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?

NO

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

NO

Are you paying for catering services and/or event space rental?

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.

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.

NO

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

NO

YES

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

YES

Stop! This applies only to services.

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

Stop! If one of the very limited exceptions defined in Section 203 applies, follow the payment and contract instructions found in Section 203.

Stop! A service provider evaluation is not necessary. See the chart below on Catering and Event Space Rental.

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

Stop! A service provider evaluation is not necessary as the performer and small services provider contracts contain a service provider attestation. Refer to the matrix on the website and select the appropriate contract and payment method.

Stop! A service provider evaluation is not necessary. Select the appropriate consulting agreement and initiate a purchase order.

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 and Payment Services (Procurement) 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.

Unique Contracts for Services (with service provider attestation)

- **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 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.
- **Service Provider contract** – for use with individual service providers, such as massage therapists, henna/face painting
• **Service Provider contract for Graphic Design, Web Design, 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 Deaf or Foreign Language Translation** – 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.

**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.

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

**Note:** Procurement 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 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 are two charts which identify contract requirements, deposit and final payment options for catering only, event space rental, catering with event space rental.
<table>
<thead>
<tr>
<th>Catering Only</th>
<th>Dollar Amount</th>
<th>Contract Requirements</th>
<th>Deposit Options</th>
<th>Final Payment Options</th>
</tr>
</thead>
<tbody>
<tr>
<td>Caterers with a University Contract</td>
<td>Up to $10,000</td>
<td>The standard catering contract is not needed. Quote/scope of work is required.</td>
<td>A deposit up to 50% of the total, not to exceed $5,000, may be paid via pcard.</td>
<td>The BSC may make final payment on a pcard. <strong>The total payment (sum of deposit and final payment) may not exceed $10,000.</strong></td>
</tr>
<tr>
<td>Caterers with a University Contract</td>
<td>$10,000 or greater</td>
<td>The standard catering contract is not needed. PO is required. A Quote/scope of work must be attached to the requisition.</td>
<td>After the PO is issued, a deposit up to 50% of the total, not to exceed $10,000, may be paid via pcard.</td>
<td>Final payment to be made through the PO process.</td>
</tr>
<tr>
<td>All Other Caterers</td>
<td>Up to $10,000</td>
<td>Use Cornell’s standard Catering Contract.</td>
<td>After contract is signed, a deposit up to 50% of the total, not to exceed $5,000, may be paid via pcard.</td>
<td>The BSC may make final payment on a pcard. <strong>The total payment (sum of deposit and final payment) may not exceed $10,000.</strong></td>
</tr>
<tr>
<td>All Other Caterers</td>
<td>$10,000 or Greater</td>
<td>The unit will ask the vendor to complete Cornell’s standard Catering Contract. The BSC collects Cornell’s Standard Catering Contract (BSC does not sign) and attaches it to the KFS Requisition.</td>
<td>After the PO is issued, a deposit up to 50% of the total, not to exceed $10,000, may be paid via pcard.</td>
<td>Final payment to be made through the PO process.</td>
</tr>
</tbody>
</table>

**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.
**Event Space Rental OR Catering with Event Space Rental**

<table>
<thead>
<tr>
<th>Dollar Amount</th>
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<th>Deposit Options</th>
<th>Final Payment Options</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to $10,000</td>
<td>In addition to the contract that the vendor has supplied, the unit will ask the vendor to complete Cornell’s Addendum for Facility Contract Agreements, and then the BSC Director or designee signs the addendum.</td>
<td>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.</td>
<td>The BSC may make final payment on a pcard. The total payment (sum of deposit and final payment) may not exceed $10,000.</td>
</tr>
<tr>
<td>$10,000 or Greater</td>
<td>In addition to the contract that the vendor has supplied, the unit will ask the vendor to complete Cornell’s Addendum for Facility Contract Agreements. The BSC collects the addendum and vendor contract (BSC does not sign) and attaches them to a Requisition.</td>
<td>After the PO is issued, a deposit up to 50% of the total, not to exceed $10,000, may be paid via pcard.</td>
<td>Final payment to be made through the PO process.</td>
</tr>
</tbody>
</table>

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](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. Please see [www.osp.cornell.edu](http://www.osp.cornell.edu/) for further information on subcontracts.