contractors who receive payments, prizes/awards, and/or reimbursement for expenses.

1.9 OTHER TYPES OF PAYEES

The university issues payment to many other types of payees. Two common examples are provided below. Note that these payees require different types of payment forms.

- INDIVIDUALS -- Human subjects, prize and award recipients, and standardized medical patients are paid following the guidelines in the University's Expenditure and Travel Policies and Procedures (Appendix A). Do not complete a Checklist or Independent Contractor Agreement to pay these types of individuals.
- SUPPLIERS – All suppliers are established via a Supplier Application Form, paid according to the university's Purchase Order Terms and Conditions, and are subject to different insurance and licensing requirements than Independent Contractors (Appendix A). Generally, caterers, designers, equipment repairers, and photographers are suppliers, even if they are sole proprietors, as they are subject to food licenses, additional insurances, permissions to replicate the university seal, etc. Do not complete a Checklist or Independent Contractor Agreement to pay suppliers.

**SECTION 2
STEPS FOR PROCESSING PAYMENT TO INDEPENDENT CONTRACTORS**

2.1 WEBBA PAYMENT PROCESSES

The Check Request process ([WEBBA.FORM.CHK.U](#)) should be used to prepare payments to an Independent Contractor. Check Requests are sent to and paid by Disbursement Control.

A Check Request should be prepared for each individual payment. Invoices, if applicable, should be sent by the Independent Contractor to the department that engaged the individual. The department should subsequently attach any applicable invoice to the Check Request.

At the department’s discretion, the Requisition process, including Blanket Requisitions ([WEBBAP.REQ](#) – paperless or [WEBBA.FORM.PO.U](#) paper) can be used in lieu of the Check Request process. The Requisition process may be more practical in the following scenarios.

- For large projects for which funds need to be encumbered
- When the department expects multiple Amendments to be made to an Agreement
- When a significant number of payments to a single Independent Contractor are projected

Requisitions are processed through Purchasing Services (*Appendix A*). Both Purchasing Services and Disbursement Control are part of Business Services and are located within the same office.

Once Disbursement Control is in possession of the Checklist (Section 1.2), the Independent Contractor Agreement (Section 1.3), and any applicable tax exempt certificates (Section 3.1), there is no need to provide these documents again to Disbursement Control.

2.2 OBJECT CODES FOR INDEPENDENT CONTRACTOR SERVICE PAYMENTS

Object Codes for Independent Contractors			
15410 if less than 25K if using a SSN	15420 if more than \$25K if using an SSN	15430 if less than 25K if using a Federal Tax ID	15440 if less than 25K if using a Federal Tax ID
15310 if subcontract and less than 25K		15320 if subcontract and more than \$25K	

2.3 OUT OF POCKET REIMBURSEMENTS

Independent Contractors who are eligible via their Independent Contractor Agreement for reimbursements (e.g. for travel, meals, and supplies) can claim their out-of-pocket expenses in one of the three (3) ways charted below. The Independent Contractor’s reimbursable amounts are up to the limits identified in the Independent Contractor Agreement or the University Expenditure and Travel Policies and Procedures, whichever are lower (Maximum Rates: www.usc.edu/disbursement).

Options for Claiming Expenses					
Process Options	Itemizations	Attachments	Payment	1099 Reporting	
1	Expenses reported in <u>same</u> Check Request (or Invoice Against a PO) as payment for services	Expenses separately itemized on an Expense Report within same Check Request	All required receipts attached Business purpose provided	Produces <u>one</u> payment to include both service and reimbursement	USC will only report service payment portion to IRS via <u>Form 1099</u>
2	Expenses reported in a <u>separate</u> Check Request / WEBBA QE (or Invoice Against a PO) from payment for services	Expenses itemized on an Expense Report	All required receipts attached Business purpose provided	Produces <u>two</u> <u>payments</u> , one for service and one for reimbursement	USC will only report payment for services to IRS via <u>Form 1099</u>
3	Expenses reported in <u>same</u> Check Request (or Invoice Against a PO) as payment for services	No expenses itemized	No receipts attached	Produces <u>one</u> payment to include both service and reimbursement	USC will report the total amount (service and reimbursement) to IRS via <u>Form 1099</u>

Object Codes for Independent Contractor Reimbursements		
Domestic Travel 18100	International Travel 18200	Materials and Supplies 15100

2.4 ELECTRONIC DEPOSIT

For the most expeditious payments and reimbursements, Independent Contractors receiving more than one payment from the university should be established for Electronic Payment Deposits (Forms and Documents: www.usc.edu/disbursement).

