

Independent Contractor Preapproval Manual

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BYU Compensation



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Why the Independent Contractor Portal?

Independent contractors are individuals or businesses we pay for services that are not BYU employees. For this specific type of work, there is certain documentation we must have in order to avoid financial penalties. Additionally, to remain compliant with the Fair Labor Standards Act, it must be very clear that the individual or business and the work they will complete does not qualify as employment.

Independent contractors are paid via Fast Track or occasionally purchase requisitions. Historically, compensation has vetted independent contractors and checked for required documents before and during the payment process. Now these checks will all be made in the Independent Contractor Approval Portal before the payment process, thus separating the two processes and streamlining independent contractor approval.

Submitting a preapproval is mandatory for paying an independent contractor and must be done before work has begun and before an agreement to work has been made. In order to pay an independent contractor, you will need an Independent Contractor Approval Number (ICTAN) for each specific engagement. An ICTAN can only be obtained by submitting a preapproval in the portal, and it will expire at the end of the engagement.

A Brief Overview of the Preapproval Process

1. Before engaging an Independent Contractor (IC), go to icapproval.byu.edu and click “New Request.”
2. Search for the name of the individual or business. If they are already in the system, select them, if not, click “Application for New Contractor.”
3. Enter or verify the individual or business’s contact information and answer the provided questions about the engagement. You may then upload a W-9 and submit the request.
4. The request is then reviewed by Compensation, the Tax Office, and Risk Management. If initial approval to be an IC is granted, then your department can now reach out to purchasing to set them up in Purchasing’s system. If approval is not granted alternate routes of payment will be suggested.
5. After entering the supplier number provided to you by Purchasing, you will be given a contract template. Upload filled-out and signed contract.
6. Once submitted, your request will go through one final review. After final approval you will receive an ICTAN.
7. That ICTAN can then be used to submit payment request(s) via purchasing’s systems (Fast Track or Purchase Order). For each new engagement, a new ICTAN will be needed.

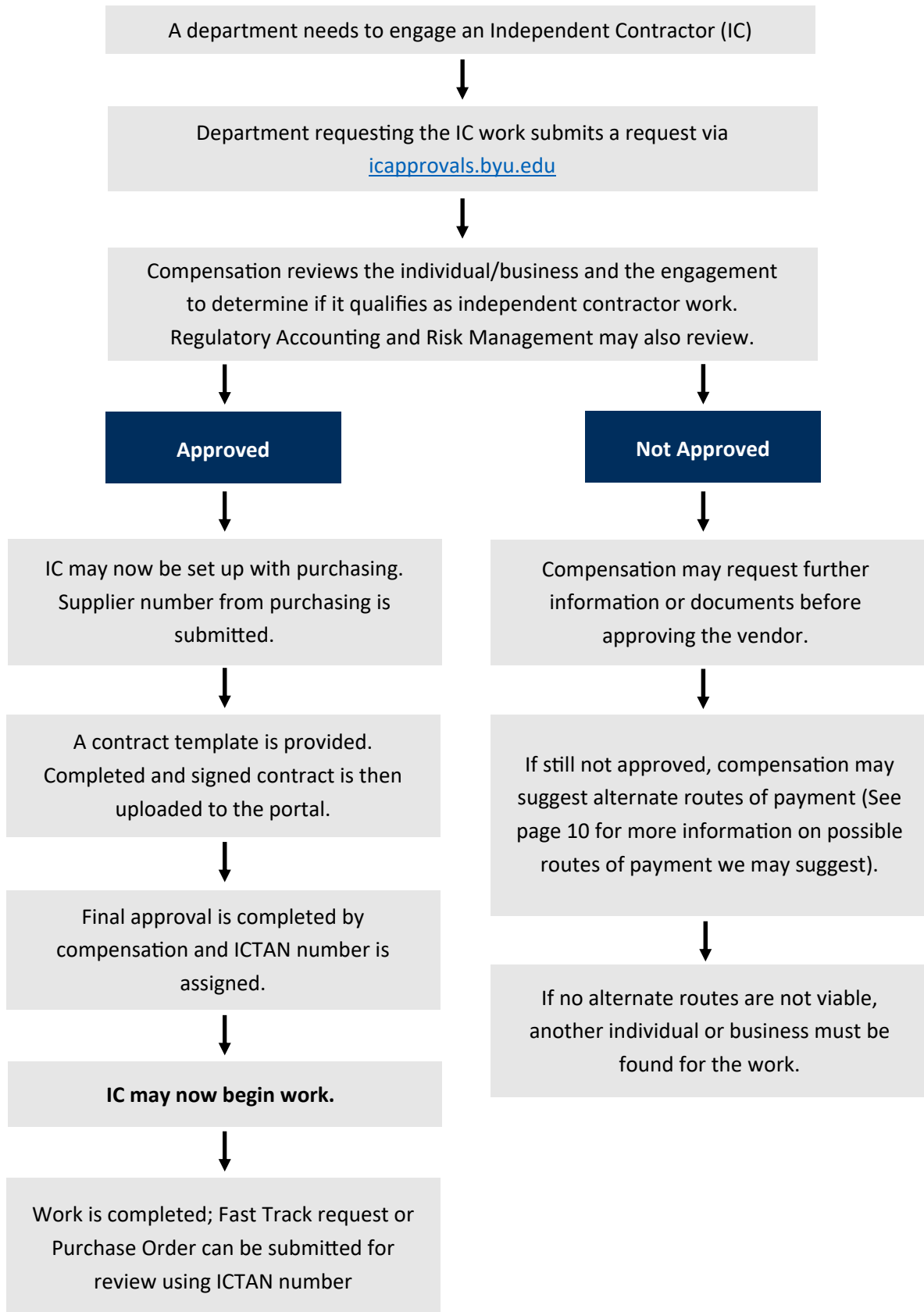
More detailed instructions for using the portal can be found at icapproval.byu.edu/instructions

