POLICY STATEMENT

Teachers College requires that a department, institute, academic program, or any other unit of the College intending to engage a service provider as an independent contractor follow College approval and contracting procedures before the performance of services. Independent contractor status for services must be approved by the College Controller or a designee.

REASON FOR THE POLICY

Designation of independent contractor status is governed by the Internal Revenue Service and common law. Significant tax penalties and loss of federal awards exist for incorrect classification of an employee as an independent contractor. In addition, contracting with an independent contractor may expose the College to significant risk. Therefore, it is imperative that common standards are applied in classification and contracting, and that each case is fully documented and auditable.

ENTITIES AFFECTED BY THIS POLICY

All departments, institutes, academic programs, or any other units of the College and service providers.

RESPONSIBILITIES OF COLLEGE UNITS

All departments, institutes, academic programs, or any other units of the College engaging independent contractors to perform work are required to do the following before work is performed:

- Complete independent contractor status determination forms.
- Contract Manager or Assistant Director, Office of Sponsored Programs obtains executed agreement from the service provider.
- When necessary - Contract Manager or Assistant Director, Office of Sponsored Programs obtains certificates of insurance or other proofs of insurance from the service provider.
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Policy 1.1 Independent Contractors Policy
(Individual Consultants Only)

PURPOSE

The purpose of this policy is to set forth the guidelines for the procurement of independent contractor (consultant) services at Teachers College, Columbia University (the College). This policy statement is promulgated to assist all of the College’s various departments, institutes, and centers in understanding the Internal Revenue Service distinctions between an independent contractor and an employee and to set forth the College’s procedures for obtaining the services of independent contractors (consultants) in accordance with Federal procurement guidelines.

One reason for systematizing the contracting process is to fulfill our social responsibility as a College. Competitive quoting is a recognized equitable process. Departments may also obtain sole source procurements through explanation.

Certain types of payments to service providers may be processed without requiring Independent Contractor status approval as set forth in this policy (See pages 6-8).

Also see the Quick Reference List on page 13 for those service providers who may be excluded from this policy.

POLICY

It is the policy of the College to contract for consultant services when factors such as timing, costs, qualifications or the nature of the service to be rendered make it more beneficial for such services to be acquired outside the College rather than to be performed by employees of the College. If it is determined that such services are needed, the College requires that the engaging department or institute follow the procedures documented herein prior to the performance of services. Quality decisions regarding the procurement of independent contractors (consultants) are retained by the requesting department.

**Independent Contractor (Consultant) status must be determined, and the Independent Contractor (Consultant) Agreement must be executed prior to work being performed.**

To review in entirety the College’s Purchasing Department policies and procedures, see the Purchasing Department Website.
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AUTHORITY

Designation of independent contractor (consultant) status is governed by the Internal Revenue Service and common law. Significant tax penalties and loss of Federal awards exist for incorrect classification of an employee as an independent contractor (consultant). In addition, contracting with an independent contractor (consultant) may expose the College to significant risk. Therefore, it is imperative that common standards are applied in classification and contracting, and that each case is fully documented and auditable.

IRS Requirement

The College must comply fully with Federal tax code and IRS guidelines regarding the classification of individuals as independent contractors (consultants) or employees. Determination of such status affects the College’s tax withholding, payment and reporting responsibilities. Employees must have Federal, State, FICA, and Disability taxes withheld by the College from their salaries. The College must also pay its share of FICA tax to the Federal government for its employees. Independent contractors (consultants) generally do not have taxes withheld from their payments for services rendered. They, rather than the College, are responsible for remitting the appropriate taxes to the government.

An IRS Form W-9 is a request for Taxpayer Identification Number and must be completed by the Independent Contractor (Consultant) and included in the completed package of the Request for Independent Contractor Approval.

Federal Awards Regulations

The College receives significant funding from the Federal government; therefore, the College is required to comply with all applicable Federal procurement regulations. This compliance includes proper classification of independent contractors (consultants) vs. employees. The College’s failure to comply with these regulations will jeopardize Federal awards.

DEFINITIONS

The following definitions apply to these terms as they are used in this policy.

