



BYU Compensation

# Independent Contractor Manual



Last updated: 2023-05-01

# Our Goal

1. Ensure that individuals are paid correctly to avoid penalties for not paying back taxes, withholding, and unemployment taxes for those individuals.
2. Reduce audit and financial risks for BYU.

## How we hope this helps you:

1. Streamline the preapproval & payment processes.
2. Provide the information you need to make educated decisions regarding Independent Contractors.
3. Avoid fees or fines related to instances of misclassification.

## What is an Independent Contractor?

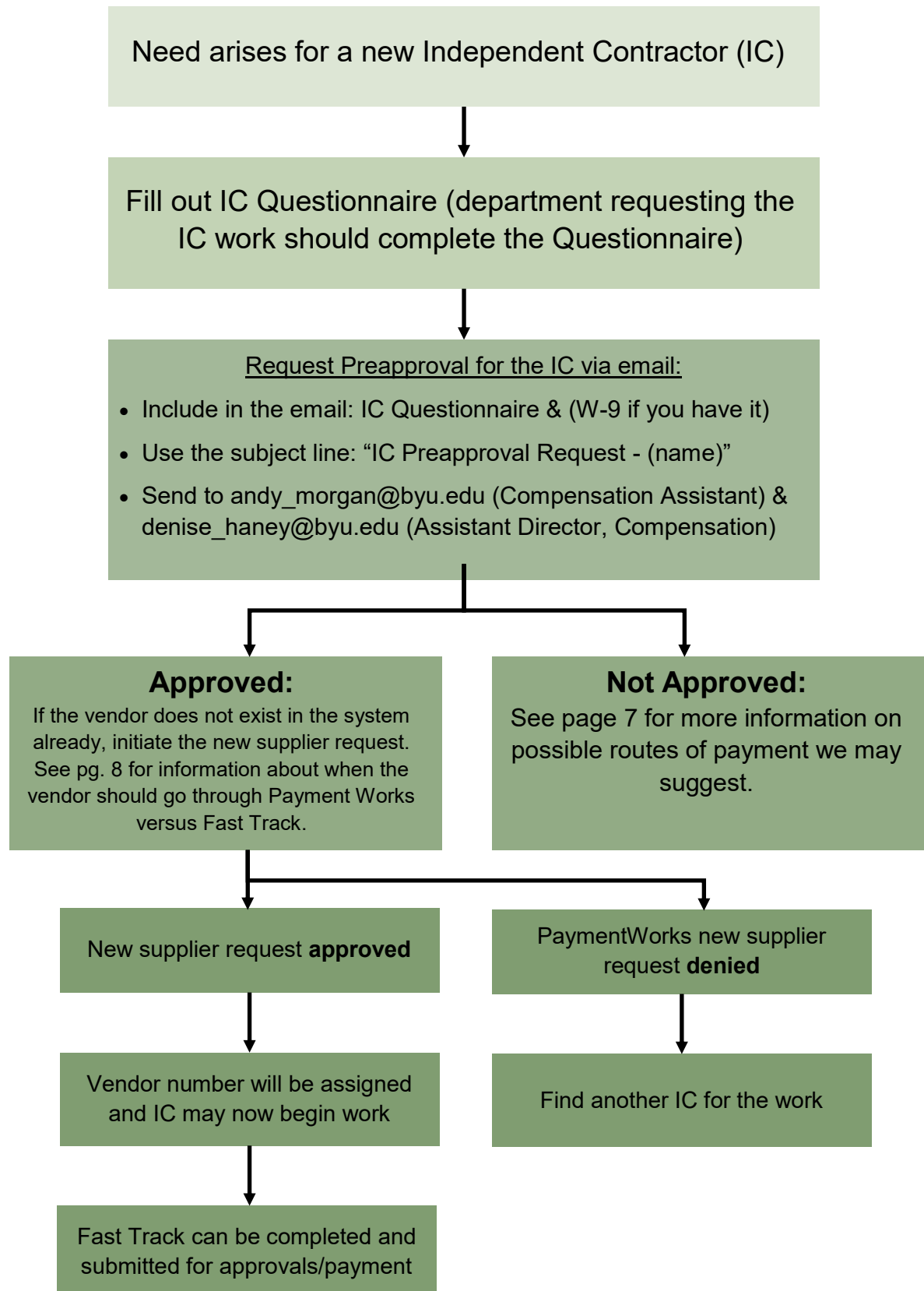
According to the IRS website, “people such as doctors, dentists, veterinarians, lawyers, accountants, contractors, subcontractors, public stenographers, or auctioneers who are in an independent trade, business, or profession in which they offer their services to the general public are generally Independent Contractors.

