

BO.11.00	Independent Contractors
Owner/Contact Information:	COS Office of Finance and Business Management
Effective Date:	August 18, 2021
Last Revised/Reviewed:	August 18, 2021
Related Policies:	Procurement Contract Manual Purchasing Manual: Introduction to Procurement Purchasing Manual: Advanced Procurement Processes PO Invoice Processing Guide

1. PURPOSE/INTRODUCTION

The Independent Contractors procedure prescribes the process that the College of Sciences (COS) will use to determine if an individual performing a service is classified as an independent contractor or hired as an employee and the process to follow once that determination is reached.

An employee is an individual who performs a service for North Carolina State University (NC State) and is working under the direction and control of NC State or its employees. Direction and control can be implied to exist when NC State has the right to control both the results as well as the means and methods of the work. **An employee is hired through the human resources system.**

An independent contractor is an individual engaged by NC State to perform a specific function or task and who is free to perform this function or task completely at the individual's own discretion with regard to means and methods. The function or task performed by an independent contractor is of a professional, technical, or administrative manner that cannot be performed by employees due to existing staffing constraints or the nature of the work. No taxes are required to be withheld or paid when compensation is dispersed. **An independent contractor is contracted through a procurement process.**

The Internal Revenue Service believes employers have incentives to misclassify employees in order to avoid the employer obligations; therefore, it is essential that classification is accurate from the onset. Consequences of misclassification may include severe fines and penalties for both the department and the individual. This procedure provides information to ensure that the COS and NC State stay compliant with federal and state laws, which require an accurate classification.

Depending upon the individual's existing/prior relationship with NC State, the individual may not be eligible for independent contractor status. Review the [Independent Contractor Flowchart](#) (flowchart) to determine if the individual chosen to perform the service is eligible for consideration as an independent contractor **before** making a commitment with the individual to perform the service.

If the [flowchart](#) reveals that the individual is to be hired through the human resources system, **STOP!** This procedure no longer applies. Refer to COS Human Resources (COS HR) [website](#) for further guidance.

If the [flowchart](#) reveals that the individual **may** qualify as an independent contractor, please **PROCEED** to Section 3 of this procedure. **ONLY** NC State's Procurement and Business Services Office (Procurement) can make a final determination as to whether COS can enter into an independent contractor agreement with an individual.

2. DEFINITIONS

COS HR - College of Sciences Human Resources Office

CRO - College of Sciences Research Office

ICA - Independent Contractor Agreement, a North Carolina State University standard contract

ICC - Independent Contractor Checklist which determines if an individual should be classified as an employee or an independent contractor

IRS - Internal Revenue Service

Procurement - University Procurement and Business Services Office

Unit - an academic department, center, institute or college office

3. PROCEDURAL STEPS

3.1 Employee vs. Independent Contractor Status Determination - [The Checklist](#)

3.1.1 Complete the [ICC](#) **before** making a commitment with the individual to perform the service. This checklist provides guidance to determine if the individual performing the service may be considered for independent contractor status under IRS guidelines **OR** if the individual should be hired as an employee to perform the work.

3.1.1.1 If it is determined that the individual should be hired as an employee, refer to the COS Human Resources [website](#) for further guidance. **STOP HERE!** The remainder of the steps no longer apply.

3.1.1.2 If it is determined that the individual may be considered for independent contractor status, **PROCEED** to Section 3.2. Keep the completed ICC as it will be required during the procurement process.

3.1.2 In the case of a former employee (non-retiree) who has been separated from the University for less than 12 months, send the completed [ICC](#) to cos_humanresources@ncsu.edu (COS HR) for review. This situation will need careful consideration to determine status.

3.1.2.1 If COS HR determines the individual should be classified as an employee, COS HR will provide directions for next steps. **STOP HERE!** The remainder of the steps no longer apply.

3.1.2.2 If COS HR determines the individual may be considered for independent contractor status, **PROCEED** to Section 3.2.

3.2 Independent Contractor Agreement Approval Process

3.2.1 A contract (agreement) is required for all independent contractors. Complete the [NC State Independent Contractor Agreement](#) (ICA). This agreement is for use by the NC State departments and units to contract for a wide range of independent contractor services. The University's Contract Review Services Team must review all purchase agreements, no matter the value, whenever there is a written contract, agreement, or purchase order

involved. Contact the unit's Business Office for assistance. [ONLY the Chancellor and those delegated by the Chancellor have the authority to execute contracts that legally bind the University to an outside party.](#) This authority **DOES NOT** reside at the college, department or unit level.

