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## **PAYROLL ADMINISTRATION**

### **INDEPENDENT CONTRACTORS AND OTHER PAYMENTS TO NON-EMPLOYEES**

#### **SUMMARY**

##### **INDEPENDENT CONTRACTORS**

An independent contractor is an individual or non-corporate business entity that provides personal services to the University. An individual may be classified as an independent contractor as opposed to an employee if he/she meets independent contractor conditions as established by Internal Revenue Service (IRS) criteria. Some examples of independent contractors are consultants, editors, photographers, caterers, musicians, and performers.

To be classified as independent contractors, individuals generally have a separate workplace, are not supervised when they are working within the organization, have a separate set of skills not available within the organization, and have other clients. Additional criteria are listed on the back of the Contract for Personal Services (University Form B-33) to help in determining the status of an individual. A Form B-33 must be completed for all independent contractors. Individuals who do not meet the criteria for classification as an independent contractor must be paid as employees.

When payments to independent contractors total \$600 or more, a purchase order is required. Costs of travel performed under the terms of the engagement should be negotiated and included as part of the total contract fees. Fees and travel expenses should be submitted on an invoice. If no invoice is presented, a check requisition (Form B-32) may be submitted for payment. Independent contractors should retain travel receipts.

Individuals not meeting the criteria for an independent contractor may be hired as temporary, limited, part-time, or casual employees. Divisional personnel offices will assist departments in identifying appropriate pay grades and hourly rates.

Faculty and staff of the University who provide professional advice to other departments may be paid a supplement through the payroll system for these services. University faculty who collaborate on grant proposals are not to be listed as consultants. Faculty may not serve as paid consultants to other JHU faculty on grant proposals submitted to the federal government.

##### **HONORARIA**

An honorarium is a onetime tax-reportable payment to a non-University employee for general service in education, research, or public service where the University does not expect nor is payment contingent upon a particular result. Examples are guest lecturers, presentation of research results, and workshop leaders. A Contract for Personal Services (Form B-33) is not required.

Departments may authorize reimbursement to visiting lecturers for expenses incurred in connection with their travel to the University. Travel expenses and associated receipts should be submitted on a Non-Employee Travel and Entertainment Expense Report (Form B36-NE). Reimbursed travel expenses are not included in gross receipts on 1099s issued to visiting lecturers.

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## **PAYROLL ADMINISTRATION**

### **INDEPENDENT CONTRACTORS AND OTHER PAYMENTS TO NON-EMPLOYEES**

#### **PRIZES AND AWARDS**

Prizes and awards are classified by the IRS as tax-reportable income. A Contract for Personal Services (Form B-33) is not required. Prizes and awards to employees, which recognize professional achievements related to employment, are paid through payroll. IRS Form 1099s are issued to recipients of prizes and awards who are non-employees or students whose part-time employment has no professional connection to the award.

#### **FELLOWSHIPS**

Fellowships are paid through payroll.

#### **TAX REPORTING**

At the end of every calendar year, the University issues IRS Form 1099s to all independent contractors if payments (including professional fees and travel expenses) equaled \$600 or more throughout the year. Recipients of honoraria, prizes, awards, and royalties also receive 1099s. All payments, regardless of amount, are reported to the IRS, as well. Failure to do so risks fines, penalties, and back taxes for the recipients as well as the University. IRS Form 1099s are mailed to the recipient's home address. If the IRS informs the University that a Social Security number is invalid, the University has a responsibility to request a completed Form W-9 from the payee. For these reasons, the payee's home address must accompany all requests for payment.

#### **INTERNAL CONTROLS**

<b>OBJECTIVES</b>
<ul style="list-style-type: none"><li>• Individuals are classified correctly as either an employee or consultant/independent contractor for tax withholding purposes</li></ul>
<b>RISKS</b>
<ul style="list-style-type: none"><li>• Non-compliance with federal regulations</li><li>• Non-compliance with University policies</li><li>• Fines and penalties</li></ul>

#### **AUDIT CHECKLIST**

	Has the department determined the classification of an individual as either an independent contractor/consultant or employee by following IRS criteria?
	If a contractor meets the independence criteria, has the department completed a Contract for Personal Services Rendered by a Consultant/Independent Contractor (Form B-33)?
	Has the Form B-33 been signed by the independent contractor/consultant, the department administrator and head, or dean?
	If the cumulative payment to the independent contractor/consultant was \$600 or more, was a purchase order request completed?
	If the independent contractor is a University employee, are payments being made through the payroll system, and is the documentation reviewed and approved by divisional human resources offices and divisional business offices?

