

Process for Engaging a Foreign-Based Independent Contractor or Consultant

Purpose

The purpose of this guide is to help ASU faculty and staff navigate and comply with ASU, state, federal, and foreign regulations for engaging a foreign-based independent contractor/consultant (ICC) on a global project. Global Operations encourages faculty and staff to complete the following steps, and reference the relevant policies for additional guidance. Please note that this document does not cover design and construction related services.

Policies

FIN 421–01	Guest Lecturers, Consultants, and Other Independent Contractors
FIN 425–04	Nonresident Alien Independent Contractors and Other Foreign Entities
PUR 303-02	Sole Source Procurement/Justification
PUR 305–01	Bidding Requirements for Procurements Costing Less than \$50,000
PUR 305–02	Bidding Requirements for Procurements Costing at Least \$50,000 but Less than \$100,000
PUR 306–01	Bidding Requirements for Procurements Costing \$100,000 or More
PUR 306–02	Waiver of Bidding Requirements for Procurements Costing \$100,000 or More
PUR 402–01	Personal/Professional Services
RSP 503–03	Consultants, Guest Lecturers, and Other Professional Services for Sponsored Projects
SPP 210	Consultants/Independent Contractors

Procedures

(Note that Steps 3, 4, and 5 can be completed at the same time)

1. **Review *Appendix A: Guidance Document for Staffing Global Projects*** | Responsible party: Department staff
The chart in Appendix A includes the three types of personnel working on global projects. Review this chart to ensure you are correctly identifying the individual as an Independent Contractor/Consultant.

2. **Review the pertinent ASU policies above regarding bidding requirements for independent contractors and consultants**

Responsible party: department staff

3. **Register the Independent Contractor/Consultant in Workday** | Responsible party: Supplier

The independent contractor/consultant will need to be set up in Workday as a supplier. Use the **email template in *Appendix B*** to draft and send a request for the ICC to register in Workday. This process can take 3-5 business days for a domestic supplier and potentially longer for a foreign supplier. Keep in mind that the form of payment the supplier lists in the registration will be what Accounts Payable follows at time of payment.

4. **Submit the Independent Contractor/Consultant Checklist** | Responsible party: Department staff

The [Employee/Independent Contractor Determination Checklist](#) must be completed for each independent contractor/consultant with the following exceptions:

- Expense reimbursement only: no income or honorarium payment is included
- Cumulative payments to the individual service provider of less than \$600 per calendar year
- Guest lecturers and speakers visiting campus for less than two weeks
- Individuals performing external peer-review consulting services as part of departmental/program accreditation
- Performers giving a limited number of performances
- Athletic officials
- Corporations or partnerships (sole proprietors and single member LLC's are not exempt)

Complete the Checklist at least three (3) weeks prior to the start date of the independent contractor/consultant. Tax Services will approve the Checklist via email within 4-7 business days of receipt.

5. **Draft a Scope of Work (SOW) for the Independent Contractor/Consultant** | Responsible party: Department staff

Draft a scope of work that includes clearly defined milestones, deliverables, and a timeline. See ***Appendix C* for a Scope of Work Template.**

Estimate the total dollar amount, including expenses like travel, supplies, etc., that you anticipate paying the ICC for the entire scope of work. Include the payment amount and type such as per deliverable or hourly, with a limit if needed for the hourly (e.g., \$100/hour up to \$5,000). Take into account potential amendments to the scope of work. For example, if you anticipate renewing a one-year scope of work for a second year, your estimate should be for two years.

Include invoicing requirements such as contact information for where invoices should be sent, how many days for an invoice and payment to be processed, the currency invoices are to be paid in, and that expenses should follow ASU policy (e.g., travel). See ***Appendix D* for an invoice sample.**

6. Submit a requisition and generate a PO number | Responsible party: Department staff

Once Steps 3-5 have been completed and approved by the appropriate parties, your unit's business team can submit a requisition with the Scope of Work in order to generate a PO number.

Once a PO number is generated, the independent contractor/consultant is able to commence work and invoice ASU.

7. Amendments

If amendments are needed for your independent contractor/consultant scope of work, work with your unit's Contracts Specialist to ensure all competition requirements are met (if new dollar threshold is crossed), and that the PO is changed to reflect the new amendments.

