

**GENERAL GUIDELINES FOR PROCESSING
CONSULTING CONTRACTS
UNIVERSITY OF MISSOURI-ST. LOUIS**

1. The Director of Business Services has the responsibility for review and execution of consulting contracts that do not entail the delivery of a product as an end result of the contract. This would involve professional services but not all services are considered professional. Contact Business Services at 5362 with questions on what services qualify.

AGREEMENTS THAT ENTAIL THE DELIVERY OF A PRODUCT (OTHER THAN A WRITTEN REPORT AS AN END RESULT OF THE CONTRACT) MUST BE ROUTED THROUGH CAMPUS PROCUREMENT USING NORMAL PROCUREMENT PROCEDURES. CONTACT CAMPUS PROCUREMENT WITH QUESTIONS REGARDING THESE AGREEMENTS.

2. If services provided require *total* payment in excess of \$500 (excluding travel expenses) *over a 12-month period*, a contract is required. However, it is recommended that a contract be prepared for any consulting services to be performed for the University.
3. If the services are paid from grant funds, questions concerning the consulting contracts and the processing of these contracts should be referred to the Office of Research.
4. All contracts *not funded through Research* are processed by the Business Services Office, 220 Woods Hall. There are two forms of *consulting* contracts: PERSONAL SERVICE CONTRACT and CONSULTING SERVICES CONTRACT.

PERSONAL SERVICE CONTRACT: To be used when an *individual* is providing consulting services and will be an “independent contractor.”

A. Prior to preparing the consulting services agreement, the Employee/Independent Contractor Classification Checklist must also be completed by the unit. While doing so and depending on the information provided, it may become evident that the individual should be providing the services as a University employee and not an independent contractor. If so, the department should contact Human Resources (HR) to begin the process to hire the individual and discontinue the process for the consulting services contract.

A frequently encountered question is whether an individual providing personal services to the University may be treated as an independent contractor or must be hired as an employee. If the individual is treated as an employee, compensation is subject to withholding, etc. If the Internal Revenue Service (IRS) determines an individual has been classified improperly as an independent contractor, the University is obligated to pay back taxes and may also be subject to substantial penalties. The IRS’s 20 Questions below lists the factors the IRS considers determinative. The checklist will assist in the determination if the individual is an independent contractor or an employee. The department should complete the checklist and keep it until the signed contract is returned by the consultant. If the individual is determined to be an “employee”, a contract should NOT be prepared. Payment should be processed through the Payroll system.

CONSULTING SERVICES CONTRACT: To be used when a corporation/partnership is providing consulting services. A checklist is not required for this contract.

INSTRUCTIONS FOR PREPARING BOTH CONTRACTS

- The commencement date and completion date for the contract must be entered. The date that the contract is prepared and the name of the Consultant/Contractor should be included.
- An “Attachment A” (referenced in paragraph 1) must be prepared by the department describing the services to be performed and any special conditions or reports required. This document is part of the contract. The contract will not be approved if the Attachment A is missing.

- In paragraph 2, a “not to exceed” price must be listed. This would include any expenses associated with the consulting contract.
 - “To be billed as follows” should describe the manner in which the payment will be made. Examples: completion of project, completion of specific phases of project, completion of specific reports. The name of the individual who should receive the invoice for the service must be included.
5. After the contract has been prepared, the department should forward two copies of the contract to the consultant for signature. Upon receipt of the signed contract, both copies of the signed contract and the checklist (if applicable) are sent to Business Services for execution on behalf of the University. Prior to signing, all contracts must be reviewed by the General Counsel’s Office as to legal form. After the contract is signed by Business Services on behalf of the University, a fully executed copy will be returned to the department. It will be the department’s responsibility to forward an executed copy of the contract to the consultant. **UNDER NO CIRCUMSTANCES SHOULD A DEPARTMENT REPRESENTATIVE SIGN A CONTRACT ON BEHALF OF THE UNIVERSITY.**

NOTE: Deans/Directors/Chairs may have established individual approval procedures for their units. Questions concerning the approval process for the individual units should be referred to the designated fiscal officer of the College/Division/Department. There is a “department approval” signature line if the unit has an approval process.

6. If a department is using a nonresident alien for consulting services, please refer to the procedures as detailed on the website for the Center for International Studies (http://www.umsl.edu/~intelstu/taxes/tax_departments.html) and direct any questions to Sandra Crawshaw, the UMSL Nonresident Alien Taxation Specialist. The *Foreign Visitor Tax Guide* can also be reviewed at www.umsl.edu/~intelstu/taxes/index.html
7. Payment is initiated by sending a signed voucher to Business Services with supporting documentation. This should include (1) a copy of the signed contract and/or (2) an invoice for the services. The voucher should also state that “Contract on File in Business Services.” Business Services will initial the voucher and forward it to Accounting.
8. Reimbursement for travel expenses should be done in accordance with the standard University policies and procedures.

IRS 20 QUESTIONS

1. Is the worker required to comply with instructions about when, where and how the work is to be done?
2. Is the worker provided training that would enable him or her to perform a job in a particular method or manner?
3. Are the services provided by the worker an integral part of the department’s operations?
4. Must the services be rendered personally?
5. Does the department hire, supervise or pay assistants to help the worker on the job?
6. Is there a continuing relationship between the worker and the department for whom the services are performed?
7. Does the department set forth the work schedule?
8. Is the worker required to devote his full time to the department he performs services for?
9. Is the work performed at the department, or at specific places designated by the department?
10. Does the department direct the sequence in which the work must be done?

11. Are regular oral or written reports required to be submitted by the worker?
12. Is the method of payment hourly, weekly or monthly (as opposed to commission or by the job)?
13. Are business and/or traveling expenses reimbursed?
14. Does the department furnish tools and materials used by the worker?
15. Has the worker failed to invest in equipment or facilities used to provide the services?
16. Does the arrangement put the worker in a position of realizing either a profit or a loss on the work?
17. Does the worker perform services exclusively for the department rather than working for a number of companies at the same time?
18. Does the worker in fact not make his services regularly available to the general public?
19. Is the worker subject to dismissal for reasons other than nonperformance of contract specifications?
20. Can the worker terminate his relationship without incurring a liability for failure to complete a job?