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## **PAYROLL ADMINISTRATION**

### **PAYROLL**

#### **SOURCES FOR POLICY**

Administrative Bulletin (<http://www.controller.jhu.edu/admbull.htm>)  
Independent Contractors and Consultant Guide  
(<http://fas.learning.jhu.edu/website/userguides/pdfguides/INDEPCON.PDF> )

#### **RESOURCES FOR ASSISTANCE**

Accounts Payable, Office of the Controller, 410-516-6688  
Divisional Human Resource Offices  
(see list of addresses and phone numbers in Offices to Contact section)  
IRS Web Site (<http://www.irs.gov>)  
Payroll, Office of the Controller, 410-516-8146  
Tax Office, Office of the Controller, 410-516-8442

#### **FORMS ON THE WEB**

Independent Contractor (B-33) ([http://www.controller.jhu.edu/uforms/b33\\_1.pdf](http://www.controller.jhu.edu/uforms/b33_1.pdf))



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# Independent Contractor Certification & Agreement

Form B-33 Revised September 2002

## Johns Hopkins University OFFICE OF THE CONTROLLER

The information on Part I of this form is used to determine whether the individual providing services is an independent contractor under IRS guidelines. Part I must be completed and signed by the individual performing the services and must be reviewed and signed by the individual responsible for contracting the services. The Dean or Chairperson must sign part II of this form. **The entire Independent Contractor Certification & Agreement must be completed prior to any work being performed.**

### Part I. INDEPENDENT CONTRACTOR DETERMINATION AND CERTIFICATION

#### DIRECTIONS

This form should be used only for the retention of independent contractors for short duration, low cost projects where no intellectual property is expected to be produced. It **MUST NOT BE USED** to secure custom programmed computer software or for creation of computer web pages (use the ICTSA), and it **MUST NOT BE USED** for consulting services where the University cost is expected to exceed \$15,000, or if the consulting is expected to produce specific intellectual property (other than a report by the consultant). In such circumstances, the University Master Consulting Services Agreement must be used. This form should be used only to retain individuals, sole proprietorships or partnerships, and should not be used with corporations or limited liability companies (LLC). An exception may be made when the corporation or LLC is essentially a sole proprietor or small group (2 to 4 principals) and the dollar value is less than \$15,000, and no intellectual property is expected to be produced.

- (1) Review the definition and criteria listed below to make a determination about the status of an individual, i.e., employee or independent contractor.
- (2) If the individual qualifies as an independent contractor and the engagement is expected to be:
  - (a) \$600 or more - Complete the agreement along with a Purchase Request and submit both forms to the Purchasing Department.
  - (b) Less than \$600 - Complete and submit the agreement, along with the Invoice or Check Requisition, to the Accounts Payable Department.
- (3) Individuals who do NOT qualify as independent contractors must be paid through the payroll system.
  - (a) Staff members currently on payroll and who render a service or do consulting work across departmental lines must be paid through the payroll system. Complete the appropriate payroll form and submit with the agreement to the Payroll Office.
  - (b) Individuals who are not currently University employees must be established as employees and classified as either Temporary or Casual Employees.
- (4) Individuals signing this agreement must disclose any conflict of interest relationships that may exist between the two parties.
- (5) University Policy exempts guest lecturers and human subjects from the independent contractor certification requirement.

#### DEFINITION

**An independent contractor is an individual or non-corporate business entity that provides personal services to the University while retaining control over the means and methods of accomplishing the result. Typically, the independent contractor will have a principal place of business other than at the University, offer services to the general public and will have clients other than the University.**

Types of independent contractors previously contracted by the University include photographers, graphic artists, caterers and manuscript readers. External consultants are independent contractors who provide professional advice. Internal consultants are University employees who provide professional advice across departmental lines.