Appendix A: Guidance Document for Staffing Global Projects

CONSULTANT/INDEPENDENT CONTRACTOR	U.S.-BASED EMPLOYEE	FOREIGN-BASED EMPLOYEE
<p>An individual or business whose expertise is required to perform the project. Services are temporary and special or highly technical.</p>	<p>An individual, eligible to work in the United States and employed by ASU on a full- or part-time basis, including academic professionals, administrators, non-faculty administrators, university staff, and faculty.</p>	<p>An individual employed on behalf of ASU by a Professional Employer Organization (PEO), or similar employee leasing company, whose primary work location is other than the U.S. or its territories. A foreign-based employee reports to ASU on technical matters and reports to the PEO on administrative matters.</p>
<ul style="list-style-type: none"> • An individual or business outside the project who confers with the PI regarding research objectives • Does not develop the objectives of the project • Is not responsible for the overall outcome of the project • Is not responsible in designing or developing the research • Is not responsible for conducting the research • Is not responsible for reporting the research • Is not essential toward the shape, direction, and completion of the project • Receives a fee for their services not a salary • Provides similar services to other organizations • Does not serve as senior personnel – e.g., Co-Investigator, Principal Investigator, etc. • Will not use university resources. Provides his/her own work area, tools, materials, and supplies • Sets his/her own work schedule, including number of hours and/or days of the week • ASU defines the scope of work • Consultant determines how to accomplish the work • Is not considered an employee of the University and therefore is not eligible for ASU-provided benefits, workers compensation, liability coverage, or unemployment • Payment is based upon completion of specific work, rather than time worked • Has not been employed by ASU, in a regular or temporary appointment, during the preceding 12- 	<ul style="list-style-type: none"> • Is supervised by the PI or other senior personnel • May be responsible for developing the objectives of the project • May be responsible for the overall outcome of the project • May be responsible in designing or developing the research • May be responsible for conducting the research • May be responsible for reporting the research • Is essential toward the shape, direction, and completion of the project • Receives a salary and may be eligible for ASU-provided benefits if employed more than 0.50 FTE • May serve as senior personnel – e.g., Co-Investigator, Principal Investigator, etc. • Work area, tools, materials, and supplies are provided by ASU • Work schedule is set by ASU • Has duties and responsibilities as opposed to a scope of work • Is regularly, e.g. annually, evaluated on work performance • Primary work location is within the U.S. or its territories 	<ul style="list-style-type: none"> • Role falls under U.S.-Based Employee as opposed to Consultant with the exception of serving as an Investigator on the project • Primary work location is outside the U.S. and its territories as the duties and responsibilities cannot be carried out from the U.S. • The project requires an individual to work in a specific foreign country on a full-time basis at ASU’s technical direction • There is a substantive reason why a subrecipient or other partner organization (especially a local partner) cannot hire the individual

<p>monthsWill not become an ASU employee soon after the consultant agreement ends</p> <ul style="list-style-type: none"> • Is not currently receiving payments from the Arizona State Retirement System • Routinely provides the same or similar services outside of ASU to the general public as part of a continuing trade or business 		
<p>Follow the steps outlined in the Process for Engaging a Foreign-Based Independent Contractor or Consultant.</p>	<p>Follow your department's standard recruitment and hiring process. For recruitment and hiring of future KE employees, visit the HR KEEP site for more information.</p>	<p>Fill out the International & ID Hire Request Form and send it to global.ops@asu.edu. If the request is approved, work with KE Global Operations to hire the individual by following the Process for Recruiting and Hiring a Foreign-Based Worker.</p>

Appendix B: Email template

Dear _____,

Arizona State University (ASU) has implemented a new Financial Management System (FMS). In order to receive payment from ASU, you must register in the new FMS.

Select the appropriate link from the two options:

Domestic: If your tax status is: U.S. Citizen, Permanent Resident or Resident for U.S. tax purposes, view instructions [here](#) and use this [link](#) to register.

International: If you are an international citizen and have not yet passed your residency test for U.S. tax purposes, view instructions [here](#) and use this [link](#) to register.

ASU is unable to process payments to suppliers until this registration step is complete.

If you have any questions, please email [Supplier Admin](#).

Thank you,

Appendix C: Scope of Work template

SCOPE OF WORK

ASU Department Name and Contact:

Project Name:

SERVICES:

Vendor is authorized to provide the following Services:

DELIVERABLES

TIMELINES

FEES:

Appendix D: Invoice sample

DATE SUBMITTED: <Date>

SENT TO	REMIT PAYMENT TO
Arizona State University ATTN: <Name> Email: <Email>	<Contractor Name> <Contractor Address>

INVOICE PERIOD: <Start Date – End Date>

INVOICE DETAILS:

DESCRIPTION OF SERVICES PROVIDED	AMOUNT
Consulting Fee	\$0,000.00
Expense Reimbursement (if any)	\$0,000.00
Amount Owed (in U.S. Dollars)	\$0,000.00