

CONTRACTING AND PROCUREMENT SERVICES

Personal/Professional Services Contracts Instructions for Contracting with Foreign Nationals

Departments that intend to pay foreign nationals (Non-Resident Aliens or NRAs) under a Personal/Professional Services Contract (PSC) should read the following instructions. Departments should feel free to contact Contracting and Procurement Services (CAPS) at any point if they need assistance or further explanation.

PLAN AHEAD. PSCs with NRAs require compliance with both immigration and IRS rules. Review and approval of such PSCs by CAPS takes additional time to complete. Start the process early. See the document checklist at the end of these Instructions. Late or missing documents can make it impossible for PSU to pay the Contractor.

Here's what you need to know:

1. Services Performed Outside the U.S. If all services will be performed outside of the U.S., no special forms are required. When you complete the PSC form, include the following in PSC Scope of Work: "ALL SERVICES PERFORMED IN <NAME OF COUNTRY>. NO SERVICES PERFORMED IN THE U.S." and, under the signature block for the Contractor, check the citizenship box that reads "Non-resident alien (NRA) all work performed outside the U.S."
2. Legal Permanent Residents. If the services are to be performed by a Resident Alien (also referred to as a "green card" holder), no special forms are required. Complete and submit the PSC form to CAPS.
3. Canadian Contractors. If your Contractor is a Canadian citizen, you should contact a CAPS Contracts Officer as soon as possible, preferably **before** the Contractor travels to the U.S. If the Contractor enters the U.S. from Canada without obtaining the proper documentation, the University may not be able to pay the Contractor. Canadian citizens are required to declare their intent and purpose for entry to the U.S. and **must obtain a properly processed I-94 Arrival/Departure document** when going through customs and immigration control. Canadian citizens receiving an honorarium or reimbursement, must have the I-94 marked B-1 or B-2 or they cannot be paid.
4. Visas. A visa gives travelers from other countries permission to enter the U.S. There are different visas depending on the traveler's purpose for coming to the U.S. The type of visa is evidenced by a stamp placed on the Contractor's passport at the point of entry into the U.S. Contractors will probably enter the U.S. on a B-1, B-2, WB, or WT visa. If you wish to pay an international visitor who holds an immigration status other than B-1, B-2, WB, WT, contact David Brandt, International Scholar and Faculty Adviser, International Student and Scholar Services, ext. 5-8596, dbrandt@pdx.edu for assistance.
5. Can the University Pay the Contractor on a PSC?
 - (a) If Contractor enters the U.S. with a B-1, B-2, WB, or WT visa, the University can pay an "honorarium" and/or reimburse them for reasonable travel expenses only. Such payment is only permitted if:
 - The Contractor is performing an **academic** activity for the benefit of the University.
 - The activity is no more than **nine (9)** days in duration.
 - The Contractor has not accepted similar payments from more than **five (5)** institutions in the U.S. in the previous **six (6)** months.
 - (b) If the Contractor meets all of the above requirements, prepare the PSC according to the PSC Instructions with the following important exception:

IMPORTANT. Do not create a Banner document (invoice or purchase order) for PSCs with NRAs. Leave the Banner Document Number field blank on the PSC form. When CAPS signs the PSC, a copy will be sent to Tami Nguyen in CAS. Tami will enter a direct pay invoice in Banner for the payment required to be made to the Contractor. Provided all other required documents are in order, payments will be made following completion of services by the Contractor.

(c) If the Contractor **does not meet** all of the above requirements, they cannot be paid on a PSC. Contact a CAPS Contracts Officer for assistance.

6. Tax Withholding. Generally, payments made to NRAs are tax reportable and may be subject to tax withholding. Exemption or partial exemption from withholding is applied **IF** the NRA's resident country has a tax treaty with the United States **AND** the nonresident alien completes the IRS form required to claim treaty benefits.

- IRS Form 8233. If the Contractor wishes to claim exemption from tax withholding based on a tax treaty, the Contractor must complete an IRS Form 8233 (parts I, II, and III) and provide it to the department along with a copy of their U.S. Social Security card or ITIN document. If a Contractor does not have a Social Security card or ITIN document, they may apply for one by submitting a Form W-7 to the IRS. If the Contractor has applied for but has not yet received their Social Security Card or ITIN, a copy of the IRS Form W-7 submitted to the IRS by the Contractor is acceptable. The department must forward these documents to CAPS when it submits the PSC for approval.

Note: CAPS will submit the Form 8233 to the IRS. The University must wait ten (10) business days to allow the IRS the opportunity to respond. If the IRS does not reject the form within the ten-day waiting period, the IRS Form 8233 is in effect.

Links to the 8233 Form and 8233 Instructions can be found at:

<https://www.pdx.edu/purchasing-contracting/forms-documents>

- No IRS Form 8233 or No Treaty. Some Contractors may elect to not file a Form 8233 or elect to not apply for a tax ID or Social Security number. Additionally, there are counties with which the U.S. does not have a tax treaty. In those cases, the University will be required to withhold 30% in Federal Income tax and the Contractor will receive 70% of the payment amount stated on the PSC. The Contractor will be **required** to sign a Non-Resident Alien Withholding Agreement acknowledging the University's obligation to withhold.

Link to Withholding Agreement can be found at:

<https://www.pdx.edu/purchasing-contracting/forms-documents>

7. Other Required Documents.

- B-1/B-2 & Visa Waiver International Visitor Declaration Form - https://www.pdx.edu/purchasing-contracting/sites/g/files/znlchr1881/files/2020-06/NRA%20Declaration%20Form_0.pdf
- Contractor's passport biographical/picture page
- U.S. visa page from Contractor's passport (if B-1/B-2)
- I-94 entry/departure record - <https://www.cbp.gov/sites/default/files/assets/documents/2016-Mar/i-94-automation-fact-sheet.pdf>

8. Other Links.

Link to Required Documents Checklist

Links to the PSC, PSC Instructions, and Attachments can be found at:

<https://www.pdx.edu/purchasing-contracting/forms-documents>

I-94 entry/departure record retrieval instructions can be found at:

<http://www.cbp.gov/travel/international-visitors/i-94-instructions>

Document Checklist for Contracting with Foreign Nationals

- Personal Services Contract (PSC) with applicable attachments**

- IRS Form 8233 OR**
- Non-Resident Alien Withholding Agreement**

- Copy of U.S. Social Security card, Individual Taxpayer Identification Number (ITIN) card or IRS Form W-7 that has been submitted to IRS**

- B-1/B-2 & Visa Waiver International Visitors Declaration Form**

- I-94 Form**

- Copy of Contractor's passport biographical/picture page**

- Copy of Contractor's passport visa page – if B-1/B2**