Note that the approval portal is ONLY clearance by
Compensation, Regulatory Accounting, and Risk Management

The Independent Contractor (IC) Approval Portal is to ensure compliance with independent contractor regulations. The only departments who will see requests through the IC Approval Portal are Compensation, Regulatory Accounting, and Risk Management. **There may be other authorizations that Purchasing and Accounts Payable require** (e.g. PaymentWorks Approval).

The PaymentWorks vetting process is separate from the IC Approval Portal process, so a contractor that has been preapproved by Compensation may be denied by the Purchasing Department if the Background Check collected in the PaymentWorks process presents issues.

Independent Contractor Workflow



FAST TRACK PAYMENT CATEGORIES FOR SERVICES

CATEGORY	DESCRIPTION	REQUIRED DOCUMENTATION
ALL categories require an ICTAN for payment (obtained through preapproval from the IC Portal)		
Miscellaneous Under \$3,500 ICO 8999	Independent contractor services Independent contractor will perform services without retention of intellectual property rights	<ul style="list-style-type: none"> • Signed IC Contract • W-9 • Invoice(s)
Miscellaneous \$3,500 or more ICO 8993		<ul style="list-style-type: none"> • Signed IC Contract • W-9 with EIN • Invoice(s)
Performers/ Presenters Under \$3,500 ICO 8000	Presenters, speakers, lecturers, guest instructors, symposium/colloquium/practicum presenters. *Invoices for speakers/presenters can be an email communication with the vendor stating: event details, amount to pay, name and date of event.	<ul style="list-style-type: none"> • Signed IC Contract • W-9 • Invoice(s)
Performers/ Presenters \$3,500 or more ICO 8997	Actors, musicians, models, voice talent, entertainers, performers, DJs, choreographers, and other talent for live or recorded performances/broadcast productions (performing services without retention of intellectual property rights)	<ul style="list-style-type: none"> • Signed IC Contract • W-9 • Invoice(s)
Competition Officiating	Competition or venue officials, judges, adjudicators, or referees	<ul style="list-style-type: none"> • Signed IC Contract • W-9 • Invoice(s)
Reviewers ICO 8992	External or peer reviewers	<ul style="list-style-type: none"> • Letter to External Reviewers • W-9
Student Teacher Supervision ICO 8996	Supervision of student teachers by school district personnel and students in foreign countries Training of school district students by school district personnel in preparation for grant-funded initiatives such as language and art competitions.	<ul style="list-style-type: none"> • W-9
Research Administration Office Under \$3,500 ICO 8994	Researchers and consultants under the auspices of ORCA (Office of Research and Creative Activities). Typically used for R accounts.	<ul style="list-style-type: none"> • Signed IC Contract • W-9 • Invoice(s)
Research Administration Office \$3,500 or more ICO 8995		<ul style="list-style-type: none"> • Signed IC Contract • W-9 with EIN • Invoice(s)

**Invoices are to be submitted with payment request.

The following categories are for services, however, they are excluded from needing preapproval from Compensation and therefore do not need to go through the IC Approval Portal

