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.
**SERVICE PROVIDER EVALUATION DECISION FLOWCHART**

Are you purchasing only goods with no service component?

- **NO**

Are the services “specialized,” e.g., real estate, insurance, as described in Section 201?

- **YES**
  - Stop! Consult Section 201 and contact the appropriate office for further assistance.

Are the services listed in Section 203 as exempt from the Service Provider Evaluation?

- **NO**

Has the service provider been approved by Procurement Services and signed a university contract? For a listing of preferred and contract suppliers, visit https://www.dfa.cornell.edu/procurement/supplierlistview.

- **YES**
  - Stop! Use the procurement method listed on the Procurement Services website for the preferred and contract suppliers.

- **NO**

Is the service provider an entity, i.e., corporation, partnership, limited liability partnership, or limited liability company?

- **YES**
  - Stop! A service provider evaluation is not necessary. Select the appropriate contract and initiate a purchase order.

- **NO**

Is the service being performed one for which Procurement Services has developed a unique contract? See list of Consulting Agreements and Contracts for Services on next page.

- **YES**

A **Service Provider Evaluation** must be performed. Read the general information section on the next page and then proceed to Section 701.

**Note:** It is understood that the FTC/BSC may not be aware of all facts related to service providers’ current or former affiliation with Cornell. Should additional facts become available when the service provider completes the vendor registration, Procurement Services will notify the FTC/BSC.
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 Services maintains a list of vendors that have supplied proof of adequate insurance coverage, available at http://www.dfa.cornell.edu/procurement/buyers/insurance or 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 at http://www.dfa.cornell.edu/procurement/tools-forms/forms/contracts.

Consulting Agreements
- **Independent Contractor/Consultant agreement** – for use with individuals who have been evaluated and classified as independent contractors; covers such issues as tax and liability.
- **Professional Services agreement** – for use with business entities; covers such issues as tax and liability.
- **IT Professional Services agreement** – for use with business entities providing information technology and cloud computing services; covers such issues as tax and liability.

Contracts for Services (with Service Provider attestation)
- **Caterer contract** – for use with caterers appearing on the Office of Risk Management and Insurance’s List of Approved Caterers, found at www.risk.cornell.edu/events-management/caterer-list/.
- **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.

- **Small Services Provider contract** -- for use with individual service providers, such as massage therapists, henna/face painting

- **Service Provider contract for Graphic Design, Web Design, Writing, Editing, Videography** -- for use with individual service providers

- **Service Provider contract for Photographer, Artist, Illustrator** -- for use with individual service providers

- **Professional Services 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. 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, Recruitment and Employment Center, 337 Pine Tree Road, Ithaca, NY 14850 and Glenn Morey, Cornell Procurement Services, 395 Pine Tree Road, Ithaca, NY 14850.

Finally, units with unusual business needs require unique contracts. Such contracts must be reviewed by the Office of University Counsel; therefore it is advisable to contact Procurement Services prior to initiating the purchase order. Additional information on contracts can be found in section 502 of this manual.

**Note:** Procurement Services has negotiated university wide contracts with certain frequently used service providers. These vendors have already been evaluated and classified as independent contractors. For a list of these service providers, please see [http://www.dfa.cornell.edu/procurement/supplierlistview](http://www.dfa.cornell.edu/procurement/supplierlistview).

**Catering**

*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 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).

Caterers fall into three categories and payment options vary:

1. If your caterer is in e-SHOP under America to Go, you may place the order directly in that system. Orders originating in e-SHOP result in the issuance of a purchase order.
2. Caterers appearing on the Office of Risk Management and Insurance’s list of caterers with insurance (found at [www.risk.cornell.edu/events-management/caterer-list/](http://www.risk.cornell.edu/events-management/caterer-list/)) are eligible
for payment (including a deposit) up to $10,000 on BSC pcard. A purchase order is required for any amount above $10,000. See Section 307, Special Considerations for FTC/BSC PCard Holders for requirements, prior to engaging the caterer.

3. When your intended caterer is not in e-SHOP nor on Risk Management’s list, please continue your review of this section. For those caterers that are not a business entity (corporation, partnership, LLP, LLC), the caterer contract with a service provider attestation must be used.

For your convenience, this information is in a chart on the Procurement Services website at http://www.dfa.cornell.edu/procurement/buyers/hiring-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 Services 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. Please see www.osp.cornell.edu for further information on subcontracts.