

## Buying Manual

Subject: Purchases with Special Procedures: Paying for Services

Title: Paying for Services – Getting Started

Number: 700

Issued: February 9, 2009

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## Paying for Services – Getting Started

A **service** is an activity in which labor is the major factor and not merely incidental to the production, acquisition, and/or delivery of a good. The procurement of services has unique requirements, and the first requirement is an evaluation of whether, based upon guidelines established by the Internal Revenue Services, the individual or entity providing the service should be classified as an employee or an independent contractor (vendor).

The next page contains a flowchart that will enable units to quickly determine whether they must contact another university office for guidance, appoint the service provider as an employee, or perform a service provider evaluation.

When a service provider evaluation is necessary, a questionnaire will be completed by the potential service provider. This [Service Provider Questionnaire](#) will enable the unit to evaluate whether a service provider should be classified as an employee or independent contractor. The [evaluation and classification](#) must be performed **before** engaging an individual or entity to perform services and before any services begin. It must be based upon IRS guidelines, not on administrative ease or relative costs.

◆ **Note:** If the IRS reviews classifications and determines the service provider should have been classified as an employee, any costs associated with misclassification (taxes, interest, penalty) are the responsibility of the unit.

### Paying Foreign Nationals

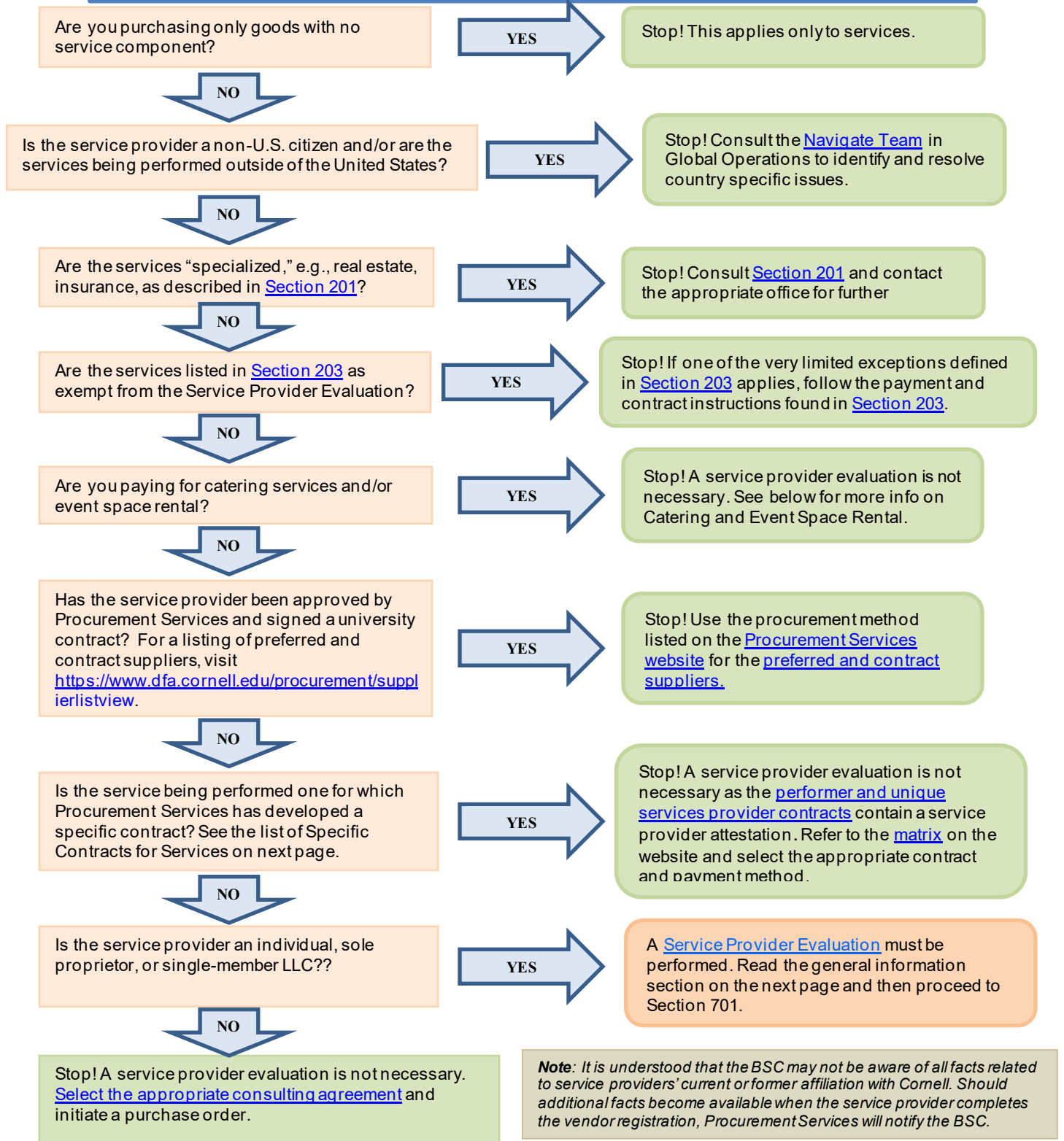
Individuals entering the United States to work at Cornell University have many issues to consider. In an effort to ensure institutional compliance with federal regulations, Cornell's Global Operations unit provides expertise on hiring non-U.S. citizens to work in the U.S. Contact the [Navigate Team](#) within Cornell's Global Operations unit.

