



LEGEND

PSC: Personal Service Contract

HRC: Human Resource Consultant

Personal Service Contract and PSC Checklist at WSU

FREQUENTLY ASKED QUESTIONS

Q: What is a PSC (Personal Services Contract)?

A: The PSC is a document approved by the Office of General Counsel, with terms and conditions that are not subject to modification. It is used to contract for professional services with individuals, acting as independent contractors, who are not WSU employees or would otherwise present a conflict of interest. The PSC and PSC Checklist process, in conjunction with the purchase order process, is the only way independent contractors may be paid for services in compliance with University policy and procedure. For additional information, refer to APPM policy 2.5 Personal Service Contracts.

<http://policies.wayne.edu/appm/2-5-personal-service-contracts.php>

Q: What is the PSC Checklist and why is it needed?

A: The PSC Checklist is a required supporting document for the PSC in the form of a questionnaire. The questions are based on a set of factors – behavior, financial and type of relationship – that have been identified by the IRS and Department of Labor to prove the degree of an individual’s control and independence over the services provided. The questions contained in the PSC Checklist must be completed with the assistance of your HR Consultant, who will work with you to make the final determination as to whether an individual should be an employee or independent contractor. When an individual is improperly retained as an independent contractor instead of an employee, the University is exposed to possible legal and financial liability.

Q: How do I know when to do a PSC?

A: Any individual who receives compensation for services from the University is either an independent contract or an employee. If the individual is an employee, he or she must be assigned to payroll per University policies and procedure. In order to hire an individual to provide professional services, a PSC, PSC Checklist and purchase order must be completed.

Q: Where can I get help if I’m not sure if someone should be an employee or an independent contractor?

A: Contact your HR Consultant for assistance with determining whether an individual should be an employee or independent contractor. HR Consultant contact information can be found at the following website:

<http://hr.wayne.edu/clientservices/about/contact.php>

Q: Where can I find the most current version of the PSC contract and checklist?

A: The current PSC Contract and PSC Checklist are available at the website of Procurement and Strategic Sourcing (PASS) under the left-hand column link titled, “Forms”. Here is the link:

<https://procurement.wayne.edu/forms.php>

Q: Can an independent contractor begin working before the PSC, checklist and purchase order are established?

A: No. It is a violation of university policy and procedure to have the work started prior to obtaining full approval and completion of the PSC, checklist and purchase order processes. It is not acceptable to have someone start working beforehand and can result in serious consequences. In rare circumstances when this might occur, contact your HRC right away for assistance.

- Q: What happens if an individual starts the work before I've completed the PSC, checklist and purchase order process?**
- A: The worker should never start the job before the PSC, checklist and purchase order processes are completed. If this happens, contact your HR Consultant right away to determine how to proceed:
- a) If it's determined the individual is an employee, work with your HR Consultant to possibly hire the individual via a temporary employment assignment,
 - b) If the person is an independent contractor, you'll need to continue completing the PSC, checklist and purchase order process but be prepared for process delays and facing consequences of violating university policy and procedure.
- Q: Can't I just use a Direct Payment Request to pay an individual for services provided?**
- A: No. A Direct Payment Request should never be used to pay independent contractors as it would be a violation of university policy and procedure.
- Q: What is an honorarium payment and can I use an honorarium to pay an independent contractor?**
- A: Honorarium payment is a gift – not a payment in exchange for retained services – and should never be used to pay an independent contractor. If you are not sure how to process payment for an individual, contact your HR Consultant or the Director of Tax Management for assistance.
- Q: What is a stipend/award payment and can I use it to pay an independent contractor?**
- A: Stipend/award payments are used at WSU exclusively for fellowship student payments and should never be used to pay an independent contractor. The only way to pay an independent contractor at WSU is via the PSC, checklist and purchase order process. If you are unsure how to process payment for an individual, contact your HR Consultant or Director of Tax Management for assistance.
- Q: If my school/college/division leaders have already signed and approved the checklist and PSC, can I start the purchase order process?**
- A: No. Your HR Consultant's signature on the checklist is required in order for the purchase order request to go through, regardless of who within your department signs and approves the documents beforehand. Submitting PSC requests before obtaining HR Consultant signature will cause delay in obtaining the required purchase order.
- Q: I'm not sure who should sign my checklist in section 6. Authorized Signatures.**
- A: The top signature box titled "Approval Requested by" should be signed and dated by the individual who completed the PSC Checklist. The second box in section 6 must be signed by a University Official who is authorized to sign and approve a PSC and PSC Checklist. For clarification, refer to University Policy 04-6 Contract Signatories. Here is the policy link: <http://policies.wayne.edu/04-06-contract-signatories.php>
- Q: What documents do I need to provide to my HRC for their review and signature?**
- A: Provide completed checklist signed by the department preparer. The PSC contract should be done separately and after the PSC checklist has been signed by the HRC.
- Q: After my HR Consultant reviewed and signed my PSC Checklist, I submitted the package in Wayne BUY without all the required signatures. Will it be rejected?**
- A: Yes. The PSC, Checklist, and purchase order will be delayed until all required signatures are obtained and the documents resubmitted for processing.
- Q: When should my independent contractor sign the PSC?**
- A: The independent contractor's signature is the last signature to be obtained, and he or she will sign the PSC only (not the checklist) after the checklist is completed. It is essential that the HR Consultant and a University official sign the PSC checklist before a contractor is asked to sign the associated PSC. If

someone other than an authorized University official enters into a contract, it can result in quite serious consequences.