# Independent Contractor Certification & Agreement

Form B-33 Revised September 2002

**1. Tax Status:** (complete only one section)

**Individuals**

fill out this section

Individual Name: (First, middle initial, last)

Social Security Number (SSN)

\_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

**Sole Proprietor**

fill out this section

Business Owner's Name: (REQUIRED)

Business Owner's Social Security Number

\_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Business or Trade Name: (OPTIONAL)

Employer ID Number

\_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

**Partnership**

fill out this section

Name of Partnership:

\_\_\_\_\_

Partnership's Employer Identification Number \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Partnership's Name on IRS records (see IRS mailing label)

\_\_\_\_\_

**Corporation,  
exempt charity  
or other entity**

fill out this section

Name of Corporation or Entity: a corporation's legal name that is on the articles of incorporation

\_\_\_\_\_

Employer Identification Number \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Are you incorporated? Yes \_\_\_\_\_ No \_\_\_\_\_ Date of Incorporation: \_\_\_\_\_

Names of Officers: President: \_\_\_\_\_ Vice President: \_\_\_\_\_

Secretary: \_\_\_\_\_ Treasurer: \_\_\_\_\_

Permanent Business/Home address for mailing IRS Form 1099

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_

Zip or Post-Code: \_\_\_\_\_ Country: \_\_\_\_\_

**2. Are you a U.S. citizen or resident alien? \_\_\_ Yes \_\_\_ No**

If no, please contact the University's Tax Office for instruction.

**Independent Contractor Certification & Agreement**  
**Form B-33 Revised September 2002**

3. **Are you an employee of the Johns Hopkins University or Johns Hopkins Health System?**

Yes  No      If yes, check all that apply

JHU    JHHS    Part-time    Full-time    Faculty

Other (specify) \_\_\_\_\_

4. **Have you received wages or any other payments from the Johns Hopkins University within the last year?**

Yes  No

If yes, check the appropriate blank below. If (c), specify the type of payment.

(a)  Consulting or other service fee

(b)  Wages

(c)  Other (specify) \_\_\_\_\_

5. **Independent Contractor Criteria**

- |    |  |  |
|----|--|--|
| a. | I will receive a flat fee for my services.   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| b. | My services are made available to the public on a regular and consistent basis.  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| c. | I contract with others to provide similar services.  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| d. | I will provide all the required equipment to complete my project.  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| e. | I have the right to retain others to assist me in performing my services.  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| f. | The retention of any such persons is solely within my discretion, and I will pay any compensation.   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| g. | I use University classroom or office space to perform my services.   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| h. | All expenses incidental to the performance of my services for the University, including travel expenses are to be borne by me, unless reimbursement is permitted in the terms of the contract and invoiced separately with appropriate documentation and receipts. | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| i. | I retain the right to schedule the work to be completed.   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| j. | If required, I will submit periodic progress reports to the responsible department chairman or business administrator as to the status of the project or work being performed.   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| k. | The right to control the progress of the project or work being performed, is at my discretion.   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| l. | I contract to provide these services on a project-by-project basis.  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| m. | Nothing in this shall imply that either party has the right or obligation to receive or provide services for any period other than that covered by the contractor.   | <input type="checkbox"/> Yes <input type="checkbox"/> No |

I am providing additional information, which may be relevant to the determination of my status as an independent contractor (e.g. copies of invoices to other customers, newspaper and/or yellow pages advertisements, business cards, etc).

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

# Independent Contractor Certification & Agreement

## Form B-33 Revised September 2002

**6. Certification by independent contractor:**

I hereby certify, that I am entitled to claim independent contractor status and that I have complied with all business licensing requirements. I certify that I pay my own federal, state, and city income/social security and other taxes in accordance with estimated tax payment requirements. I acknowledge that, as an independent contractor, I am not eligible for workers compensation, unemployment compensation or other University employee benefits. I understand that the University will issue an IRS Form 1099-MISC to independent contractors who receive \$600 or more in remuneration during a calendar year. I acknowledge that providing false information will result in my not being eligible to contract with the University in the future, and may result in penalties.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

**7. Departmental Business Administrator certification:**

I certify that the foregoing statements represent the truth to the best of my knowledge and that all appropriate University purchasing approvals have been fulfilled. I acknowledge that, if the IRS subsequently determines that employee status should have applied, all penalties assessed to Johns Hopkins University with respect to this contract may be charged to my school/department.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

***If not approved, any payment for services must be processed through the payroll system. Refer to HR Policy for guidance.***

**8. Purchasing/Controller's Office approval:**

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

**Independent Contractor Certification & Agreement**  
**Form B-33 Revised September 2002**

**Part II. INDEPENDENT CONTRACTOR/CONSULTANT AGREEMENT**  
Form B-33 Revised September 2002

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

between \_\_\_\_\_ (Independent Contractor), and Johns Hopkins University (University), a Maryland Corporation whose principal place of business is 3400 N. Charles Street, Baltimore, Maryland, 21218. In consideration of the mutual promises contained herein, the parties agree as follows:

The Complete Name of Independent Contractor is: \_\_\_\_\_.