However, whether these people are Independent Contractors or employees depends on the facts in each case. The general rule is that an individual is an Independent Contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done. The earnings of a person who is working as an Independent Contractor are subject to the Self Employment Tax”.

# The General Rule

We should not engage an individual as an Independent Contractor if they have received a paycheck as a BYU employee in either the current tax year (calendar year) or within the past six months.

# New Independent Contractor Workflow



## Independent Contractor Preapproval Process

- In preparation for a new Independent Contractor Preapproval Portal system, all individuals being engaged as Independent Contractors need to complete Part I and Part II of the IC Questionnaire depending on the category requirements.
- The only categories that don't require the IC Questionnaire to be filled out at all are ICO 8996 (Student Teacher Supervision), ICO 8992 (Reviewers), and ICO 8998 (Competition Officiating).

# Not Approved as an IC?

**Note: If an individual/business is not approved as an IC and they cannot be paid as an employee, you may need to find another vendor to complete the work.**

See below instructions for payment methods we may advise:

## Supplemental Compensation for Current BYU Employees

### **Part-Time**

#### **Complete Part Time Supplemental Compensation Form**

Student hourly & contract: send to Employment Specialist, Student Employment

3/4-time contract: send to Staff Employment

3/4-time hourly & Continuing Education contract: send to Assistant Director, Compensation

### **Full-Time Staff/Admin**

[hrms.byu.edu](https://hrms.byu.edu) > Hiring > Supplementary Compensation

### **Faculty**

For all Full-Time & Part-Time Faculty Supplemental Compensation requests,  
contact Faculty Compensation Specialist

## Hire or Rehire

### **1/2-time hourly and contract**

Contact Staff Employment  
Assistant Manager or Manager

### **3/4-time**

3/4-time hourly: Contact HR Consultant  
3/4-time contract: Contact Staff Employment (Assistant Manager or Manager)

### **Student**

Contact Student Employment  
Assistant Manager or Manager

See page 18 for Contact Information

# PaymentWorks Approval Process

## The purpose of the PaymentWorks system:

- Electronic vendor storage system
- Background Check of each vendor

The Independent Contractor themselves will need to complete the PaymentWorks link sent to the email provided. The PaymentWorks New Supplier request is separate from the IC Preapproval vetting process. So, a vendor that has been Preapproved by Compensation may still be denied by the Purchasing department if the Background Check presents issues.

## New Supplier Request Guidelines

- Vendors who will be paid less than \$3,500 within a calendar year or who are too old/young to use email, do not speak English, or are receiving a prize, award, honorarium, or reimbursement do not need to create a PaymentWorks profile. It is important to note that you will be responsible to collect the W-9 (unless we already have one on file).
- Vendors that will be paid over \$3,500 within a calendar year should create a PaymentWorks profile and only name, phone number, email, and category is required to get that request started. PaymentWorks requests are sent to and completed by the Independent Contractor before going through a series of approvals. The W-9 will be collected as part of that process, but it is still your responsibility to ensure the vendor is informed if they need to enter an EIN.