Q: Are certain questions and responses on the PSC Checklist weighted?

A: All PSCs are evaluated on a case-by-case basis, no matter how many yes/no responses. Your HR Consultant will review the completed checklist and work with you to determine if the individual is an employee or an independent contractor.

Q: My HR Consultant determined my contractor should be an employee instead. We've always had this type of work done by an independent contractor. Why can't we use the PSC now?

A: IRS rules and regulations change and University policies and procedures change. These changes impact how HR Consultants make their determinations. As such, the way things have been done as past practice may need to change in order to remain in compliance. If you are concerned about a determination made by your HR Consultant, contact the Director of Tax Management in Fiscal Operations at 313-577-9767 or dp1983@wayne.edu for case-specific assistance.

Q: What if I'm not sure how to answer a question on the PSC Checklist?

A: All questions on the PSC Checklist need to be answered on the PSC Checklist. Submitting a checklist with missing information can cause delays in the process. Contact the individual or the project leader for clarification. If still unsure, contact your HR Consultant for assistance.

Q: How can I include more information on the PSC Checklist for clarification?

A: In the most current version of the PSC Checklist, a section has been included for additional comments. Use this section to include additional information that is pertinent to the case.

Q: I'm not sure how to answer this question in section 4: Is the work in question customarily performed by employees?

A: When unsure of how to respond to this question and/or other PSC Checklist questions, contact your HR Consultant for guidance and clarification. You can also use the additional comments section to provide information that is pertinent to your specific case.

Q: I'm not sure how to answer this question in section 2: Is the worker required to comply with instructions from the University about when, where and how the work is to be done?

A: For this question, all three factors (when, where and how) must be met in order to give an accurate response of "no." The IRS is most concerned with the degree of control, or lack of, that is exercised.

Q: I'm not sure how to answer this question in section 5: Does the individual have an opportunity to make a profit or loss?

A: The Department of Labor is focusing on whether the worker's managerial skill can affect his profit or loss. The worker's managerial skill will often affect their opportunity for profit or loss beyond the current job, such as by leading to additional business from other parties or by reducing the opportunity for future work. For example, a worker's decisions to hire others, purchase materials and equipment, advertise, rent space and manage time tables may reflect managerial skill that will affect his or her opportunity to make a profit or loss. When unsure of how to respond to this question and/or other PSC Checklist questions, contact your HR Consultant for guidance and clarification. You can also use the additional comments section to provide information that is pertinent to your specific case.

Q: I'm not sure how to answer this question in section 5: Does the worker exercise business skills, judgment and initiative in performing the job?

A: The Department of Labor is focusing on whether the worker is economically independent. This question, along with others, helps to determine this. Specialized skills or knowledge do not by themselves indicate that the worker is in business for themselves. The specialized skills or knowledge must also be exercised

in an independent matter – i.e. exercising managerial and business skills by determining the sequence of work, ordering materials etc. When unsure of how to respond to this question and/or other PSC Checklist questions, contact your HR Consultant for guidance and clarification. You can also use the additional comments section to provide information that is pertinent to your specific case.

Q: My responses to some questions seem to contradict one another. What should I do?

A: Use the additional comments to elaborate and provide clarification on your responses. The additional details will help your HR Consultant work with you to make an accurate determination.

Q: My PSC is grant-funded and the grant requirements contradict the University's PSC policy. What should I do?

A: Contact the Director of Tax Management in Fiscal Operations at 313-577-9767 or dp1983@wayne.edu for case-specific assistance. Planning ahead in such cases is key. Start early and hash out details, resolve issues prior to booking an independent contractor in order to prevent delays in the PSC and purchase order process.

Q: Should I submit the PSC Contract to my Business Affairs Officer for review?

A: Yes, your Business Affairs Officer is required to sign off on all PSC Checklists. Follow the directive of your Business Affairs Officer as to whether they would prefer to review the Checklist prior to the HR Consultant's review. However, it is recommended that you obtain HR Consultant's review and signature first for validation that the individual is an independent contractor and a PSC can and should be used.

Q: Can a person receive a 1099 (independent contractor tax receipt) and W2 (employee tax receipt) in the same year?

A: Yes, if the work he or she does as an independent contractor is completely different than the work he or she does as an employee. As this would be a unique case, contact your HR Consultant for more information.

Q: Is it okay to use a PSC for an individual if the work will be done in a different calendar year?

A: Not always, and not if the individual is doing the same work as an employee. If unsure about hiring a former employee as an independent contractor, reach out to your HR Consultant for assistance.