Certificate of Insurance documents insurance coverage for Independent Contractors (Consultants).

Check Request is a request for payment form.

Conflict of Interest is a situation in which an individual or any of his/her
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family or associates either, 1) has an existing or potential financial or other material interest that impairs or might appear to impair the individual’s independence and objectivity of judgment in the discharge of responsibilities to the College, 2) may receive a financial or other material benefit from knowledge of information confidential to the College or, 3) has the opportunity to influence business decisions internal or external to the College in a way that could lead to personal or other gain or advantage.

**Employee** is defined as a person paid through the College’s Payroll Department to perform a service for the College. In these cases, the College controls what needs to be done, as well as how, when and where it will be done. The person is normally provided the tools and facilities with which to perform the function, and is not at risk for profit or loss in this capacity.

**Encumber** is to commit Departmental financial resources to the procurement of goods and services. This will reduce the amount available for future departmental spending.

**Green Card** is an Immigration and Naturalization Service Alien Registration Receipt, which may be presented for employment eligibility verification.

**Independent Contractor (Consultant) Services Agreement** is an agreement between an Independent Contractor (Consultant) and the College whereby the Independent Contractor (Consultant) will provide services to the College. The Agreement outlines the responsibilities and obligations for both parties.

**IRS Form 1042/1042S** represents forms used to report income and income tax withholding for Nonresident Aliens.

**IRS Form 1099 MISC** represents a form used to report non-employee compensation (as well as certain other types of payments not discussed herein).

**IRS Form W-9** represents a form used for the request of the Taxpayer Identification Number of the Independent Contractor (Consultant). This form also certifies that the Independent Contractor (Consultant) is not subject to backup withholding by the College or is not exempt from such withholding.

**Nonresident Alien** is defined as an individual who is not a citizen of the United States of America and does not have a Green Card.

**Non-Sufficient Funds (NSF)** is a budget condition whereby the department does not have available funds to initiate the procurement of goods or services. This condition must be remedied before goods or services are procured.
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Request for Independent Contractor Approval (Form TCIC-1) is a form used to determine approval for the use of an Independent Contractor (Consultant).

Request to Issue a Contract is a required form listing the College’s contractor contact information.

Scope of Work is a description clearly defining the services and/or deliverables being procured.

Selection Criteria is a required form describing the criteria, such as quality, price, etc., used to select the Independent Contractor.

Sole Source Justification If the individual or entity was selected utilizing this method of Source Selection, then this form is required. It details the reasons why no other individual or entity can perform the required services.

Taxpayer Identification Number (TIN) represents the Social Security Number (SSN) or Employer Identification Number (EIN).

Total Contract Amount is the amount listed on TCIC-1, Attachment 1, (Request to Issue a Contract) estimating the total cost, including business expenses, that will be paid to the Independent Contractor (Consultant). The total contract amount is encumbered when the Contract Manager sends the Agreement to the Service Provider for their signature.

**DETERMINATION PROCEDURES**

**Citizens of Other Countries**  
Individuals who are Nonresident Aliens (i.e., those who do not have an Alien Registration Receipt Card, or a Green Card) cannot work as independent contractors (consultants) unless there is a treaty in place.

**Determining Independent Contractor Status**  
The following factors are abstracted from the Internal Revenue Service. All factors need not be present for independent contractor status to be appropriate.

**An Independent Contractor usually:**

1. is subject to the instructions outlined in the Independent Contractor (Consultant) Agreement, but is not instructed by the College (nor does the College have the right to instruct) about when, where, and how to work;

2. is not subject to training by the College and uses his/her own methods to accomplish the work;
### Policy 1.1 Independent Contractors Policy
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3. sets the hours and/or place of work;

4. is not providing services that become integrated into the day-to-day operations of the College;

5. does not have a continuing relationship with the College. Services may be considered continuing even though they are performed at irregular intervals, on a part-time basis, seasonally, or over a short-term;

6. is paid a fixed fee;

7. bears all business expenses associated with the performance of the work, including insurance, travel, meals and lodging;

8. makes his/her service available to other institutions and organizations (outside of Teachers College);

9. cannot terminate the service agreement with the College without incurring a liability.