# Tax Forms

## W-9

- The name on the Fast Track should match the name on the W-9
- Be sure to check SSN or EIN requirements for the respective payment category and inform the vendor if an EIN is required (see pg. 12-13 for EIN requirements by category)
- All W-9s must have a signature (either handwritten or electronic)

## Foreign Vendor

### Performing services **within the US:**

- Foreign BUSINESS: always use Form W8-BEN-E
- Foreign INDIVIDUAL providing independent personal services and claiming a tax treaty: Form 8233. This form will be submitted to the IRS and is only valid for one taxable year. To complete this form the individual must have or apply for one of the following U.S. Taxpayer Identification Numbers: SSN (Social Security Number) or ITIN (Individual Taxpayer Identification Number). Please note that an ITIN is only allowed if the IC does not have a SSN and isn't eligible to get one.
- Foreign INDIVIDUAL not using a treaty or they do not want to acquire a U. S. Taxpayer Identification Number, BYU is required to withhold 30% or we can Gross-up the payment. We still need Form 8233, but they can skip Question 2, in Part I and Questions 12a-12c, 13 & 14, in Part II. BYU will not be submitting this form to the IRS and we will not apply any tax treaties.

### Performing services **outside the US:**

- BYU has no reporting requirements and no form is required from the Vendor

## Reasoning behind the EIN requirement

- The W-9 with EIN is a BYU requirement to help protect the university from auditing/financial risks
- It helps to establish that an individual is a separate entity and not an employee of the University and is likely performing services for others as an Independent Contractor
- The W-9 with EIN when accompanied by the IC Questionnaire, Contract, and Invoice helps support that an individual is in fact an Independent Contractor

## Applying for an EIN

to be completed by the vendor

- Go to [irs.gov](https://irs.gov)
- Hover over “File”
- Click “Employer Identification Number (EIN)” under “Popular” on the right
- Click “Apply Online Now”

## FAST TRACK PAYMENT CATEGORIES

| CATEGORY   | DESCRIPTION   | REQUIRED DOCUMENTATION  |
|--|---|---|
| <b>Miscellaneous<br/>Under \$3,500<br/>ICO 8999</b>                        | <ul style="list-style-type: none"> <li>Independent Contractor services</li> <li>Contractor will perform services without retention of intellectual property rights</li> </ul>   | <ul style="list-style-type: none"> <li>Questionnaire (Part I)</li> <li>W-9 with SSN or EIN</li> <li>Invoice(s)</li> </ul>                                       |
| <b>Miscellaneous<br/>\$3,500 or more<br/>ICO 8993</b>                      |   | <ul style="list-style-type: none"> <li>Questionnaire (Part I &amp; II)</li> <li>Signed IC Contract</li> <li>W-9 with EIN</li> <li>Invoice(s)</li> </ul>         |
| <b>Performers/<br/>Presenters<br/>Under \$3,500<br/>ICO 8000</b>           | <ul style="list-style-type: none"> <li>Presenters, speakers, lecturers, guest instructors, symposium/colloquium/practicum presenters, or presenters receiving honorariums *Invoices for speakers/presenters can be an email communication with the vendor stating: event details, amount to pay, vendor's name and date of event.</li> <li>Actors, musicians, models, voice talent, entertainers, performers, DJs, choreographers, and other talent for live or recorded performances/broadcast productions (contractor will perform services without retention of intellectual property rights)</li> </ul> | <ul style="list-style-type: none"> <li>Questionnaire (Part I)</li> <li>W-9 with SSN or EIN</li> <li>Invoice(s)*</li> </ul>                                      |
| <b>Performers/<br/>Presenters<br/>\$3,500 or more<br/>ICO 8997</b>         |   | <ul style="list-style-type: none"> <li>Questionnaire (Part I &amp; II)</li> <li>Signed IC Contract</li> <li>W-9 with SSN or EIN</li> <li>Invoice(s)*</li> </ul> |
| <b>Competition<br/>Officiating<br/>ICO 8998</b>                            | <ul style="list-style-type: none"> <li>Competition or venue officials, judges, adjudicators, or referees</li> </ul>   | <ul style="list-style-type: none"> <li>W-9 with SSN or EIN</li> <li>Invoice(s)</li> </ul>   |
| <b>Reviewers<br/>ICO 8992</b>  | <ul style="list-style-type: none"> <li>External or peer reviewers</li> </ul>  | <ul style="list-style-type: none"> <li>W-9 with SSN or EIN</li> <li>Invoice(s)</li> </ul>   |
| <b>Student Teacher<br/>Supervision<br/>ICO 8996</b>                        | <ul style="list-style-type: none"> <li>Supervision of student teachers by school district personnel and students in foreign countries</li> </ul>  | <ul style="list-style-type: none"> <li>W-9 with SSN or EIN</li> </ul>   |
| <b>Research<br/>Administration Office<br/>Under \$3,500<br/>ICO 8994</b>   | <ul style="list-style-type: none"> <li>Researchers and consultants under the auspices of ORCA (Office of Research and Creative Activities). Typically used for R accounts.</li> </ul>   | <ul style="list-style-type: none"> <li>Questionnaire (Part I)</li> <li>W-9 with SSN or EIN</li> </ul>   |
| <b>Research<br/>Administration Office<br/>\$3,500 or more<br/>ICO 8995</b> |   | <ul style="list-style-type: none"> <li>Questionnaire (Part I &amp; II)</li> <li>Signed IC Contract</li> <li>W-9 with EIN</li> </ul>                             |

