

## SAN JUAN BUSINESS SERVICES PROCEDURES

TOPIC: INDEPENDENT CONTRACTORS Related to Board Policy: 500A

### General

When a department requires the services of a professional or specialized technical that is an independent contractor, a Technical and Professional Service Agreement (T & P Contract, Exhibit 1) must be produced.

### General Guidelines

1. The College may purchase outside services from independent contractors, however, the individual or firm must satisfy a significant number of factors that distinguish them from an employee.
2. If a person is an employee of SJC, they cannot be an independent contractor.
  - a. New Mexico state law pertaining to the "Conflict of Interest Rule" states that "no employee can provide services to a state agency (i.e. San Juan College) and be an independent contractor".
  - b. A T & P Contract is applicable only to the purchase of services from individuals who do not meet the legal definition of an employee. Misclassification of employees as independent contractors to avoid withholding and payroll taxes is illegal under the Internal Revenue Code.
3. Independent contractors must be paid through Accounts Payable not Payroll
  - a. The College must report payments made to independent contractors to the Internal Revenue Service on Form 1099. This means that the contractor will not receive a W-2 tax form from the College.
  - b. Sole Proprietors must have their social security number or independent contractor number on the T & P Contract so that the College can facilitate reports of the payments to the Internal Revenue Service.
  - c. Businesses must have their gross receipt tax identification number on the T & P contract or a completed exemption certificate attached to the contract as required by State Law.
4. All payments to College employees represent salary payments and must be paid through payroll.
5. When circumstances warrant, special contract/agreements may be prepared in lieu of or appended to the T & P contract, subject to approval by the Vice President for Business Affairs, Assistant Vice President for Business Affairs, or Director of Purchasing.

### Examples of Independent Contractors

1. Musicians (code 6201)
2. Theater performers (code 6201)
3. Lectures and presenters (code 6202)
4. Software/INTERNET programmers (code 6200)
5. Architects (code 6140)
6. Management consultants (code 6200)
7. Construction engineers (code 6280)
8. Auctioneers (code 6200)

500A.1

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9. Others who follow an independent trade, business or profession in which they offer their services to the public.

### Requirements for Processing and Payment

1. A completed T & P Contract and Independent Contractor Status Checklist (Exhibit 2) must be approved with all applicable signatures prior to the delivery of services or payment. The contractor will have signed the front and initialed the back of the contract.
2. A concise description and date of service must be on the contract, even if the date is estimated.
3. The amount to be paid for the service must be determined prior to the delivery of services.
4. The Business Office will assign a T & P contract number to the document; copies will be forwarded to the requesting department and the contractor.
5. The contractor must submit an invoice in order to be paid.
6. Mileage Reimbursement Requests must be attached to an invoice which states their actual mileage or requests the College to use 'map mileage'.

### Non Personal or Non Professional Services

1. Non-personal and non-professional services are generally offered by independent contractors and include technical services such as equipment repair, maintenance contracts, laser printer specialists or film and similar developing and processing.
2. If neither an employee nor independent contractor relationship exists, these services may be purchased on a purchase order instead of a T & P Contract. If the services are to continue, a T & P Contract must be completed. If an employee relationship already exists, a supplemental pay form must be approved prior to delivery of services.