

## INDEPENDENT CONTRACTOR PROCEDURES

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### Step 1: Department Completes the Independent Contractor Questionnaire (ICQ) Form

*The department must complete the Independent Contractor Questionnaire (ICQ) Form and if required, proceed to Step 2 to obtain People, Belonging, & Culture (PB&C) authorization. PB&C must approve the ICQ Form if an allowed exemption is not met before the department enters into a contract with, or receives services from, the individual.*

### Step 2: PB&C Reviews the Independent Contractor Questionnaire (ICQ) Form, if required

If allowed exemptions are not met, PB&C will review the ICQ Form to determine whether the worker should be:

1. Engaged as an independent contractor;
2. Hired as a MICA employee (regular, term, or temporary); or
3. Hired as an employee by an outside entity (such as a temp agency or staffing firm directly) and assigned to perform services at MICA.

**The department must receive PB&C approval of the classification of a proposed independent contractor before a contract is signed and before any work is performed.** If PB&C classifies the individual as an independent contractor, proceed to Step 3. If not, the department should work with PB&C to determine the best way to proceed.

### Step 3: PB&C Reviews Documentation for International Guest Lecturer (IGL) if IC is a Foreign Person performing services within the U.S. and/or in person at MICA

If the IC is a U.S Person or a Foreign Person performing services outside the U.S., move to Step 4.

All paperwork must be submitted to PB&C **at least one month prior** to the IGL's visit to MICA to allow for processing.

### Have the International Guest Lecturer complete the following required forms:

- International Guest Lecturer Checklist
- International Guest Lecturer Information Form
- Certification of Academic Activity
- W-8 BEN
- Form 8233: Complete if claiming tax treaty benefits
- Tax Treaty Affidavit: Complete if claiming tax treaty benefits

The IGL should also provide you with:

- Copy of passport
- Copy of I-94
- Copy of VISA or ESTA documents

### Have the department head sponsoring the IGL to review all documents and sign the completed:

- Certification of Academic Activity
- Independent Contractor Questionnaire (ICQ) Form

Submit all paperwork to the PB&C Partner via email ([humanresources@mica.edu](mailto:humanresources@mica.edu)) to review the documentation and provide approval to contract with the IC. **The department must receive PB&C approval before a contract is signed and before any work is performed.**

#### **Step 4: Department Completes and Signs Contract**

If the engagement is approved as a permissible use of an IC, then the department must complete a contract with the IC before any services are provided. Written contracts define the relationship, outline the expectations of both MICA and the IC, and document the terms and conditions by which the IC is hired. Contracts must be carefully reviewed to ensure terms are reasonable and should include at a minimum, detailed services to be performed, deliverables, contract term, payment amount and schedule, and clause regarding the use of the MICA name and ownership of work. If services are for a federally-funded research project, departments must follow additional contract requirements. Contact the Office of Research for additional guidance.

The contract with the IC must contain the following language:

*As an independent contractor, Contractor [Contractor's employees] shall not have the status of an employee of MICA. Accordingly, Contractor shall not be eligible to participate in any employee benefit or group insurance plans or programs maintained by MICA, and MICA shall not provide social security, unemployment compensation, disability insurance, worker's compensation or similar coverage, nor any other statutory benefit to Contractor [Contractor's employees]. Contractor shall assume full responsibility and liability for making and/or paying any and all federal, state, and/or municipal taxes, assessments, social security benefits and/or other deductions as required by law on behalf of itself [and its employees].*

The Finance & Business Services Office makes available professional services agreements, which may be suitable for the engagement. Professional services agreements can be prepared within DocuSign by a Service Coordinator. Instructions for service coordinators are published [here](#). Additionally, this agreement is available [here](#) to execute in paper format.

#### **Step 5: Request the IC to be added to Workday as a Supplier**

Once a contract has been executed with the IC, log into Workday and search for the IC as a supplier. If the supplier has not been added to Workday, create a supplier request. Instructions for requesting a supplier are available [here](#).

Required documentation for requesting an IC to be added as a supplier is listed below:

##### **U.S. Persons**

[IRS Form W-9](#)

Use Form W-9 to request the taxpayer identification number (TIN) of a U.S. person (including a resident alien) and to request certain certifications and claims for exemption. MICA requires signed Forms W-9 from U.S. exempt recipients to overcome a presumption of foreign status. For federal tax purposes, a U.S. person includes but is not limited to:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- Any estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

IRS Form W-9 can be requested and signed within DocuSign by a Service Coordinator. Instructions for service coordinators are published [here](#).

##### **Foreign Persons Form W-8**

The Form W-8 is used to establish the payee's status for income tax withholding purposes. Form W-8 is required for payments including, but not limited to, payments for services, scholarships, and fellowships.