**SECTION 3
TAX REPORTING / WITHHOLDING AND INSURANCE REQUIREMENTS**

3.1 1099s AND CALIFORNIA INCOME TAX WITHHOLDING

Payments to Independent Contractors are subject to tax withholding and IRS Form 1099 reporting as charted below.

Tax Withholding/Reporting	Amount of USC Payment to Individual
Payment reported to IRS via <u>Form 1099</u>	If \$600 or more in a calendar year
7% California Income Tax Withholding if Non-California Resident and if Service was Performed in California	If \$1,500 or more in a calendar year

Notes about withholding and reporting:

- Tax withholding and IRS Form 1099 reporting requirements are clearly articulated in the Independent Contractor Agreement (Section 1.3).
- California non-residents who are exempt from the 7% income tax withholding must complete a California Withholding Exemption Certificate Form 590 (Forms and Documents: www.usc.edu/disbursement). This Certificate must be submitted with the first Check Request or invoice if on Purchase Order (Section 2.1). It is only necessary to submit this Certificate with the first payment.
- Information contained in Section 1 of the Independent Contractor Agreement is all that the university needs to properly report and/or withhold income. For example, Section 1 requires a Social Security number or Federal Tax ID, a location where the work is performed (in or outside of California), and a permanent residence (in or outside of California).

3.2 INSURANCE REQUIREMENT

An Independent Contractor will be required to maintain the following insurance coverage at the Independent Contractor's own expense. It is the Independent Contractor's responsibility to ensure that the required insurance remains in effect for the entire duration of the awarded contract. If requested by the university, it will be the Independent Contractor's full responsibility to provide the university with evidence of the required insurances.

Insurance Requirements for Independent Contractors
Independent Contractors driving their own company car (e.g. a non personal car) at or for the university will be required to have coverage for Bodily Injury and Property Damage with the combined single limits of \$1,000,000 each occurrence.

Additional insurances are required for construction and architectural related Independent Contractor work. These requirements can be obtained from Purchasing Services (Appendix A)

APPENDIX A - REFERENCES

The following departments are referenced throughout these policies and procedures.

Business Services

- **DISBURSEMENT CONTROL**

www.usc.edu/disbursement

The Department of Disbursement Control has dedicated resources to help departments with Independent Contractor Classifications and Payments. Contact Dorothy Jackson at (213) 740-2710 or djackson@usc.edu. Disbursement Control also administers the Expenditure and Travel Policies and Procedure, which includes instructions on how to pay other types of Individuals (e.g. human subject fees, prizes and awards, etc.) For general information, contact Disbursement Control at (213) 740-2281.

- **PURCHASING SERVICES**

www.usc.edu/purchasing

The Department of Purchasing Services purchases goods and services for the university, including agreements with temporary agencies. Purchasing Services also administers the Supplier Application Form, Purchase Order Terms and Conditions, and the Purchasing Policies and Procedures. Contact UPC Purchasing Services at (213) 740-9794. Contact HSC Purchasing at (323) 442-1655.

Administration

- **PERSONNEL SERVICES**

<http://www.usc.edu/adminops>

Personnel Services works closely with Disbursement Control to assist departments in correctly classifying Independent Contractors. Personnel Services also assists the university with determining when a temporary agency can be used. Contact UPC Personnel Services at (213) 437-1811. Contact HSC Personnel Services at (323) 442-1010.

Employee Definition
An <u>employee</u> is an individual who works for the university for compensation and is required to comply with employer instructions about when, where, and how he or she is to work. There are (3) three categories of employees at the university: faculty, staff and students. Faculty and staff who work 50% or more eligible for university benefits.
Temporary Agency Staff Definition
Any position which requires staffing at less than 50% time or which is temporary in nature (less than six {6} months) must be filled by individuals paid through a <u>temporary employment agency</u> . Employees of a temporary agency are not university employees and are not eligible for university benefits. The university department pays the agency a set hourly rate that includes the direct salary plus agency benefits and administrative costs. Temporary Agency costs are charged to Material and Supplies (Object Code 15460).

- **CONTRACTS AND GRANTS**

<http://www.usc.edu/dept/contracts/>

The Department of Contracts and Grants assist in determining the allowability of Independent Contractors on sponsored project accounts. Contact UPC Contracts and Grants at: (213) 740-6071. Contact HSC Contracts and Grants at (323) 442-2398.

Finance

- **PAYROLL SERVICES**

<http://www.usc.edu/payroll>

Payroll Services assists departments with Independent Contractor payments to non-U.S. citizens and non-green card holders. Contact UPC Payroll Services at: Phone: (213) 740-8855. Contact HSC Payroll Services at: Phone: (323) 442-2775.