I. PURPOSE
United States Federal and State law requires the University to properly classify its workers as either Employees or Independent Contractors. This policy and the accompanying checklist identify the steps, documents, and processes necessary to ensure proper classification of Independent Contractors.

II. ACCOUNTABILITY
At the direction of the President, the Senior Vice President for Finance and CFO shall implement this policy and the Senior Vice Presidents, Vice Presidents, Deans, Directors, Department Service Requestors and Supervisors shall ensure compliance with this policy.

III. APPLICABILITY
This policy applies to all Rowan University departments (Academic and Administrative) who wish to engage the services of an Independent Contractor who is not an employee of the University; those who opt to engage the services of an Independent Contractor must remain within the outlined margins of this policy.

IV. DEFINITIONS
A. Employee - a worker who is hired through Human Resources or the Office of the Provost, and paid under a W-2.
B. Independent Contractor - an individual or firm engaged in an established business, trade or profession who provides services to Rowan University and is paid using a Form 1099. An Independent Contractor is not an employee of the University; an independent contractor is a worker who: (a) is engaged in an independently established profession or business (b) provides a service outside of the University's usual course of business; and (c) is free from the University's control or direction when providing services. The criteria for determining whether or not a worker is an Independent Contractor is discussed in the policy section below.
V. REFERENCES
A. IRS Regulations - Independent Contractor Defined
B. State of New Jersey, Department of Labor - Employee or Independent Contractor
C. IRS Regulations - U.S. Tax Withholding on Payments to Foreign Persons
D. Publication 15-A Employer’s Supplemental Tax Guide
E. Publication 15, Circular E, Employer’s Tax Guide
F. Rowan University, Human Resources Department - Recruitment and Staffing

VI. POLICY
A. The University recognizes that departments often request the services of individuals who are not employees of the University, including consultants, guest lecturers, entertainers, suppliers, and others. It is important to correctly distinguish the differences between an Independent Contractor and an employee to ensure the appropriate compensation method and the applicable tax obligations.

B. Payments to Independent Contractors are processed through Accounts Payable. As such, an Independent Contractor is not an employee of the University and is treated differently than an employee with respect to tax withholdings, employee benefits, and payment methods.
   a. Please note that the University may not control or direct an Independent Contractor; the Independent Contractor performs work utilizing his/her own methods, and the means by which the work is accomplished is not controlled by the employer.
   b. Rowan employees are not considered Independent Contractors. Rowan employees are hired either through the Office of the Provost or the Office of Human Resources and paid through Payroll Services.

C. An Independent Contractor is an individual who meets the following criteria:
   1. Renders a service to the University for a specified payment amount for a specified result;
   2. Is engaged in an independently established profession or business (those who offer similar services to the general public on a consistent basis);
   3. Provides a service outside of the University’s usual course of business;
   4. Is not currently paid through University’s Payroll and has not been paid through Payroll within the current calendar year;
   5. Provides services through a written contract (namely, the University’s Service Agreement or another University-approved form of agreement, e.g. Speaker Agreement)
   6. Is free from University control or direction when providing services.
   7. Has clearly delineated, mutually agreed upon dates of service and/or agreed upon service schedule for a set fee.

D. As a general rule, an individual can be hired as an Independent Contractor only if all three of the following requirements are met:
   1. Minimal Direction: the worker is free from the employer’s control or direction in the performance of his/her work.
   2. Established Business or Trade: the worker is normally engaged in an independently established business or trade, which derives income from a number of clients including the University.
   3. Expertise: the work requires professional knowledge or professional expertise that is not generally available at the University.
E. How to identify and engage an Independent Contractor (IC):

1. The following includes all the steps a Service Requestor must take in order to properly identify and engage an Independent Contractor:
   a. The Service Requestor sends a Certification for Determination of Independent Contractor Status (Certification) and Request for Taxpayer Identification (i.e., W9 or W8) to the potential Service Provider to complete and return with supporting documentation.
   b. Once the documents are returned, the Service Requestor then reviews document and signs Section 4 of the Certification.
   c. The Service Requestor forwards to the Office of Human Resources (independentcontractor@rowan.edu) the following:
      - Completed Certification for Determination of Independent Contractor Status;
      - Completed W9/W8 Form; and
      - Other documentation as provided.
   d. The Office of Human Resources will review the submitted documentation for evaluation and determination of whether the Service Provider should be identified as an employee or as an Independent Contractor.

2. If the Office of Human Resources determines the Service Provider to be an employee, Human Resources will notify the Service Requestor who will complete the Special Assignment Contract. The Service Requestor obtains the following completed documents and forwards them to the Office of Human Resources:
   a. W-4 Form;
   b. Direct Deposit Form;
   c. Completed I9 form; and
   d. Copy of social security card.

3. In special situations, a current University employee or student may provide a service outside the scope of their normal position responsibilities. In these cases, the employee should still be paid through Payroll using either the Special Assignment Contract (Salary Voucher) or the Adjunct Contract.

4. If the Office of Human Resources determines the Service Provider to be an Independent Contractor
   a. Human Resources will forward the documentation to the Office of Contracting and Procurement (Procurement).
   b. Procurement will then notify the Service Requestor of the decision.
   c. The Service Requestor will create a requisition in Banner.
   d. The Service Requestor will forward to the Service Provider for completion the Independent Contractor Service Agreement By and Between Rowan University and Service Provider (Service Agreement) and request a Business Registration Certificate (BRC) from the Service Provider.
   e. Upon receipt of the completed Service Agreement and BRC, the Service Requestor will complete a Contract Approval Cover Sheet.
f. Once all documents are received by the Service Provider, they are to be emailed to contracts@rowan.edu.

g. All Independent Contractors are responsible for forwarding invoices to the Service Requestor with a copy to invoices@rowan.edu. If a contractor is unable to provide an invoice, they are responsible for completing and certifying the Independent Contractor Request for Payment form.

F. Paying Foreign Nationals and International Parties as Independent Contractors.

1. To ensure compliance with IRS regulations, prior to engaging a foreign national for services, the University must analyze the foreign party’s eligibility to work in the United States as well as the individual’s residency status for tax purposes.

2. Please review the IRS https://www.irs.gov/forms-pubs/about-form-w8 “U.S. Tax Withholding on Payments to Foreign Persons” to help plan engagements. Submission of a W8 form may be required.

3. Please review the Payroll website for more information on Foreign Tax Benefits.