If, after evaluating these factors, you believe independent contractor status is applicable, proceed to the **Independent Contractor (Consultant) Procurement Procedures** section below.

If you do not believe independent contractor (consultant) status is applicable and you still want to hire the individual, you may choose to appoint the individual as an employee through the College’s Office of Human Resources, following required employee appointment procedures, thereby ensuring that the College meets all the requirements of the Internal Revenue Service, the Fair Labor Standards Act, and the Immigration and Naturalization Service. You also have the option of selecting an alternative service provider who meets the criteria for Independent Contractor (Consultant) status.

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**Independent Contractor (Consultant) Procurement Procedures**

The Principal Investigator/Requestor must follow these steps:

1. Submit a completed copy of the Request for Independent Contractor Approval (Form TCIC-1) to the Purchasing Department. If the estimated total cost is $10,000 (ten thousand dollars) or greater, a minimum of 3 (three) competitive proposals are required, except in the case where Sole Source use is justified.

2. The Contract Manager will send an email to the requestor indicating whether status is approved, tentatively approved, or denied. If tentatively approved, or denied, the requestor should contact the
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Contract Manager to discuss the next steps. After approval, the College is required to execute an Independent Contractor (Consultant) Services Agreement. The total contract amount, including business expenses will be encumbered at the point that the Contract Manager sends the Agreement to the Service Provider for their signature. Any Non-Sufficient Funds (NSF) budget conditions must be resolved before services are to commence.

3. After the Contract Manager receives the signed Agreement from the Service Provider, the Contract Manager will forward copies of the signature page of the Agreement to the Service Provider. The Contract Manager will provide the Agreement number which shall be used on all invoices to the College.

4. Any modifications of the Agreement shall be made in writing and must be signed by the College’s Contract Manager and authorized contractual representatives of the Independent Contractor (Consultant).

Services cannot commence without Independent Contractor approval, a fully executed (signed) Agreement, and a resolution of NSF budget conditions, if applicable.

**Determination Status for Current and Former College Employees**

1. If the service provider whom you wish to hire is a current College employee, he/she will usually be paid as an employee.

2. If the Purchasing Department determines the Service Provider will be classified as an employee, you may appoint the individual as an employee through the College’s Office of Human Resources, following required employee appointment procedures, thereby ensuring that the College meets all requirements of the Internal Revenue Service, the Fair Labor Standards Act, and the Immigration and Naturalization Service.

**CIRCUMSTANCES WHERE “DETERMINATION PROCEDURES” ARE NOT REQUIRED**

Certain types of payments may be processed without consideration of independent contractor (consultant) versus employee status. All of these payments are subject to IRS reporting (IRS Forms 1099 and 1042S), except scholarship and fellowship payments to U.S. citizens or resident Aliens.

1. If the service provider is incorporated (organized as a corporation under state law), this policy does not apply. In addition, certain professional firms or partnerships will not require independent contractor approval: accounting firms, architectural firms, engineering firms, and law firms.
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In such cases, follow applicable Purchasing Department procedures.

2. The following types of payments are not for services performed, although they are made to individuals. Therefore, if you are requesting one of the following types of payment, do not request independent contractor (consultant) status approval. Follow normal Check Request procedures. You must describe in detail the purpose of the payment.

   A. **Honorarium**: a payment that is primarily intended to confer distinction or to symbolize respect, esteem, or admiration. It is paid at the discretion of the College, is not a fee charged by the person being paid, and is not contractual in nature. The value of an honorarium is not related to the performance of services. However, an honorarium paid to an employee must be processed through the College’s Payroll Department.

   B. **Postdoctoral Fellowship Stipend**: a stipend granted to advance the Fellow’s research, not as compensation for services. If the individual is required to perform services for the College, follow required employee appointment procedures.

   C. **Royalty Payment**: a payment that represents compensation for the sale or use of copyrighted or patented work of an author. All royalty payments are subject to IRS Form 1099 tax reporting.