### Worked Performed Outside of the United States

Work performed overseas can present a range of legal, financial, safety, and logistical considerations that create complications and could add expenses. **This is true regardless of the nationality of the service provider.** Consideration also must be given to whether the arrangement could trigger corporate registration or licensing requirements that may result in additional financial or regulatory obligations in the host country.

Before engaging a service provider to perform services outside of the United States, contact the [Navigate Team](#) within Cornell's Global Operations unit. Select "Ask a Question" from the top menu bar and provide information on the services you require, including location and if known, who will be performing the services.

### SERVICE PROVIDER EVALUATION DECISION FLOWCHART



## Service Providers – General Information

The following information does not apply to service providers appointed through Payroll.

### Insurance

The service provider (vendor) is generally required to provide proof that they meet the university's minimum insurance requirements if the performance of the service could result in liability to the University (i.e., services performed on university property). For information on the university's minimum insurance requirements, see [Section 405, Insurance Requirements](#) topic within this manual. If you are unsure as to whether the intended service provider must provide proof of insurance, contact Risk Management and Insurance.

◆ **Note:** Procurement and Payment Services (Procurement) updates the KFS vendor record for those vendors that are required to provide proof of adequate insurance coverage. You may check the Insurance tab on the vendor record in KFS.

### Contracts

A contract must be executed between the service provider (vendor) and the university in order to establish mutually agreed upon terms and conditions of the transaction. The university's purchase order is a legally binding contract that contains [terms and conditions](#) designed to protect the interests of the university.

When procuring services, it is often advisable to include terms beyond those in the [Cornell purchase order's standard terms and conditions](#), such as the scope of work or deliverables, acceptance criteria, identification of who will provide the services, etc. Contracts covering several specific types of services have been drafted by the Office of University Counsel and these documents will be used in conjunction with the purchase order. The contracts, listed below, can be found on the Procurement website at <http://www.dfa.cornell.edu/procurement/tools-forms/forms/contracts>.

### Getting Started

1. **If the vendor is international** (i.e., an individual working outside the U.S. or a foreign entity performing work within or outside of the U.S.) see International Consulting Agreements below.
2. Check the [Specific Contracts for One-time Services below](#) to see if there's a contract there that meets your needs. Each of these contracts is geared toward a specific type of service: facility rentals; caterers; performers; photography, graphic design, general services, or language translation.
  1. If a contract is available, complete the contract with the service provider, and submit it through the normal I Want document process.
  2. If you need assistance selecting a contract, contact your BSC.
  3. If a contract doesn't exist, continue with the next steps.
3. **If the vendor is a legal entity** (i.e., corporation, partnership, limited liability partnership, limited liability company):
  1. Select either the [Professional Service or IT Professional Service agreement under Consulting Agreements below](#).
  2. Send the service provider the applicable professional service provider contract.
  3. Send the completed contract and a **robust statement of work** to your business service center (BSC) using an I Want document.
4. If the vendor is an **individual** or if you're **not sure** if they are a legal entity, then complete the Service Provider Evaluation process, which is explained in Section 701.

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5. If you are engaging a **current Cornell student** to conduct a workshop or perform a service,
  1. All payments to **Cornell students for services rendered in the U.S.** should be processed as follows:
    1. If the student has an incorporated business with a federal employer identification number, then follow the standard paying for services process and issue a purchase order to the business.
    2. If the student uses their social security number, then process through Payroll as a temporary casual employee.
  2. For **students performing services outside the United States**, contact Global Operations using the Navigate web tool to be sure the payment is allowed. Follow the [International Consulting Agreement](#) process. For tax reporting purposes, please indicate in the business purpose that service will be/was provided outside of U.S.

### Specific Contracts for Services (with service provider attestation)

**For international service providers** (i.e., an individual working outside the U.S. or a foreign entity performing work within or outside of the U.S.), follow the instructions in the [International Consulting Agreements](#) section below and process on a purchase order. If you are engaging a foreign national within the US, if they are on a non-Cornell sponsored visa, you may not engage them without permission from the sponsoring agency.

