

Cooperative Extension Program Support and Delivery Volunteer, Employee or Independent Contractor?

Cooperative Extension often draws on others to assist with program support and delivery to expand its reach in various program areas. In doing so, it is very important to determine whether an individual will function as a volunteer, employee or independent contractor **PRIOR** to procuring the services of the individual. A general definition of these terms follow:

Volunteer – an individual who undertakes a task or responsibility without remuneration (payment or reward) of any type.

Employee – an individual who performs services for payment is an employee if you control what will be done and how it will be done. An employer/employee relationship may exist even when you give the employee freedom of action. The determining factor is who controls the details of how the services are performed. (*Source: IRS.gov*) If an individual is receiving direction and delivering a program using curriculum materials provided by Cooperative Extension, they should be treated as an employee.

Independent Contractor – individuals such as lawyers, contractors, subcontractors and auctioneers who follow an independent trade, business or profession in which they offer their services to the public are generally not employees. However, whether such people are employees or independent contractors depends on the facts in each case. The general rule is that an individual is an independent contractor if you, the person for whom the services are performed, have the right to control or direct only the result of the work and not the means and methods of accomplishing the result. (*Source: IRS.gov*)

Additional steps are necessary to assure compliance with IRS regulations as it relates to determining the appropriate relationship. Failure to make the correct determination may result in substantial fines to the University as well as college financial liability associated with worker's compensation, general liability and unemployment claims.

The IRS definitions as noted above and supporting documentation to help determine relationships is available at: <http://www.irs.gov/businesses/small/article/0,,id=99921,00.html>

Additionally, Penn State provides an interactive guide which is available at: <http://guru.psu.edu/formlocator/details.cfm?id=399> to assist in determining relationship and appropriate payment methods. As a first step, it is very important that the Determination of Independent Contractor/Employee Status – ICE Form be completed to ensure the proper relationship is established.

Method of Payment

After the determination is made regarding employee or independent contractor, consideration must be given to the appropriate method for carrying out the payment.

Volunteer -- Volunteers may not receive any remuneration for their services. It is appropriate to reimburse volunteer expenses for travel after the appropriate documentation is provided. Payment beyond reimbursement for supplies and materials such as an honorarium voids the volunteer relationship.

Employee -- Employees may be paid through Penn State wage payroll or a fixed-term salaried appointment (providing funds are available) from the appropriate funding source.

Independent Contractor -- Independent contractors may be paid through Penn State accounting using a Special Request for Check form. The independent contractor must provide an invoice indicating the services that were performed and provide their EIN or SSN. Counties may pay independent contractors locally providing the funding source is local and would be responsible for reporting the payment through an IRS 1099-MISC form. The attached Independent Contractor Agreement may be used in unique circumstances where a written contract is requested by the contractor. Like all agreements, this will need to be processed through the University Risk Management Office. Please allow ample time for review and signature approval.

General Liability Insurance

Volunteer -- Prior to 2010, if the volunteer is included in the annual head count provided by the respective CED, they are accounted for and have coverage for the 2010 policy year. Beginning Fall 2010, volunteer head counts will be obtained from the e-data system and reported to the Wood Agency for the 2011 general liability coverage. Only volunteer categories included in e-data will be afforded coverage.

Employee -- Employees paid by Penn State and local Extension Association accounts are afforded coverage from the University.

Independent Contractor -- Independent contractors are not afforded liability coverage through Penn State. Liability insurance is the sole responsibility of the individual.

Additional information

Current Penn State Employees -- current full time exempt Penn State employees may not be hired for program support or program delivery unless the following conditions are met as outlined in the following policy: <http://guru.psu.edu/policies/OHR/hr90.html>. Approval must be obtained by the Office of Human Resources (814-863-3452) before making a hiring commitment. Non-exempt employees must be paid overtime if working more than 40 hours per week. Only under very unique and unusual circumstances will approval be granted for current college exempt staff to perform additional assignments for supplemental compensation.

Retirees – If a Penn State retiree is currently drawing a pension from SERS or TIAA/CREF, approval must be granted from the Office of Human Resources (814-863-3452) prior to making a commitment to hire the individual. The situation must be reviewed closely as pension benefits may be affected. Please see <http://guru.psu.edu/policies/OHR/hr45.html> for additional information.

Honorarium – an honorarium provides payment to a non-employee (i.e. independent contractor) for services for which fees are not traditionally required such as a guest speaker at a conference. Payment of an honorarium does not constitute an employer/employee relationship and does not afford any liability coverage from the university.

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