

Texas Woman's University University Regulation and Procedure

Regulation and Procedure Name: Independent Contractors

**Regulation and Procedure
Number: URP: 05.290**

Policy Owner: Finance and Administration

POLICY STATEMENT

It is expected that Texas Woman's University activities will be carried out to the maximum extent possible by using the services of regular and temporary employees; however, independent contractors may be used when the necessary services cannot be provided adequately by regular or temporary employees within the scope of their employment or in emergency temporary circumstances.

The purpose of this University Regulation and Procedure ("URP") is to define the use and procedures for procuring the services of independent contractors for the benefit of Texas Woman's University ("TWU" or "University").

APPLICABILITY

This policy is applicable to TWU Employees and University Affiliates.

DEFINITIONS

1. "Employee" means an individual who is employed part-time, full-time, or in a temporary capacity as faculty, staff, or who is required to be a student as a condition of employment, undergraduate or graduate.
2. "Independent Contractor" means an individual or business operated as a sole proprietorship that sets their own hours, uses their own tools and methods, offers services to the public, realizes profit and loss, hires their own workers, and is responsible for their own taxes.
3. "University Affiliate" means any individual associated with TWU in a capacity other than as a Student or Employee who has access to TWU resources through a contractual arrangement or other association. This includes the following individuals:
 - a. Contractors and Vendors: an individual, business, or governmental entity that has a fully executed contract to provide

goods or services to TWU. This includes employees of contractors or vendors and independent contractors.

- b. Employee of a Governmental Agency: an individual employed by a federal or Texas state agency.
- c. Employee of a TWU-Affiliated Institution: an individual who works for organizations that are tightly aligned with the University.
- d. Pre-Employment Individual: an individual who will be hired by the University and the hiring department has sponsored their access to TWU resources.
- e. Other University Affiliate: any individual who does not fit into any other category and needs access to TWU resources.

REGULATION AND PROCEDURE

I. General Internal Revenue Service Guidelines for Independent Contractors

- A. The Internal Revenue Service ("IRS") describes an individual as an employee if the organization has the right to direct and control the individual regarding both the final result and the details of when, where, and how the work is to be done. Where the employer does not possess that right, the individual involved is an independent contractor, not an employee.
- B. It is the policy of TWU that the services of independent contractors are procured in accordance with state of Texas laws, federal regulations, and TWU URP 04.360: Purchase of Goods and Services. All services shall comply with IRS regulations.

II. Establishing Independent Contractor Status

- A. The University shall appropriately classify service providers as Employees or Independent Contractors before any financial commitment is made on the part of the University.
- B. Texas state law requires that an individual may not be hired as a consultant on an independent contractor basis if employed by the University during the previous twelve-month period.
- C. An individual providing services to the University will normally be hired through the employment process as an employee, unless the individual:
 - 1. Is clearly eligible for independent contractor status under IRS guidelines; and

2. Is able to be effectively used and managed as an independent contractor for the University.

- D. In addition to general business services, independent contractor services may include temporary workers from a temporary employment agency, professional services, guest speakers, visiting lecturers, entertainers, artists, and collaborative research with another institution. Independent contractors will be selected based on demonstrated competence and qualifications at a fair and reasonable cost that does not exceed any maximum allowances authorized by state law and university policy. This policy applies to expenditures from all funds regardless of source.
- E. Current and former employees may not be paid for services as independent contractors as described in URP 04.320: Contracting with Current, Former, or Retired Employees.

III. Procuring an Independent Contractor

- A. The hiring department must determine there is a need for an independent contractor by evaluating the following considerations:
 1. The temporary nature of the independent contractor's services;
 2. The substantial need for the independent contractor's services; or
 3. The University's inability to adequately perform the independent contractor's services with its own personnel.
- B. Per URP 04.350: Conflicts of Interest Relating to Purchasing, Payments, and Contracts, a TWU employee who has a financial interest in, or is related within the second degree by blood or by marriage to an individual who has a financial interest in an association, partnership firm, or corporation that submits an offer to provide contract services to the University, will report the financial interest to the Office of the Chancellor and President no later than the tenth day after the day on which the offer is submitted.
- C. Once the hiring department has confirmed the need for an independent contractor, the hiring department must complete a Texas Woman's University Authorization of Professional Services Form and submit to Payroll for approval. Payroll's approval is required in order to confirm independent contractor status.
 1. A form is not required for payment to individuals for research participants and athletic game officials.

2. All amounts paid to an individual should be included on the individual's personal income tax return. Amounts paid to an individual by TWU totaling more than the IRS threshold for the calendar year will be reported to the IRS on a Form 1099.
- D. The hiring department must submit a requisition for the independent contractor services and include the approved Texas Woman's University Authorization of Professional Services Form and any other required documentation.
1. If a contract for independent contractor services is required, the hiring department must submit the Texas Woman's University Authorization of Professional Services Form, associated contract, independent contractor's resume or curriculum vitae, and any other required documentation to the contract ticketing system for processing prior to submitting the requisition.
- E. The approved purchase order and signed contract, if applicable, must be completed prior to any independent contractor services being performed.

REVIEW

This policy will remain in effect and published until it is reviewed, updated, or archived. This policy is to be reviewed once every six years. Interim review may be required as a result of updates to federal and state law or regulations, Board of Regents policies, or internal processes or procedures.

REFERENCES

[IRS Publication 15-A](#)

[IRS Form 1099 Instructions](#)

[Texas Government Code 572.069](#)

[URP 04.320: Contracting with Current, Former or Retired Employees](#)

[URP 04.350: Conflicts of Interest Relating to Purchasing, Payments, and Contracts](#)

[URP 04.360: Purchase of Goods and Services](#)

[TWU Procurement – Special Procurements](#)

FORMS AND TOOLS

[Texas Woman's University Authorization of Professional Services Form](#)

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