Independent Contractor principal place of business is located at:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Independent Contractor is a: \_\_\_\_\_ Individual  
\_\_\_\_\_ Sole Proprietor  
\_\_\_\_\_ Partnership

State of Organization: \_\_\_\_\_

Employer Identification Number or Tax I.D. Number: \_\_\_\_\_

**1. Scope of Work.** The Independent Contractor will consult with and advise the University on matters and/or perform services relating to \_\_\_\_\_.

The consultation and/or services will produce the following results (Deliverables):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**2. Ownership of Deliverables.** All computer software, patentable inventions, and any other Deliverables to be produced by Contractor shall be a "work made for hire" as that term is defined for copyright and other purposes, and shall be and become the property of the University which shall have all and exclusive rights to same. Contractor hereby assigns all rights to Deliverables to the University. To the extent necessary, Contractor agrees to execute any additional documents necessary to transfer copyright, patent rights, ownership of, and all other rights in Deliverables produced by Independent Contractor.

**3. Place of Work.** The Independent Contractor shall perform the work described hereunder from a place of business located at \_\_\_\_\_

or another place designated by the University. Upon reasonable notice, Independent Contractor shall meet with representatives of the University, either at the University's campus or other designated location

**4. Time Devoted to Work.** In the performance of the Services, the amount of time devoted by the Independent Contractor on any given day will be entirely within the Independent Contractor's control, and the University will rely on the Independent Contractor to put in such number of hours as are necessary to fulfill the requirements of this Agreement.

**5. Payment.** The University will pay the Independent Contractor the sum of \$ \_\_\_\_\_, in installments [or lump sum] as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# Independent Contractor Certification & Agreement

## Form B-33 Revised September 2002

6. **Term.** The term of this Agreement shall commence on the date it is executed by the last to sign and shall continue through \_\_\_\_\_, 20\_\_\_. Either party may terminate this Agreement for failure of the other to comply with the terms and conditions of this Agreement. In addition, the University may terminate at any time on 30 days written notice. If terminated at the will of the University, the University will pay for all services satisfactorily performed up to the termination date. Upon the expiration of the term hereof or earlier termination of this Agreement, Independent Contractor shall deliver to the University all completed work to date and any records or other property belonging to the University.

7. **Status of the Independent Contractor.** The University and Independent Contractor intend that the relationship between them shall be that of client and independent contractor. No agent, or employee of Independent Contractor shall be or shall be deemed to be an employee or agent of the University. The University is interested only in the results obtained under this Agreement consistent with paragraph 8 below. The manner and means of conducting the work are under the sole control of the Independent Contractor. None of the benefits provided by the University to its employees, including, but not limited to, worker's compensation insurance and unemployment insurance, is available from the University to the Independent Contractor, or the employees, or agents of Independent Contractor. Independent Contractor will be solely and entirely responsible for his acts and for the acts of his agents, employees and subcontractors during the performance of this Agreement. The work performed under this Agreement will be performed entirely at the Independent Contractor's risk. The Independent Contractor agrees to indemnify the University for any and all liability or loss arising in any way out of the performance of this Agreement.

8. **University's Right to Inspect.** Although Independent Contractor has the authority to control and direct the performance of the details of the work, the work contemplated herein must meet the University's standards and approval and shall be subject to the University's general right of inspection to secure the satisfactory completion thereof. Independent Contractor agrees to comply with all federal, state, and local laws, rules and regulations that are now or hereafter applicable to the Independent Contractor or Independent Contractor's business. The University will designate a representative who shall be authorized to act for the University in all matters related to Independent Contractor's performance of the Services.

9. **General.** This Agreement shall be interpreted in accordance with the laws of the State of Maryland. This Agreement constitutes the entire agreement of the parties with respect to the matters addressed herein and no modifications of this Agreement shall be enforceable unless in writing signed by both the University and Independent Contractor. All references to the masculine gender herein shall be applicable equally to the feminine and neuter genders and all references in the singular shall apply in the plural.

In witness whereof the University and the Independent Contractor have caused this Agreement to be executed on the date first above written.

THE JOHNS HOPKINS UNIVERSITY

INDEPENDENT CONTRACTOR

By: \_\_\_\_\_  
Administrator

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Social Security Number Or Employer

Identification No.: \_\_\_\_\_

By: \_\_\_\_\_  
Dean or Chairperson

Check one:  Individual

Sole Proprietor

Print Name: \_\_\_\_\_

Partnership