3. If you are requesting one of the following types of payments for services, you may not have to receive Independent Contractor status approval. Contact the Contracts Manager at (212) 678-3241 if the proposed service provider falls within one of the following categories:

   A. **Human Subject Fee**: a fee of $300 or less, usually paid to a student or an employee for participation in a research project, survey, or study.

   B. **One-time service (non-employees only)**: compensation for a one-time service to the College, such as a discourse or lecture to a class or audience.

      **Caution**: A non-employee who performs a “one-time service” for two or more departments of the College may be required to seek the independent contractor approval process. See the Purchasing Department if you believe this may be the case.

   C. **Photographers, musicians, actors, word processors and transcribers, competition judges, and video/audio editors** (non-employees only) who do not perform their services on campus, or use the College’s tools and supplies. There is no limit to the number of times these individuals can be hired throughout the College.
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D. **Writers, translators, literary editors and indexers, and interviewers**, up to a maximum of (3) three times during any (12) twelve-month period. If the expectation is that the aforementioned service provider will be hired more than three times during any twelve-month period, then the service provider is required to go through the Independent Contractor/Consultant Approval process.

**COMPETITIVE QUOTING**

The competitive quoting process fulfills the College’s social responsibility in providing an equitable process allowing qualified vendors and service providers to compete to provide goods and/or services to the College. Furthermore, it is through this competitive process that the College procures high quality goods and services for a fair price. The College recommends that the PI or requestor of independent contractor (consultant) services use the competitive quoting process where feasible. **For agreements with a total cost of $10,000 (fees plus expenses) or more, competitive quotes are required, except in the case where Sole Source use is justified.**

**RISK MANAGEMENT**

Engaging an independent contractor (consultant) to provide services to the College may pose significant risk to the College. The Independent Contractor and their subcontractors shall be required to maintain at their own cost and expense, the following types and amounts of primary insurance with insurers licensed to do business in the State of New York, and shall maintain such policies in force until at least one year after the termination of the agreement. In certain circumstances, depending on the scope and content of work, this requirement may be waived by the Risk Manager.

**Commercial General Liability:** Insurance including, but not limited to, coverage for contractual, products, completed operations and broad form property damage liabilities with a combined single limit of liability for bodily injury and property damage of not less than $2,000,000 per occurrence.

**Workers’ Compensation (if applicable):** Covers each employee of the Independent Contractor engaged in the performance of the work required under the contract, with a limit of liability in accordance with applicable law in the case of Workers’ Compensation Insurance, and with the following limits of liability in the case of Employer Liability: bodily injury by accident $250,000 each accident; bodily injury by disease $500,000 policy limit;
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bodily injury by disease $250,000 each employee.

**Comprehensive Automobile Liability Insurance (if applicable):** Covering all owned, non-owned and hired vehicles used in connection with the performance of work under the contract, with a combined single limit of liability for bodily injury and property damage of not less than $1,000,000 per occurrence.

Each Certificate of Insurance, with the exception of Workers’ Compensation and Employer Liability, shall name: “Teachers College, its affiliates, and their officers, directors and employees as an additional insured and such insurance shall be primary”, and provide for thirty (30) days written notice of cancellation, or of a material change in such coverage. Certificates of Insurance must be sent to:

Purchasing Department, Box 198
Teachers College
29 Main Hall
525 West 120th Street,
New York, NY 10027-6696

**TAX AND OTHER RESPONSIBILITIES**

1. The College must report annual payments to independent contractors of $600 or more on Form 1099.

**Caution:** Normally, the independent contractor’s business expenses are included in the overall fee for the contracted service. In this case there is no need for the independent contractor to provide business expense receipts to the College. However, if business expenses are specifically negotiated and are not part of the overall fee, the business expenses must be billed to Teachers College through the independent contractor’s invoice, and original business receipts must be attached. A Teachers College *Travel and Business Expense Report* may not be used for the reimbursement of business expenses of an Independent Contractor.

