

# Independent Contractor Procedure and Checklist

Any **individual** performing services for the College will be presumed to work under the direction and control of the College as an employee unless the individual meets the criteria for being an independent contractor as established within this procedure and provides a completed [substitute form W-9](#).

**If the appropriate classification is in question, the individual should be classified as an employee and hired through Human Resources.**

In order for an individual to be compensated as an independent contractor, all four of the following criteria must be met:

1. The College does not control or direct the performance of the task (i.e. the individual is, and will continue to be, free to use whatever means he or she deems appropriate to accomplish the task or service);
2. The task or service being performed is outside the regular expertise, and/or duties, of existing College employees;
3. The task is of short duration and is not indicative of an ongoing relationship (contractual relationships that are longer than 30 days, with very few exceptions, indicate that an employee/ employer relationship rather than an independent contractor relationship exists);
4. A written agreement (e.g. contract, purchase order, statement of work, etc.) exists with the College that spells out the task(s) or service(s) to be performed.

The College department or unit engaging an individual as an independent contractor is responsible for supplying the necessary evidence to support the decision.

If the relationship between the College and the provider of the service or product does not clearly meet all of the consultant/independent contractor criteria above, the individual must be hired as a College employee. Human Resources is available to consult with the department and to provide available options to employ the individual. HR can be reached at 520-206-4624.

***Final evaluation to determine the individual as an independent contractor will be made by the Procurement Department in consultation with Human Resources and/or Legal Counsel when deemed necessary.***

**The following steps should be followed:**

- Prior to any work by the individual, review this procedure.
- Complete the Independent Contractor Checklist (Part 1a).
- Ask the potential contractor to complete Checklist (Part 1b) and [Substitute form W-9](#)
- If the individual is determined to be an employee, follow HR policies and procedures to hire the individual.
- If the individual is determined to be an independent contractor, follow Purchasing policies and procedures to procure the services of the individual. You will be directed to enter a requisition (send the Independent Contractor form to Purchasing with the requisition number on it so they can match the documents).

***NOTE: Sole proprietors and single member LLC's are not excluded or exempt from this procedure. Independent Contractors may be required to present a Certificate of Insurance (Col) prior to beginning contracted services.***

**Exceptions:** The following are examples of related transactions that are **excluded/exempt** from this procedure.

- Expense reimbursement only: No income or honorarium payment is included
- Reimbursement of recruiting related expenses to candidates for hire
- Guest lecturers and speakers visiting the College for less than two weeks
- Individuals performing external peer-review consulting services as part of departmental and/or program accreditation
- Performers/entertainers giving a limited number of performances
- Corporations or partnerships

**Background:** It is critical that the College correctly determines whether individuals providing services are classified as employees or independent contractors. If the College classifies an individual as an independent contractor and has no reasonable basis for doing so, the College may be held liable for employment taxes for that individual and any associated penalties and/or fines. In determining whether the individual providing the service is an employee or an independent contractor, all information that provides evidence of the degree of control and independence must be considered and evaluated.

Facts that provide evidence of the degree of control and independence fall into three primary categories:

1. **Behavioral Control:** Does the College control or have the right to control what the individual does and how the individual does his or her job?
2. **Financial Control:** Are the business aspects of the individual's job controlled by the College? (These include things like how individual is paid, whether expenses are reimbursed, who provides tools/supplies, etc.)
3. **Relationship of the Parties:** Are there written contracts or employee type benefits (i.e. pension plan, insurance, vacation pay, etc.)? Will the relationship continue and is the work performed a key aspect of College business?

The College must weigh all these factors when determining whether an individual is an employee or independent contractor. Some factors may indicate that the individual is an employee, while other factors indicate that the individual is an independent contractor. There is no "magic" or set number of factors that "makes" the individual an employee or an independent contractor, and no one factor stands alone in making this determination. The key is to look at the entire relationship, consider the degree or extent of the right to direct and control, and finally, to document each of the factors used in coming up with the determination.

**NOTE:** If it is later determined that the individual should have been paid as an employee rather than an independent contractor, the College reserves the right to charge the department engaging the "independent contractor" for all taxes, fees, and penalties, if any.

This procedure supplements, but does not replace, existing Purchasing and Human Resources policies and procedures. All other applicable College policies and procedures must be followed.