These contracts are for **specific** kinds of one-time services, whether the services are performed by an individual or a legal entity (i.e., corporation, partnership, limited liability partnership, limited liability company) within the US. If you are engaging a service provider for repeat work over a period of time, please complete the service provider evaluation process and use the appropriate consulting agreement, i.e., independent consultant or professional services agreement.

Because a service provider attestation is included in these specific contracts, the service provider questionnaire and evaluation worksheet are not required. If the service provider indicates that they have been a Cornell employee, student, or student-employee within the past twelve months, contact [tax@cornell.edu](mailto:tax@cornell.edu) before proceeding.

- [Addendum for Facility Contract Agreements](#) – use this agreement when utilizing a facility’s contract for event space rental. See chart below for details.
- [Caterer contract](#) – for use with caterers. See chart below for details
- [Performer and Service Provider Contract Matrix](#) – This document will help you determine the type of contract, payment method, and insurance requirements needed when hiring entertainers and one-time service providers. Use the agreements below to address tax, liability, ownership, and contract terms and conditions.
  - [Performer without Equipment contract](#) -- for use with individual service providers, such as entertainers, DJ’s, clowns, small bands.  
**Caution:** Contracts for major, public, entertainment events held in places such as Bailey Hall and Statler Auditorium must be reviewed by the Office of University Counsel; do not use the standard Performer or Small Services Provider contract.
  - [Performer with Equipment contract](#) -- for use with individual service providers, such as entertainers, DJ’s, clowns, small bands.  
**Caution:** Contracts for major, public, entertainment events held in places such as Bailey Hall and Statler Auditorium must be reviewed by the Office of University Counsel; do not use the standard Performer nor Small Services Provider contract.

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- [Service Provider contract](#) – for use with individual service providers, such as massage therapists, henna/face painting, one- or two-day workshops. For consulting services, use the [Independent Consultant Agreement](#).
- [Service Provider contract for Graphic Design or Videography](#) -- for use with individual service providers.
- [Service Provider contract for Writing, Editing, Indexing](#) – for use with individual service providers.
- [Service Provider contract for Photographer, Artist, Illustrator](#) -- for use with individual service providers.
- [Service Provider contract for Language Translation and Interpretation \(including sign language\)](#) – for use with individual service providers
- [Executive Search Firm Agreement Template](#) -- All final search firm agreements must be approved by Human Resources. The authorizing party must retain a copy of this contract. A purchase order is required. In addition, please forward a copy of this agreement, **completed and signed by the contractor and university representatives**, along with all relevant attachments, to Allan Bishop, Division of Human Resources, 337 Pine Tree Road, Ithaca, NY 14850.

## Consulting Agreements

Agreements must be complete, initialed by the unit, signed by the service provider/consultant/ contractor, and include a detailed statement of work. A purchase order is required. If possible, discourage changes to the contract language.

- [Independent Contractor/Consultant agreement](#) – for use with *individuals* who have been evaluated and classified as independent contractors; covers such issues as tax and liability. The service provider questionnaire and evaluation worksheet are required. For IT-related services, use the IT Professional Services agreement.
- [Amendment to Independent Contractor/Consultant Agreement](#) – use this to amend the original Independent Contractor/Consultant agreement.
- [Professional Services agreement](#) – for use with business entities; covers such issues as tax and liability.
- [IT Professional Services agreement](#) – for use with business entities or individuals providing information technology and cloud computing services; covers such issues as tax and liability. This language is written specifically for information technology companies that provide hardware, software, web design, or cloud services.
- [Amendment to Professional Services Agreement](#) - use this form to amend the original Professional or IT Professional Services agreements.
- [International Independent Consultant Agreement](#) – for individuals or entities performing work within and outside of the U.S. to address tax, liability, and contract terms and conditions for work performed overseas.
  - Before engaging/hiring short-term consultants, lecturers, data collectors, and others for international assignments, complete the short [Navigate Questionnaire](#). The Navigate team members from Human Resources, the Office of University Counsel, and the University Tax Office will advise you on country-specific issues.
  - Complete the [International Independent Contractor Certification and Attestation \(PDF, 256 KB\)](#). This form must be completed by any individual who provides services in any jurisdiction outside the United States on Cornell's behalf, regardless of nationality or country of residence. All information must be entered completely by the person to perform the services to ensure accuracy and a timely review. The information on this

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form is to be used to determine whether the services and individual comply with the independent contractor guidelines set out by the U.S. IRS and the laws of the country where the services will be performed.