CATEGORIES	DESCRIPTION
Visa Applications ICO 8990	<ul style="list-style-type: none"> • Non-governmental services associated with travel visa applications
Retreat Functions RET 8989	<ul style="list-style-type: none"> • Off-campus retreat functions, including facilities and services. Check with Purchasing for existing catering contracts.
Legal Fees LAW 8111	<ul style="list-style-type: none"> • Legal fees paid to legal firms; if paying an individual, contact Compensation
Lab Analysis LAB 8734	<ul style="list-style-type: none"> • Laboratory or chemical analysis, use p-card on transactions up to \$3,500
Medical MED 8099	<ul style="list-style-type: none"> • Medical/health care payments over \$3,500 or where the vendor will not accept a p-card
Barlow Endowment Grants BAR 6012	<ul style="list-style-type: none"> • 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
Real Estate Appraisal ICO 8911	<ul style="list-style-type: none"> • Fees charged to appraise value of real estate property

What is an Independent Contractor

An independent contractor is a person or entity who offers **services** to the general public. They differ from employees in several ways, including that they normally perform work for multiple clients and have autonomy over the work they perform. 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 how it will be done.

Goods vs. Services

Goods

There are many Fast Track Payment categories for the purchase of goods, however, goods as a whole are typically tangible, personal products/items. Examples:

- Supplies
- Equipment
- Tools
- Off-the-shelf software and 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 (when there is a set price structure and anyone can merely place an order)

When purchasing **goods**, vendors do not need to be approved, unless they are current BYU employees. Current BYU employee’s must be approved as Approved Employee Vendor through BYU Compensation before goods are purchased from them.

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 is discouraged. Talk to compensation or regulatory accounting for more information.

Rental of equipment that includes an element of personal service (such as manning the equipment that is being rented) does need to be vetted as an independent contractor engagement.

Tax Forms

W-9 Requirements

- The name on the IC Approval Portal Request should match the name on line one of the W-9.
- All W-9s must have a signature (either handwritten or electronic) from the IC (independent contractor).
- Some categories require an EIN. Check page 5 for EIN requirements by category.

Why an EIN:

An EIN helps protect the university from auditing/financial risk by establishing that the individual is a separate entity and not an employee of the university. It supports, in combination with a preapproval, contract, and invoice, that the individual is in fact an independent contractor.

How to get an EIN:

Have the independent contractor go to irs.gov. Under “How can we help you?” They can click “Apply for an Employer ID Number (EIN)” and then “Apply Online Now.” This should take less than ten minutes and has no charge.

Foreign Vendors

Performing services outside the US:

Individuals will need Form W-8BEN with Part I & Part II completed (no tax treaty claimed in Part II). Businesses do not need any forms, however Form W-8BEN-E can be helpful.

Performing services within the US:

Payment to non-resident independent contractors who are coming to the United States and providing services are subject to 30% US Tax withholding. If the department or college will gross-up the payment to cover the tax OR if no tax treaty claimed:

- Foreign businesses will need a filled out and signed W-8 BEN-E
- Foreign individuals will need a filled out and signed W-8 BEN

If the independent contractor is trying to reduce or eliminate tax withholding by claiming a tax treaty, they will need a signed and filled out 8233 Form instead of the above.

For further tax info, contact the tax office. See page 13 for contact information

If Not Approved as an IC

We should not engage an individual as an Independent Contractor if they have received a paycheck as a BYU employee either in the current tax year (calendar year) nor within the past six months (when crossing over a tax year). Active employees might be able to be paid through supplemental compensation and recent employees might be able to be rehired. **If they cannot be paid as an IC or an employee, another qualified individual will need to be chosen to complete the work.**

Supplemental Compensation for Current BYU Employees

Student	Student Employment Manager
Part-Time Staff Full-time Staff/Admin Part-time Cont Ed Contract	Compensation Administrator
Faculty Adjunct Faculty (Non Cont Ed)	Faculty Compensation Specialist

Hire or Rehire

Student	Student Employment Asst. Manager or Manager
Part-Time Staff Full-time Staff/Admin	HR Consultant for your area
Faculty Adjunct Faculty	Faculty Compensation Administrative Assistant

See page 13 for contact information

FAQs

How long does the Independent Contractor Preapproval Process take?

- Generally the preapproval process will take about 2-3 business days and will depend on how quickly each portion of the process is completed.
- If any part of the process is held up (incorrect information, missing documentation, etc.) it will extend the timeframe

How long are ICTANs valid and when do I need to submit a new approval in the IC Approval Portal?