- 3.2.2 The contractor must be an active supplier in the Supplier Center in the financial system. If this is a new supplier, follow these [instructions](#) to obtain the required documentation from the contractor and add the supplier to the system. This **MUST** be completed prior to moving to the next step.
- 3.2.3 If the funding is coming from a grant or contract (ledger 5) that is managed by the CRO, the contract is submitted via email to CRO cos_research@ncsu.edu and CRO provides an email back to the initiator with approval and that approval email is to be uploaded with the draft contract.
- 3.2.4 Unit initiates the contract review process by submitting the completed independent contractor agreement (ICA), ICC, sole source memo of justification, and any other supporting documents (including approval email from 3.2.3 if applicable) via the Contract User Portal in [MyPack Portal](#). All COS ICAs must have a unit signature under Acknowledged By. The unit **does not** sign the agreement before the contract undergoes the review process by the University Contract Review Services Team. The initiator includes the name of the person in the unit who is procuring the service in the comments box. This signature is obtained by the University's Contract Review Services Team at the end of the review process. Navigation is Financial Systems HomePage > Financials Quick Nav > Purchasing Contracts > Purchasing Contracts. Video instructions for submitting a new contract for review can be found [here](#).
- 3.2.5 If Procurement determines the individual should be hired as an employee, the college business office and unit business officer will be notified. The unit would then proceed to hire the individual as an employee by referring to the COS Human Resources [website](#) for further guidance. **STOP HERE!** The remainder of the steps no longer apply.
- 3.2.6 Once a contract is fully approved, the University's Contract Review Services Team sends a DocuSign envelope to the Contractor and the NC State authority to obtain signatures on the ICA. Once all signatures have been collected, a copy of the signed agreement is sent to the contractor. The unit initiator will receive an email from the University's Contract Review Services Team indicating that the contract has been fully signed, which will include a link to view the contract. The signed agreement can be found in the Contract User Portal > My Contracts > Contract Number > Documents tab.

3.3 Procuring the Service

- 3.3.1 The University's Contract Review Services Team must review all purchase agreements, no matter the value, whenever there is a written contract, agreement, or purchase order involved.
 - 3.3.1.1 **\$5,000 and over** - If the total cost of the project will be \$5,000 or more, the unit enters a Non-MarketPlace Requisition into MarketPlace in the financial system.

Upload the fully executed ICA, the supplier's quote, and the sole source memo of justification. University Procurement will issue a purchase order and send it to the supplier. The unit initiator will receive a copy of the PO in a separate email. Guidance can be found in this [video](#) or [manual](#).

3.3.1.2 **\$4,999 and under** - If the total cost of the project will be under \$5,000, the Unit forwards a signed ICA (ensuring all steps Section 3.2 of this SOP have been completed) to the Contractor and makes arrangements to commence work.

3.4 Paying for the Service

3.4.1 Once services have been rendered by the independent contractor, an invoice should be submitted to the unit and the invoice processed for payment.

3.4.2 **\$5,000 and over** - Upload the invoice(s) through the PO Upload process. Guidance can be found in this [video](#) or [manual](#).

3.4.3 **\$4,999 and under** - Invoice(s) must be paid through a [payment voucher](#). Ensure the ICA and sole source memo of justification is uploaded to the transaction. Payments are **NOT** to be paid via pcard.

4. ADMINISTRATION OF CONTRACTS

4.1 Contract Monitoring

4.1.1 It is the responsibility of the unit to ensure that all contractual obligations are met and that contract monitoring is documented. A [Contract Monitoring Checklist](#) has been developed to assist units during the contract monitoring process.

4.1.2 Each contract is unique and the department may download and edit this checklist as required to meet its particular circumstances. In addition, departments should pay special attention to the following aspects of administration of contracts:

- Understand the scope of the contract.
- Make sure that deliverables and milestones are met in a timely manner. Know when your contract expires and when they may need to be renewed or extended.
- Make sure that you note, in writing, of any deficiencies or problems in the performance of the contract.
- If needing to terminate an agreement due to lack of performance or breach of contract on behalf of the contractor, notify purcontracts@ncsu.edu immediately.

4.2 Amending an Existing Contract

4.2.1 If changes to the contract are required after it is fully executed, use the contract amendment form to enumerate the specifics such as the cost, term, or scope of work.

4.2.1.1 Complete the contract "[amendment](#)" form.

4.2.1.2 Go to the Contract Portal [Financials Quick Nav](#) > Purchasing Contracts > Purchasing Contracts. Complete the steps in the Contract Portal for submitting an amendment and upload the amendment documentation to the portal. Guidance for this process can be found in this [video](#) or [manual](#).

5. RELATED HYPERLINKS

- [Internal Revenue Service](#)
- [Independent Contractor Flowchart](#)
- [COS Independent Contractor/Employee Checklist](#)
- [NCSU Independent Contractor Agreement](#)
- [Contract Monitoring Checklist](#)
- [PO Invoice Processing Guide](#)
- [Contract Review Services](#)
- [Contract Review Customer Service](#)

6. REVISION TABLE

Revision #	Subsection #	Summary of Changes	Approval Date
BO.11.00	N/A	Original version	08/18/2021