

General and Process

1. Once the *Employee Versus Independent Contractor Checklist* has been completed and it has been determined that that the individual is an independent contractor, what are the next steps?

Once the independent contractor classification has been determined, a detailed scope of work and fees should be agreed upon at this time. Both parties should agree on what type of contract will be signed. The University's standard *Professional Services Agreement* (PSA) form can be used. If the standard PSA is not used, Strategic Purchasing, Contracts & Insurance Services must review and approve the terms of the contract. PSAs over \$25,000 require that the University's [competitive bid process](#) be followed.

After the contract has been reviewed and approved, the independent contractor must complete the *Supplier Registration Form* to be added as a supplier in the database. The department must then create a requisition in Workday that includes a copy of the revised contract and the *Employee Versus Independent Contractor Checklist* in addition to any other documentation. Once these steps have been completed, a purchase order will be issued to the supplier and work may begin.

2. Is there a template I can use or should I use the contractors?

The Office of the General Counsel has developed a standard template for PSA's that should be used whenever possible. Contracts that are not Brown's, have go through the contract review process.

3. Is there a separate template for companies?

No, the standard PSA template can be used by individuals or companies.

4. I am requesting services using grant funds, is the determination of employee or independent contractor different?

No, the Office of Sponsored Projects (OSP) follows the same IRS guidelines for determining if someone should be an employee or a contractor. If you suspect a contractor has been misclassified, please consider the additional funds needed for hiring as an employee through Brown's contracted staffing agency or as a seasonal/intermittent employee. Please consult your hiring business partner or University Human Resources for a consultation.

5. Must the independent contractor always complete the State of Rhode Island 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. Please note that this step takes a few days for approval from the state and should be completed prior to submitting requisition.

6. Can my department hire an individual we have 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 your Human Resources Business Partner in collaboration with University Human Resources for more information. Please note that a termination notice as an independent contractor should be completed on the Department of Labor and Training site.

Frequently Asked Questions:

Professional Services Agreements

7. 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 your Human Resources Business Partner in collaboration with University Human Resources for more information.

8. Where should I send contracts for review?

PSA's completed using our standard template do not have to be reviewed unless the terms are changed. If the agreement is non-Brown, please complete the [Contract Review Request](#) form and attach the contract. For further questions, please reach out to contractmanagerpurchasing@brown.edu

9. Who has to review Professional Services Agreements that exceed \$100,000?

PSAs regardless of being on a standard template or not should be submitted to Strategic Purchasing, Contracts & Insurance.

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

Yes, purchase orders are required for all PSAs

11. 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.

12. 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.

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 and funds are left.

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.

Reimbursement

15. How does Brown handle Travel reimbursement?

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.

Frequently Asked Questions:

Professional Services Agreements

16. Can I book a hotel for the contractor?

Individuals may not receive a reimbursement for travel expenses, however, they may include travel costs in their invoice. Travel expenses will be paid along with the contractor's fee and will be included in the visitor's Form 1099 or Form 1042S tax reporting document.

Completing the PSA

17. 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.

18. 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 Social Security Administration (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 the 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.

19. 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. Be aware that if the contract has to be reviewed by Purchasing or OGC, the department should not sign until that is completed.

20. 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 and amount contracted for have been used.

21. 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.

Frequently Asked Questions:
Professional Services Agreements
Foreign Nationals

22. 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.

23. 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.

24. I have heard that the federal government prohibits paying some nonresident alien professional service providers. How will I know whether 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.