**Finally, units with unusual business needs require customized contracts. Such contracts must be reviewed by the Office of University Counsel; therefore, contact Procurement prior to initiating the purchase order. Additional information on contracts can be found in [section 409](#).**

**Catering and Event Space Rental**

*Catering* occurs when a vendor prepares, sets up, serves or cleans up food on Cornell controlled property, including both facilities owned by Cornell and facilities (event space) that may be rented or leased and only under Cornell's control for the period of the event (i.e., rental of a banquet hall). Catering should not be confused with simple *delivery* where no service is provided on site (i.e., pizza delivery).

Below the contract requirements, deposit and final payment options for catering only, event space rental, catering with event space rental are defined.

<b>Catering Only</b>	<b>Dollar Amount</b>	<b>Contract Requirements</b>	<b>Deposit Options</b>	<b>Final Payment Options</b>
<b>Caterers with a University Contract</b>	<b>Up to \$10,000</b>	The standard catering contract is not needed.  Quote/scope of work is required.	A deposit up to 50% of the total, not to exceed \$5,000, may be paid via pcard.	The BSC may make final payment on a pcard. <i>The total payment (sum of deposit and final payment) may not exceed \$10,000.</i>
<b>Caterers with a University Contract</b>	<b>\$10,000 or greater</b>	The standard catering contract is not needed.  PO is required. A Quote/scope of work must be attached to the requisition.	After the PO is issued, a deposit up to 50% of the total, not to exceed \$10,000, may be paid via pcard.	Final payment to be made through the PO process.
<b>All Other Caterers</b>	<b>Up to \$10,000</b>	Use Cornell's <a href="#">standard Catering Contract</a> .  The BSC director or designee signs the completed contract and returns it to vendor.	After contract is signed, a deposit up to 50% of the total, not to exceed \$5,000, may be paid via pcard.	The BSC may make final payment on a pcard. <i>The total payment (sum of deposit and final payment) may not exceed \$10,000.</i>
<b>All Other Caterers</b>	<b>\$10,000 or Greater</b>	The unit will ask the vendor to complete Cornell's <a href="#">standard Catering Contract</a> .  The BSC collects Cornell's Standard Catering Contract (BSC does not sign) and attaches it to the KFS Requisition.	After the PO is issued, a deposit up to 50% of the total, not to exceed \$10,000, may be paid via pcard.	Final payment to be made through the PO process.

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◆ **Caution:** When hosting events in a private residence, you must contact the Department of Risk Management and Insurance prior to the event. It is imperative to ensure that the appropriate vendor insurance and licenses are in place to protect the homeowner from potential liability.

	Dollar Amount	Contract Requirements	Deposit Options	Final Payment Options
Event Space Rental OR Catering with Event Space Rental	Up to \$10,000	In addition to the contract that the vendor has supplied, the unit will ask the vendor to complete Cornell's <a href="#">Addendum for Facility Contract Agreements</a> , and then the BSC Director or designee signs the addendum.	After a vendor contract and addendum are signed, a deposit up to 50% of the total, not to exceed \$5,000, may be paid via pcard.	The BSC may make final payment on a pcard. <i>The total payment (sum of deposit and final payment) may not exceed \$10,000.</i>
Event Space Rental OR Catering with Event Space Rental	\$10,000 or Greater	In addition to the contract that the vendor has supplied, the unit will ask the vendor to complete Cornell's <a href="#">Addendum for Facility Contract Agreements</a> . The BSC <i>collects</i> the addendum and vendor contract (BSC does not sign) and attaches them to a Requisition.	After the PO is issued, a deposit up to 50% of the total, not to exceed \$10,000, may be paid via pcard.	Final payment to be made through the PO process.

For your convenience, the list of caterers with contracts is available on the Procurement website at <https://www.dfa.cornell.edu/procurement/buyers/commodities/hiring-caterers/caterers>.

## Joint Venture

The university may enter into a joint venture with an outside entity for the performance of services. These ventures are often complicated. Units must involve Procurement prior to entering into such an agreement.

## Sponsored Project Consulting Agreements and Subcontracts

When an individual is performing services that are directly related to the science or scope of a sponsored project, a [Service Provider Evaluation](#) must be completed to determine if the individual is an employee or an independent contractor. If after the evaluation, the service provider is deemed to be an Independent Contractor, a purchase order is required and an Independent Contractor/Consultant Agreement must be completed. Proceed to [Section 701, the Service Provider Evaluation](#).

**Note:** If another organization is performing a substantive portion of the work effort based upon an award made to Cornell, it may be necessary to formalize this relationship through the execution of a subcontract. Such agreements are executed by the Office of Sponsored Programs (OSP). Please see OPS's website at [www.osp.cornell.edu/](http://www.osp.cornell.edu/) for further information on subcontracts.