2. The College does **not** do the following:

A. provide employee benefits to Independent Contractors (Consultants);

B. withhold Federal, State, or FICA taxes from payments to Independent Contractors (Consultants).
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3. The Independent Contractor (Consultant) is responsible for the following:

   A. all estimated tax payments and other tax filing requirements;

   B. all tax records, original business receipts, etc.

4. The Independent Contractor shall give full disclosure of the background surrounding a real or potential Conflict of Interest. The full disclosure must be made in writing, to the College Purchasing Department prior to making the commitment or initiating the activity that poses a possible conflict.

**INQUIRIES BY GOVERNMENT AGENCIES**

All inquiries made by the Internal Revenue Service or other governmental agencies are handled centrally in the Office of the Controller. Any inquiries made directly to your department by any government agency must be directed to the Office of the Controller.
## Forms

Certain forms are referenced in this policy.

<table>
<thead>
<tr>
<th>Form</th>
<th>Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. [Request for Independent Contractor Approval](Form TCIC-1)</td>
<td>Provides information necessary for the correct determination of status of proposed service provider; provides specific details of engagement.</td>
</tr>
<tr>
<td>2. Independent Contractor (Consultant) Services Agreement</td>
<td>For use with ALL Agreements.</td>
</tr>
<tr>
<td>3. Independent Contractor (Consultant) Policy Volume 1, Chapter 1.</td>
<td>Guidelines for the procurement of Independent Contractor (Consultant) services at the College.</td>
</tr>
<tr>
<td>4. <a href="https://www.irs.gov">IRS Form W-9</a></td>
<td>Request for Taxpayer Identification Number (TIN) and Certification.</td>
</tr>
<tr>
<td>5. <a href="#">Check Request Form</a></td>
<td>Request for payment to individuals under special circumstances.</td>
</tr>
</tbody>
</table>
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APPENDIX

Jobs for which those who are performing the work are most likely to have consultant status (assuming the individual has no existing employee relationship with the College):

- Architect
- Artist
- Auditing Firm
- Caterer
- Engineer
- Final Survey Data Collection Analyst
- General Contractor
- Graphic Designer
- Lawyer
- Logistics Analyst
- Management Consultant
- Professional Search Firm
- Senior Policy Advisor
- Software Consultant
- Specialized Administrative Advisor
- Specialized Instrumentation Designer
- Specialized Research Advisor
- Specialized Sample or Specimen Analyst
- Strategic Planner

Situations may exist in which two individuals performing the same services for the College are classified differently, one as an employee, the other as a consultant. For example, an architect may be either an employee or a consultant. An architect who works at the College and nowhere else, is assigned office space at the College, has use of the College’s facilities, follows the College’s holiday schedule, and is supervised by another College employee is absolutely an employee of the College. An architect who works in an office in midtown Manhattan, has many clients (including the College), uses computers and materials he or she has purchased personally, and sets his or her own schedules for work hours is a consultant when performing professional architectural services for the College.

When it is not clear into which category an individual falls, assistance will be provided by the Contract Manager in consultation with the Controller’s Office and/or the Office of Human Resources. The Contract Manager has the authority to override the department’s recommendation. This should happen infrequently if departments are making a conscientious effort to apply the IRS questions to individual circumstance in a reasonable manner.
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QUICK REFERENCE LIST OF TYPES OF SERVICES WHICH MAY BE EXCLUDED FROM THIS POLICY

I. The following do not require Independent Contractor/Consultant Approval:

1. Employees—process as employee with Personnel Action Form (PAF) (see Human Resources website).

2. Professional firms or partnerships; e.g., Incorporated, Corp., LLP., LLC—process as Service Contract (see Purchasing website).

3. Honorarium (See Purchasing website).*

4. Postdoctoral Fellowship Stipend.*

5. Royalty Payment.*

*For items #3, 4, and 5 (see pages 7 and 8), process as a Check Request.

II. The following may require Independent Contractor/Consultant Approval:

- Human Subject Fee (less than or equal to $300).

- One-time service for discourse or lecture.

- Photographers, musicians, performing artists, word processors and transcribers.

- Writers, translators, literary editors and indexers, and interviewers up to a maximum of three (3) times during any twelve-month (12) period. If the expectation is that the aforementioned service provider will be hired more than three times during any twelve-month period, then the service provider is required to go through the Independent Contractor/Consultant Approval process.