

RASP Brownbag: Independent Contractors

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Administrative policy regarding independent contractors

- University Policy 3342.6-04.3
 - <https://www.kent.edu/policyreg/administrative-policy-regarding-independent-contractors>
- Ohio Administrative Code 3342-6-04.3
 - <https://codes.ohio.gov/ohio-administrative-code/rule-3342-6-04.3>

What is an independent contractor?

- **An individual who:**
 - performs a service for the university
 - is free from immediate control or direction in the performance of his or her work under a contract of service (retains control over how work is done)
 - has a skill or area of expertise not available within the university
- **The university's need for their services should not extend beyond six months**

Who cannot be an independent contractor?

- Current employees cannot serve as independent contractors
 - Recommended: Ask all potential independent contractors if they are current employees.
- Past employees cannot serve as independent contractors during the calendar year when they were employees performing the same/similar duties

How do departments engage the services of an IC?

First things first...

Human resources, in consultation with general counsel, will approve or deny requested independent contractor employment agreements.

HR approval must be obtained before contracts are signed, before the work is done, before anything is submitted for payment.

Step 1: Contract

- **ICs should have their own contracts**
- **If the IC does not have a contract, use:**
 - Professional Services Agreement OR Invitation Speaker Letter
 - Both found on HR's IC website: <https://www.kent.edu/hr/independent-contractor>
- **Have the Office of General Counsel (contracts@kent.edu) review:**
 - IC-provided contracts
 - All changes to the KSU-provided agreement or invitation letter
 - IC agreements for individuals outside the US

Step 1: Contract

- **Do not sign the contract at this point**
- **Be aware of who can and who cannot sign contracts**
 - University policy 5-04 states that “contracts and agreements including lease agreements negotiated on behalf of the university must be authorized by the president, a vice president or the board.”
 - Delegated contract signing authority
 - Must have a letter on file with Office of General Counsel
 - Delegation letters expire if officer leaves the university
 - If you are not one of the above-listed officers or not a delegated signer you cannot sign a contract
- **Contracts must have a wet signature or be signed via a secure digital signing platform (e.g., DocuSign)**

Step 2: Federal Tax Classification

- Obtain the IC's federal tax classification

- Tax classification is most commonly found on vendor's W9
 - It is not necessary to collect the W9 (it will be collected in PaymentWorks)
 - If you do collect a W9, do so through secure means such as encrypted email
- If the vendor is classified as an individual/sole proprietor or single-member LLC, go to Step 3

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

<input checked="" type="checkbox"/> Individual/sole proprietor or single-member LLC	<input type="checkbox"/> C Corporation	<input type="checkbox"/> S Corporation	<input type="checkbox"/> Partnership	<input type="checkbox"/> Trust/estate
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- If the vendor is classified as anything else, contract can be signed, proceed to Step 4

Step 3: Human Resources Review

- HR review must be performed for every new agreement/contract.
- **Complete the Independent Contractor Determination Form**
 - <https://solutions.kent.edu/IndependentContractor/>
 - This is completed by the department, not the IC
 - Resources to have on hand while completing form
 - IC's SSN – If IC does not want to provide this to the department:
 - Initiate PaymentWorks onboarding (Step 4)
 - Enter nine 1s in the IC workflow's SSN field
 - Contact Compensation (compensation@kent.edu) for further instructions
 - IC's birth date – IC should be 18 years of age or older
 - Unsigned agreement/letter
- **HR will send an email once review has been complete and an approval or denial decision has been reached**

Step 4: PaymentWorks

- **PaymentWorks is the university's vendor onboarding and management system**
 - It is NOT a payment portal
- **Secure portal for collection of business information (vendor legal name, tax IDs, filing statuses, payment preferences, addresses, contact names, etc.)**
- **Performs:**
 - TIN matching with the IRS
 - Sanction list reviews
 - Conflict of interest review
 - Bank validation (where applicable)
 - Ensures that we comply with university, state, and federal policy.

Step 4: PaymentWorks

- **What department or PI must do: Initiate a vendor invitation**
 - Instructions - <https://www.kent.edu/accountspayable/vendor-management>
- **What the IC must do:**
 - Create a username/password
 - Complete the registration form
 - Maintain address and banking information for all future payments
- **PaymentWorks will send an email to the initiator once the vendor has been fully onboarded**
 - Email will contain the Banner ID
 - The contract can be signed at this point
- **Questions can be sent to vendmgmt@kent.edu**

Step 5: OPERS PEDACKN form

- **Must be signed by IC within 30 days of start of service**
 - <https://www.kent.edu/accountspayable/pedackn1>
- **Form required under State of Ohio Senate Bill 342 Sec. 145.038**

Step 6: Payment

- **Once the services have been rendered and it is time to pay, attach the following to your payment request**
 - Payment Request Form
 - Copy of HR Independent Contractor Determination Email – required for every payment on the contract
 - Copy of full signed agreement/letter (must be signed by IC and appropriate university representative)
 - If paying multiple times off one contract, you may submit an invoice in lieu of contract for subsequent payments
 - PEDACKN – required only for first payment on a contract
- **If your payment request is being charged to a grant or cost share, it must be approved by Grants Accounting (grants@kent.edu)**

Questions?