Please direct any questions to the Procurement Department, 520-206-4759 or [pcc-purchasing@pima.edu](mailto:pcc-purchasing@pima.edu)

**References:** IRS publications [15](#), [15-A](#), [15-B](#)  
IRS Forms [SS-8](#), [W-9](#)  
PCC Purchasing Procedures and Manual (available on the Intranet) PCC Conflict of Interest form and policy (available on the Intranet)  
[PCC Substitute form W-9: Taxpayer Identification and Vendor Authorization](#)

# Independent Contractor Checklist

## Part 1

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**Part 1a:** *To be completed by the College*

**Name of individual:** \_\_\_\_\_

**Description of services to be performed:**

**Initiated by** (name and title of College employee): \_\_\_\_\_

**Part 1b:** *To be completed by the individual*

*Please answer all of the questions below and complete the requested information along with a [Substitute form W-9](#). Provide this documentation to your College contact person or the Initiator named above.*

- Yes    No      1) Have you worked as an employee of the College at any point during the prior 12 months? (Includes work in any capacity and in any category (e.g. faculty, staff, temporary, etc.)
- Yes    No        2) Has the College extended you an offer of employment?
- Yes    No        3) Are you currently receiving payments from the Arizona State Retirement System (ASRS)? If yes, provide retirement date: \_\_\_\_\_
- Yes    No        4) Do you have an established business at risk for loss?
- Yes    No        5) Have you provided the same or similar services as a trade or business to the general public or other unrelated clients or businesses in the last 12 months?
- Yes    No        6) Do you have insurance for work-related injuries?
- Yes    No        7) Do you have liability insurance covering your business?
- Yes    No        8) Do you currently work for the College as an employee?

**Individual's Full Name** (first, middle initial, last): \_\_\_\_\_

**Mailing Address:** \_\_\_\_\_

**Phone Number:** \_\_\_\_\_      **Email Address:** \_\_\_\_\_

By signing below, you acknowledge your tax obligations to the Internal Revenue Service and other taxing authorities. A current [Substitute form W-9](#) must be on file with Pima Community College in order for you to receive payment for your invoice. If unsure of your federal tax classification, please seek guidance from the Internal Revenue Service or a tax professional.

Conflict of Interest Statement: I hereby certify that the above information is true and correct and that neither I nor any relative or other person permanently residing in my place of residence have any substantive interest in any contract, sale, purchase, or service to Pima Community College that may result from my recommendations as an independent contractor.

**Signature:** \_\_\_\_\_      **Date:** \_\_\_\_\_

# Independent Contractor Checklist

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**Part 2:** To be completed by the College after Parts 1a and 1b are completed

**Before completing Part 2, review Part 1b:**

*...if the answer to **ANY** of questions 1-3 in Part 1b is YES, then the individual should generally be hired as an employee. Contact HR to hire the individual as an employee.*

*...if the answers to **ANY** of questions 1-7 in Part 1b is NO, then please answer the following questions:*

**Name of individual:** \_\_\_\_\_

**Initiated by** (name and title of College employee): \_\_\_\_\_

**Initiator's Signature:** \_\_\_\_\_

**Prepared by** (name and title of College employee): \_\_\_\_\_

- Yes    No      1) Does the College plan to hire this individual as an employee after the period of his/her services?
- Yes      No      2) Will the College provide detailed/specific instructions for how the work is to be performed and/or require the work to be performed in a certain way/sequence, rather than rely on the individual's expertise?
- Yes      No      3) Will the College provide the individual with specific supplies and/or equipment to perform the required work and/or where to purchase supplies, rather than rely on the individual's own supplies and equipment?
- Yes      No      4) Will the College set the number of hours and/or days of the week that the individual is required to work, as opposed to allowing the individual to set his/her own work schedule?
- Yes      No      5) Is or will the individual be the instructor of a course being offered for academic credit toward a degree or certificate?
- Yes      No      6) Will the individual be an athletic coach, timekeeper, referee or work in a similar athletics position?

**Review Part 2:**

*...if the answers to **ANY** of the questions in Part 2 is YES, then the individual should generally be hired as an employee. Contact HR to hire the individual as an employee.*

*...if the answers to **ALL** of the questions in Part 2 is NO, then send all required documentation to the Procurement Department, in addition to your REQUISITION for review and a final determination.*

**Required Documentation:**

- [Substitute form W-9](#) completed by individual
- Completed Independent Contractor Checklist Parts 1a and 1b
- *If required*, completed Independent Contractor Checklist Part 2
- Any other documentation to support the classification of an individual
- An approved requisition