- ICTANs will last six weeks after an engagement ends to give you time to submit payment.
- Each new engagement will need to be approved by Compensation.
- Example: If you want to engage someone to work on a year long project, the ICTAN obtained in preapproval can be used on all payments for that project all year long. However, if you want to engage someone in multiple projects throughout a year, you will need a new preapproval for each new project.
- Tip: On the IC Approval Portal page you can go into “Open Requests” and “Previously Used ICs” or “Request History” to see previously submitted engagements and use them as templates for new agreements.

Do I need to preapprove someone who will be doing work for free?

- No, the preapproval portal is for payment situations only.

Do I need to preapprove someone who will be receiving a gift card?

- You will need to do a preapproval if it is the individual/business’s understanding that they will be getting paid for their work. Therefore, if the gift card is a surprise, no, if the gift card is the previously agreed upon payment method, yes.

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

- You will still need an ICTAN number from the IC Approval Portal before being able to submit a Fast Track or Purchase Requisition request. Therefore, you will still need to submit a preapproval request in the IC Approval Portal and have it approved by Compensation before paying the individual.
- Note that the work already being completed does not guarantee approval. After the fact requests may be subject to added complications.

FAQs

Typically we do not pay Independent Contractors for work 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)

I have a student employee who terminated within this tax year or past six months, and we want to have them work for us. Can they be an Independent Contractor?

- You will likely need to rehire them as an employee. Contact Student Employment if they are still a student or Staff Employment if they are not. For unusual situations, contact Compensation Assistant(s).

Can a BYU retiree be an Independent Contractor?

- Yes, if they have not been paid as a BYU employee within the same tax year and also have not been paid as a BYU employee within the past six months (when crossing over a tax year).

Can I engage a business that is owned by or employs a current or recent BYU employee, even if the current or recent BYU employee will not be the one doing the work?

- No, both scenarios can put the University in complicated situations we have been advised not to enter into. Reach out to Compensation Assistant(s) with questions.

What if our department doesn't collect W-9s?

- All payments require W-9s (or other tax forms), however, if your department uses PaymentWorks to collect W-9s and does not store a copy of them, let us know. The best way to do this is to write in the "Description of Service" box that the W-9 will be collect via PaymentWorks. Then before granting final approval, Compensation will check PaymentWorks for the W-9. If one is not found or the address is incorrect we will reach out to you.

What if I don't know someone's payment address at the time of preapproval?

- You can submit a request for someone using just their state as their address. Once initial approval is granted, you will receive an email telling you they have been approved as an independent contractor and instructing you to add the address whenever you are ready. Once you do have the payment address, add it to your request and submit again.

FAQs

Do corporations need to go through the IC Approval Portal? If so, what documentation do they need?

- Yes, all prospective independent contractors need to go through the IC Approval Portal. You will need to complete a request for them and upload a W-9.

How do I pay travel reimbursements to an Independent Contractor?

- If the reimbursements are included in the contract for the Independent Contractor work, the reimbursements and services can be paid on the same Fast Track request. For all other situations, contact Supply and Logistics to discuss payment options.

What if a vendor refuses to use an EIN?

- Email Compensation Administrator and Compensation Assistant(s) with the Independent Contractor's rationale for review.

When I am ready to make a payment, will I need to attach the required documentation on the Fast Track?

- You will still need to attach a W-9 and a contract on the Fast Track request even though they were both submitted in the preapproval portal. You will also need to attach an invoice to the request.

Do speakers need a formal contract?

- Yes, General Council has advised that there should be a written agreement for all independent contractor payments. Specifically for speakers, they have created a Speaker Agreement that addresses copyright and other intellectual property issues. A template of this agreement will be provided to you when submitting a preapproval for a speaker and can be found at hrs.byu.edu/independent-contractors. Any deviation from the speaker's agreement must be approved by your assigned attorney (ogc.byu.edu/directory).

Do small payments require contracts?

- Yes, General Council has advised that there should be a written agreement for all independent contractor payments. For most engagements the short-form IC agreement will suffice. Where the contracted services involve minor-aged children, personal or confidential information, or a risk of substantial loss or liability, the long-form IC agreement is required. A template will be provided to you when submitting a preapproval at hrs.byu.edu/independent-contractors. Any deviation from these agreements must be approved by your assigned attorney (ogc.byu.edu/directory).

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Helpful Websites

icapproval.byu.edu



hrs.byu.edu/independent-contractors