The Withholding Agent (MICA) is required to request a Form W-8 from any payee to whom it is making a payment that it presumes or otherwise has reason to believe is a foreign payee. MICA is required to collect

Form W-8 in situations where MICA is paying funds to a foreign payee regardless of the classification of U.S. sourced or foreign sourced income.

The IC should choose one of the below:

[W-8BEN Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Tax Reporting \(Individuals\)](#) This form is used by foreign individuals to document foreign status for tax withholding purposes, or to claim treaty benefits. **Most foreign individuals complete Form W-8BEN.** For example, a foreign national individual would complete this form if s/he was receiving honorarium payments from MICA.

[W-8BEN-E Certificate of Status of Beneficial Owner for United States Tax Withholding and Reporting \(Entities\)](#) This form is used by foreign entities to document foreign status for tax withholding purposes, FATCA status, or to claim tax treaty benefits. For example, a foreign entity would complete this form if it is receiving any payment from MICA (such as royalties) that is not effectively connected with the conduct of trade or business within the United States.

[W-8ECI Certificate of Foreign Person's Claim that Income is Effectively Connected with the Conduct of a Trade or Business in the United States](#) This form certifies that the foreign payee has a trade or business in the United States effectively connected with the income payment being paid. For example, a foreign corporation would complete this form if it is receiving payment from MICA for services (such as consulting) rendered in the United States and the payment is effectively connected with the foreign corporation's conduct of a trade or business within the United States.

[W-8EXP Certificate of Foreign Government or Other Foreign Organization for United States Tax Withholding](#) This form is used by foreign governments, international organizations, foreign central banks, foreign tax exempt organizations or foreign private foundations claiming exemption from withholding or reduced rate of withholding. For example, a foreign government would complete this form if it is receiving an honorarium payment MICA for speaker- services performed.

[W-8IMY Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding and Reporting](#) This form is used when a foreign entity is either an intermediary not acting for its own account or is a fiscally transparent entity, either for U.S. income tax purposes or for income tax purposes in its resident country, such as a foreign trust or foreign partnership. For example, a foreign entity would complete this form if it is receiving a payment for services on behalf of others (partners or trustees) as a flow-through entity.

If MICA receives any of these forms, MICA may not be required to withhold taxes from the payment being processed. However, MICA is still generally required to report such payments on Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, (Form 1042-S Instructions) unless certain exceptions are met such as the payments are for (1) tangible property and the payee has no substantial presence in the United States, or (2) services performed outside the United States (i.e., foreign source income). When withholding is required, federal income tax is withheld on payments made to foreign payees at a rate of 30% unless a lower rate is prescribed in a treaty between the United States and the country in which the foreign payee resides or has a permanent establishment.

IRS Form W-8 BEN can be requested and signed within DocuSign by a Service Coordinator. Instructions for service coordinators are published [here](#).

## **Step 6: Submit Documentation for Approval & Payment**

At appropriate times as described in the contract (usually after the IC has completed the work to the department's satisfaction), the IC must provide an invoice or signed statement of work to the department for processing.

The department must have completed and received the required documentation listed below:

- A completed ICQ Form (if an exemption is not identified the ICQ must be authorized by PB&C, see the [Independent Contractor Policy](#));
- A completed and signed contract; and
- An invoice or statement of work.

### **Special Instructions for International Independent Contractors performing services within the U.S.:**

- Add an additional line with spend category 1042-S Fed Withholding
- Calculate withholdings as 30% of the payment amount and enter as a negative amount.
- Attach all completed and signed documents above in Step 3.
- Attach the approval email received from PB&C in Step 3.

Payment for international IC's will be delayed if documents are not provided to PB&C and reviewed prior to submission of payment.

The Cost Center Manager is responsible for ensuring that the documents listed above have been completed before approving any payment to an IC. **Payment by AP is the only acceptable method of payment for independent contractors. MICA must not pay for IC services via out-of-pocket reimbursement or by using a MICA Corporate Credit Card.**

This documentation must be attached to the supplier invoice request within Workday. Instructions for preparing a supplier invoice request are available [here](#).

### **Step 7: Payroll Reviews and Approves Payment Request**

The supplier invoice request for suppliers categorized as international independent contractors will be routed to the payroll department for review. If services were not performed in the U.S., Payroll will notate this in the comments and approve the payment.

The remainder of the process in Workday will follow the standard workflow for supplier invoice requests.

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### **Appendices**

[Appendix A: Independent Contractor Questionnaire \(ICQ\) Form](#)

[Appendix B: Independent Contractor Policy](#)