

ROWAN UNIVERSITY POLICY

Title: *Independent Contractor Policy*

Subject: *Human Resources*

Policy No: *FIN: 2016:01*

Applies: *University-Wide*

Issuing Authority: *President*

Responsible Officer: CHRO/Vice President

Adopted: *04/01/2006*

Last Revision: *01/01/2018*

Last Reviewed: *01/01/2018*

I. PURPOSE

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

II. ACCOUNTABILITY

At the direction of the President, Chief Human Resources Officer 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 the Office of Human Resources (Human Resources) or the Office of the Provost (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 the fees are reported on the IRS Form 1099-MISC. 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.
 - 1. 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.
 - 2. Rowan employees are *not* considered Independent Contractors. Rowan employees are hired either through Human Resources or the Provost 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. Engages 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 Independent Contractor Service Agreement or another University-approved form of 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 \(Certification\)](#) to the potential Service Provider to complete and return with supporting documentation.
 - b. Once the Certification is returned, the Service Requestor reviews document and signs Section 4.
 - c. The Service Requestor forwards completed Certification to Human Resources (independentcontractor@rowan.edu).
 - d. 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 Human Resources determines the Service Provider to be an employee, Human Resources will notify via email the Service Requestor who will complete the [Special Assignment Contract](#). The Service Requestor obtains the following completed documents and forwards them to Human Resources:
 - a. IRS Form [W-4](#);
 - 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), Adjunct Contract, or through payroll in accordance with FLSA and collective bargaining agreements.
4. If Human Resources determines the Service Provider to be an Independent Contractor
 - a. Human Resources will notify the Service Requestor of the decision via email.
 - b. The Service Requestor will create a requisition in Banner.
 - c. If there is no vendor identification number for the Independent Contractor, one will need to be established through the Office of Contracting and Procurement. The Service Provider will need to submit both a [Business Registration Certificate \(BRC\)](#) and [IRS Form W-9](#) or [IRS Form W-8](#). For more information on establishing a vendor, please see <https://sites.rowan.edu/procurement/vendors/index.html>
 - d. The Service Requestor will forward to the Service Provider the [Independent Contractor Service Agreement](#) for completion.

- e. Upon receipt of the completed Service Agreement, the Service Requestor will complete a [Contract Approval Cover Sheet](#).
- f. Once all documents are received (including the email notification from Human Resources), the Service Provider will email them to contracts@rowan.edu
- g. All Independent Contractors are responsible for forwarding invoices to invoices@rowan.edu with a copy to the Service Requestor. 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](#).