

Professional Services Agreements

Frequently Asked Questions

Acronyms used throughout the Frequently Asked Questions

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| Nonresident Alien | NRA |
| Social Security Administration | SSA |
| Social Security Number | SSN |
| Individual Tax Identification Number | ITIN |
| Internal Revenue Service | IRS |
| Professional Services Agreement | PSA |

1. Must the witness and/or acknowledgement lines on the PSA forms have a signature?

No, a signature on the witness and/or acknowledgement lines is not required.

The Professional Services Agreement is a multi-purpose contract written to encompass a wide variety of contracting services. The witness line at the end of the document provides the contracting parties with the option of a witness to the contract. The Brown University authorized signer of a contract may request a signature on the acknowledgment line by the contract manager or principal investigator to indicate his/her familiarity with the contract.

2. Why must we include the home address on PSA forms?

Brown University must have a home address for the IRS Form 1099 that is sent to the SSA and to the individual's place of residence.

If a contractor receives more than \$600 from Brown in a calendar year he/she will receive a Form 1099 from Brown reporting total paid to the contractor. The Form 1099 must include the contractor's full legal name, social security number, and **home address**. Brown sends this information to the SSA and the SSA compares this information with their records. Records that do not match information in the SSA database are returned to Brown and are subject to possible fines.

3. Why do we have to tax the honorarium given to guest speakers from countries outside of the United States?

Tax law requires that Brown University tax all payments to nonresident aliens unless tax law specifically exempts the payment from taxation or the nonresident alien lives in a country that has a tax treaty with the United States.

An honorarium is considered earned income – income derived from the sale of goods or rendering services. Earned income is taxable whether the income was earned by a U.S. resident or a nonresident alien. Brown is required to withhold taxes from a nonresident alien's check for services. Some nonresident aliens may be eligible for tax treaty benefits which may reduce or eliminate the taxation of their earnings.

4. Will Brown pay for a professional services provider's travel expenses?

Brown will pay for a professional service providers travel expenses, however, how the payment is made depends on which professional services agreement is used.

Contractors whose services are on a guest speaker agreement or the abbreviated professional services agreement may be reimbursed for their travel expenses if they fully comply with Brown's travel policy. The reimbursement request is processed on a travel expense report. Reimbursement does not appear on the contractor's Form 1099 (is not taxable income).

Contractors whose services are on the standard professional services agreement are responsible for their own travel arrangements. Their travel expenses are included in their contract and they invoice Brown for the expense. Expense receipts are not required. The Form 1099 prepared by Brown will include the total amount paid to the contractor.

5. Can my department hire an individual we've been using as an independent contractor?

It is possible to hire an individual who has provided independent contractor services to Brown. **If your department is considering hiring a contractor who has performed independent contractor services to Brown please contact the Director of University Disbursements for more information.**

6. We have an employee leaving Brown's employment. Can we hire him/her as a contractor?

Maybe.

Whether or not a current Brown employee may end an employment relationship with the University and later become a contractor is dependent on a number of factors, including: the elapsed time between employment and contractual services, whether the contractual arrangement is in the same year of employment services were performed, and the type of services being provided by the contractor. **If your department is considering contracting with a former employee, please contact the director of University Disbursements for more information.**

7. Why is it so much work to hire a professional service provider from a country outside of the United States?

Brown University complies with all federal laws pertaining to hiring nonresident aliens and it is the compliance with these laws that may make the process seem cumbersome.

Nonresident aliens must have a Visa that permits them to be paid for services provided. The federal government requires that Brown tax payments to NRAs unless the NRA is eligible to claim tax treaty benefits. NRAs must have an ITIN or SSN in order to apply for any available treaty benefits. If the NRA does not have an ITIN or SSN, he or she may apply for one. The process normally takes 6 – 8 weeks.

8. We want to pay our contractor an amount that is different from the amount on the professional services agreement. Can we do that?

A Professional Services Agreement is a contract signed by both Brown University as the purchaser of services and the contractor who is providing the services. The contract is binding. However, there may be times when both parties to the contract wish to amend the terms of the agreement. The **Amendment to the Professional Services Agreement** document may be used to amend the originally agreed scope of duties, period of performance, and/or compensation. When completed and signed, the amendment is a binding contract. Amendments must be completed and signed before the original contract expires. The Amendment to the Professional Services Agreement is available on the Controller's Office website.

