

Personal and Professional Service Contracts

Policy 509.20

1 Introduction

1.1 This policy provides guidance related to service contracts entered into by Appalachian State University to ensure compliance with all applicable federal and State laws, and University policies.

2 Scope

2.1 This policy applies to all faculty and staff.

3 Definitions

3.1 Personal and Professional Services

"Personal and professional services" are those performed by a professional individual on a temporary or occasional basis, including but not limited to those provided by a doctor, dentist, attorney, architect, professional engineer, scientist, or performer of the fine arts and similar professions.

3.2 Consultant Services

"Consultant services" shall mean work or task(s) performed by state employees or independent contractors possessing specialized knowledge, experience, expertise and professional qualifications to investigate assigned problems or projects and to provide counsel, review, analysis or advice in formulating or implementing improvements in programs or services. This includes, but is not limited to, the organization, planning, directing, control, evaluation and operation of a program, agency or department.

4 Policy and Procedure Statements

4.1 Contracts

4.1.1 Personal service contracts are not reviewed by the Purchasing Office unless the services are consulting in nature. Care must be taken to ensure that personal service contracts are not used to circumvent personnel procedures and that the appearance of an employer/employee relationship is not created. A checklist is provided to assist with this determination in the event the relationship is not clear.

4.1.2 It is the policy of Appalachian State University that goods and services will not be purchased from Appalachian State University employees or state employees. Any exception to this policy must be reviewed and approved in advance of services being provided or goods being purchased.

4.1.3 The responsible individual or project director should complete a contract using a university approved template and obtain all approvals in advance of the service being performed. This will assist with verifying that the contractor performing the service can legally be paid for contracted services and is not classified as an Appalachian State University employee.

4.1.4 The contract shall include the following information:

1. The name, address, and social security number of the person (or tax identification number of the firm) with whom the contract has been made.
2. The services to be performed by the individual or firm and the dates the services begin and end.
3. The total amount of compensation for the services performed (an all-inclusive amount, unless otherwise approved by the Controller or their designee in advance before the contract is signed).

The contract shall be signed by the applicable Vice Chancellor or Cabinet Member (including the HR Director and Athletics Director), and the person, company or firm providing the services. Signatures should be gathered after all appropriate reviews have been completed. The Vice Chancellor or Cabinet Member may delegate his or her signature authority on a temporary or permanent basis, however, all such delegations shall be made in writing and delivered to the Office of General Counsel.

4.1.5 Contracts evidenced by a form other than the standard templates provided by the University can also be used provided

they are approved by the chancellor or a vice chancellor in advance. An example might be a contract associated with a performer or entertainer.

4.1.6 Payment for Services - Contractors paid for services performed will be paid from the Direct Payment form with a copy of the contract attached for each payment.

4.1.7 Advance Payments - In general, payments to contractors should not be made in advance. The project director is responsible for making sure the services are complete and satisfactory before releasing funds to the contractor.

4.1.8 Exceptions to Policy - With the exception of payments as described in 4.1.7 above, failure by a department to obtain all necessary approvals prior to the commencement of work is deemed non-compliant with university policy. Non-compliance carries the risk that the payment may be delayed or denied. In cases of non-compliance the following steps are taken to request payment: In addition to submitting the Direct Payment Form with a copy of the contract attached, a memo is written by the person authorizing the commencement of work explaining why policy was not followed, and lists steps to be taken to make sure policies are followed in the future. This memo shall be acknowledged by the Vice Chancellor or other Cabinet Member responsible for the Department or Unit that is supplying the memo.

5 Additional References

6 Authority

Internal Revenue Code, 26 U.S.C. 1, et seq.

7 Contact Information

Office of General Counsel - 828-262-2751
Controller's Office - 828-262-2110

8 Original Effective Date

February 20, 2012

9 Revision Dates

May 25, 2016