**The following categories are for services, however, they are excluded from needing pre-approval from Compensation:**

| <b>CATEGORIES</b>                           | <b>DESCRIPTION</b>  |
|---|---|
| <b>Visa Applications<br/>ICO 8990</b>       | <ul style="list-style-type: none"> <li>Non-governmental services associated with travel visa applications</li> </ul>  |
| <b>Retreat Functions<br/>RET 8989</b>       | <ul style="list-style-type: none"> <li>Off-campus retreat functions, including facilities and services. Check with Purchasing for existing contracts.</li> </ul>  |
| <b>Legal Fees<br/>LAW 8111</b>              | <ul style="list-style-type: none"> <li>Legal fees paid to attorneys; if paying an individual, contact Compensation</li> </ul>   |
| <b>Lab Analysis<br/>LAB 8734</b>            | <ul style="list-style-type: none"> <li>Laboratory or chemical analysis, use p-card on transactions up to \$2,500</li> </ul>   |
| <b>Medical<br/>MED 8099</b>                 | <ul style="list-style-type: none"> <li>Medical/health care payments over \$2,500 or where the vendor will not accept a p-card</li> </ul>  |
| <b>Barlow Endowment Grants<br/>BAR 6012</b> | <ul style="list-style-type: none"> <li>For Barlow Endowment Grants, cash prizes and awards for services performed by a non-employee (considered a 1099-IC); for other prizes and awards use AWD 6999</li> </ul> |
| <b>Real Estate Appraisal<br/>ICO 8911</b>   | <ul style="list-style-type: none"> <li>Fees charged to appraise value of real estate property</li> </ul>  |

# Goods vs. Services

We often get questions on the difference between Goods and Services. Hopefully this guide will help you to better understand the differences. Also, there are many categories for the purchase of goods, however, for the purpose of this manual, I will merely explain the difference between the two. We are merely talking about “goods” as a whole.

## Goods

When purchasing **goods** from outside vendors, those vendors do not need to be preapproved by BYU Compensation. However, if goods are to be purchased from a current BYU employee, the employee must be approved as an Approved Employee Vendor through BYU Compensation.

Goods are typically tangible, personal products/items. Examples:

- Supplies
- Equipment
- Tools
- Off-the-shelf software
- Off-the-shelf books

Other items considered as goods include:

- Subscriptions to existing web services
- Existing music, screenplays, art objects not created specifically for BYU
- Specialty medical care at an off-campus doctors office or clinic
- Professional, in-store repair or maintenance provided at an established “brick and mortar” off campus location such as: camera repair, auto body work, specimen analysis at a lab
- Items purchased on the internet that include the production of items such as: design and production of silk-screened t-shirts or business cards (the internet service has a set price structure where anyone can merely place an order)

# Goods vs. Services

## Services

Many services do not result in the delivery of a tangible item and are easy to identify as services. Examples:

- Language interpreting
- Consulting
- Legal advice
- Performing, modeling, presenting
- On-site repairs and maintenance
- Inspections
- Unit reviewing/peer reviewing

Other services do result in the delivery of a tangible item but are still categorized as services and must go through the full vetting process. Examples:

- Writing/editing an article, book, blog, etc.
- Creating a work of art, piece of music, play, poem, etc.
- Creating logos or other graphics
- Creating scenery and props
- Performing photography/cinematography

## Rentals

Renting of equipment, housing, or facilities from non-BYU employees/entities is not services and thus, does not need to be vetted as Independent Contractor work. Renting from a current BYU employee requires preapproval from BYU Compensation.