9. I can sign all financial documents in our department. Why can't I sign PSAs?

Professional Services Agreements are contracts and the University Corporation limited the number of individuals who can contractually bind the University. The University Corporation approved the authority to execute contractual agreements for professional services to selected officers. These officers may delegate signature authority to unit heads and other individuals.

10. Can I make changes to the PSA?

The Professional Services Agreement is a multi-purpose contract designed by the Office of the General Counsel. No changes are allowed without the review and written approval of that office.

11. Is a Form W-9 required with every PSA?

A form W-9 is required to be on file in the Controller's Office for all contracts greater than \$2000. To ensure the most recent information is on file, include a completed W-9 with every PSA.

12. Must the independent contractor always complete the State of RI form designating him/her as an independent contractor?

The **Rhode Island Notice of Designation as Independent Contractor** (form DWC-11-IC) is used by contractors to publicly state that they are not eligible or entitled to workers compensation insurance. A contractor should complete this form for each company for whom contract services are provided. Brown requires all service providers contracted on the Standard Professional Services Agreement to have this form on file with the RI Division of Workers' Compensation. Brown University must be listed as the hiring entity. The Purchasing Department checks to ensure the form is on file for each contractor.

13. Can I amend a PSA at any time?

A professional services agreement may be amended at any time up until the period of performance has expired.

14. What is a W-7?

The IRS Form W-7 is the Application for *IRS Individual Taxpayer Identification Number* (ITIN). An ITIN is a nine digit number issued by the IRS to individuals who are required for US tax purposes to have a US taxpayer identification number but who do not have, and are not eligible to obtain, a SSN. Examples of individuals who must furnish an ITIN include:

- A nonresident alien eligible to obtain the benefit of reduced withholding under an income tax treaty.
- A nonresident alien not eligible for a SSN who is required to file a US tax return or who is filing a US tax return only to claim a refund.
- A nonresident alien student, professor, or researcher who is required to file a US tax return but who is not eligible for a SSN or who is claiming an exemption to the tax return filing requirement.

15. How does a nonresident alien obtain an individual tax identification number (ITIN)?

A nonresident alien completes Form W-7 to obtain an ITIN. The form is available on the Controller's Office website.

The following are tips to complete Form W-7 correctly:

- Reason you are submitting form W-7 - Check off box "a" and box "h". On the dotted line at box "h" write "exception 2".
- Name is the full legal name.
- Mailing address is the address the IRS will mail the ITIN.
- Sign and date the form.

The following information must accompany the completed W-7

- Completed copy of 8233 (without ITIN in box 2) signed by the Director of University of Disbursements.
- Completed original W-7.
- An original letter from Brown University stating the NRA is ineligible to receive a SSN.
- An original letter of invitation to Brown University.
- Notarized copy of valid passport (or notarized copies of two of the other documents listed in the W-7 instructions).

The completed W-7 and the accompanying documents are mailed to:

- Internal Revenue Service
- ITIN Operation
- P.O. Box 149342
- Austin, TX 78714-9342

It may take up to 8 weeks to receive an ITIN.

16. I've heard that the federal government prohibits paying some nonresident alien professional service providers. How will I know whether or not I can pay someone?

Whether or not a nonresident alien service provider may be paid for services depends on his/her VISA status. The Controller's Office website includes a table listing non-immigrant VISA categories most commonly used at Brown. The table includes the possible sources of income for each VISA category. You may also contact the Office of International Student and Scholar Services, the VISA specialists on campus, at 3-2427.

17. Can an independent contractor request payment to a charity rather than to him/herself?

An independent contractor may request payment to a charity. The following documents are required:

- Completed Professional Services Agreement
- Copy of the charitable organization's 501-c-3 tax status letter
- Payment instructions (name of charity and amount) in a letter signed by the independent contractor.

18. Should Brown University or the contractor sign the PSA first?

The authorized signer for Brown University signs the PSA after the contractor has signed the contract. The date Brown signs the contract is the official date of the contract.

19. If I have a completed PSA do I also have to have a purchase order?

Purchase Orders are required for all PSAs that are greater than \$5000 *and* for PSAs less than \$5000 that are paid in installments.