Rental of equipment that includes an element of personal service would need to be vetted as an Independent Contractor engagement.

# FAQs

## **How long should I expect it to take for the Independent Contractor to receive payment?**

That is 100% dependent on how quickly each portion of the process is completed. Generally:

- Preapprovals — 2-3 days
- PaymentWorks requests — 1-2 days (after vendor portion has been completed)
- Fast Tracks — 1-2 days
- Accounts Payable — 2 days

However, if any part of the process is held up (waiting for vendor to submit PaymentWorks, following up on a question about the IC, missing documentation, etc.) it will extend the timeframe.

## **After preapproval, do I need to attach the required documentation on the Fast Track?**

- If we have already preapproved an engagement and the Questionnaire was sent over to us, you do not need to attach it again on the Fast Track. A copy of the signed contract should be attached on the Fast Track if it is required for the engagement.

## **What if a vendor refuses to use an EIN?**

- Email Assistant Director, Compensation and Compensation Assistant with the Independent Contractor's rationale.

## **What documentation do I need if a company is a corporation?**

- W-9, invoice, and depending on the category, a contract. We do not need IC Questionnaires for corporations.

## **Is an LLC considered a corporation?**

- No — we only consider true corporations for our purposes. An LLC filing as an S-Corp or C-Corp is not a corporation.

## **How do I pay travel reimbursements to an Independent Contractor?**

- If the reimbursements are included in the contract for the Independent Contractor work, go ahead and pay the reimbursements and services on the same ICO category. For all other situations, contact Eric Smith in Supply and Logistics to discuss payment options.

## **Can a BYU retiree be an Independent Contractor?**

- Yes — BYU retirees are held to the same preapproval criteria as other vendors. They cannot be engaged within the same tax year or past six months of their last paycheck.

# FAQs

## **What should I do if there is a student that used to work for us that we want to use again after they are terminated within the same tax year or past six months?**

This individual typically would NOT qualify as an IC. Therefore, you have two options:

1. Rehire them as an employee (contact Student Employment to identify if they can be hired as a student again or if they need to be hired 1/2 time or 3/4 time)
2. Request an exception by contacting Assistant Director, Compensation and Compensation Assistant

## **When do I need a new IC Questionnaire/Contract?**

- If an engagement is for the same type of work that was already preapproved from a previous IC Questionnaire then we do not need a new IC Questionnaire. However, we would need a new contract with updated dates and dollar amounts. However, if the work has changed significantly, we need a new IC Questionnaire in addition to the contract.

## **Typically we do not pay Independent Contractors for work, like teaching, that BYU employees perform. Why?**

- Correct classification of employee vs. Independent Contractor is important to the IRS, so engaging an Independent Contractor for work that is regularly completed by a BYU employee can lead to misclassification and subsequent fees/fines (ex: evading payroll taxes, restricting employee benefits, audits by IRS and state/federal unemployment)

## **Who should fill out the Independent Contractor Questionnaire?**

- The individual engaging with the Independent Contractor. **Not** the IC themselves.

## **What do I do if payment is requested for an individual that has already completed the work?**

- Follow the same preapproval process and complete the necessary documentation. Just because we were not contacted prior to the work being completed does not mean that the Preapproval documentation is not required anymore.

## **Do speakers and honorariums need a formal contract?**

- A formal contract is preferred; however, the invitation or agreement email outlining dates, topic, and amount to be paid will suffice.

## **Is the IC Questionnaire the same as a Contract?**

- No, these are separate documents. Blank copies of these forms can be found on the HRS website under the Independent Contractor section.



## Compensation

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## Purchasing and Travel

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## Regulatory Accounting

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## Staff Employment

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## Faculty Compensation

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## Helpful Websites

[hrs.byu.edu/managers/independent-contractors](https://hrs.byu.edu/managers/independent-contractors)  
[finserve.byu.edu/tax](https://finserve.byu.edu/tax)