708.1 – University of North Carolina at Chapel Hill Procedure on Independent Contractor Predetermination Process

Related Policies
- [708 – University of North Carolina at Chapel Hill Policy on Independent Contractor](http://unc.policystat.com/policy/5154974/)

Procedure Sections
- Procedure Statement
- Exclusions
- Forms and Instructions
- Related Data
- History

Responsible University Officer
Director of Systems and Operations

Responsible Unit
Systems and Operations

Procedure Statement

Prior to making a commitment to an individual to be paid as an Independent Contractor, the department must complete a background check for an assignment lasting in excess of ten (10) calendar days, involving a continuous relationship and/or involving access to sensitive populations or sensitive facilities/data. Sensitive populations are defined to be individuals less than 18 years of age, patients receiving care in any clinical setting, or other individuals deemed to require enhanced supervision or protection based on University practice or State or Federal law. Sensitive facilities are University facilities that require special clearance or background checks for access as well as confidential or protected records. Upon completion of the background check, the department will create the Employee/Independent Contractor Determination Checklist (EICDC) in ConnectCarolina and the checklist will be routed to Disbursement Services for review. This pre-approval will ensure there are no payment delays and that the University is in compliance with IRS regulations.
Exclusions

The following circumstances waive the requirement for a background check:

- If the assignment is ten or less calendar days without any continuous relationship and involves supervised access to sensitive populations or sensitive facilities, a background check is not required. This includes contractors who are invited to deliver a presentation at the University.
- If the contractor will perform the assignment in his/her own facilities, has no access to confidential or protected records or data and has no direct contact with sensitive populations a background check is not required.

Forms and Instructions

- **708.1.1f** - Employee/Independent Contractor Determination Checklist
- **708.1.2f** – Independent Contractor Services Agreement and Statement of Work
- **1232.1.1f** - Customer Request for a Brand/Vendor Specific Waiver of Competition
  - Once the department determines a background check is necessary, the HR Representative will create an "eVite" in the CastleBranch system and send the request to the applicant. Once the University's background check service provider receives the completed online candidate submission, the following background checks will be conducted: Criminal Convictions for all state jurisdictions, federal criminal check, national sex offender registry check, federal debarment check, and Driver's License check for those positions that require driving in the scope of responsibilities. The normal criminal conviction checking fees are the responsibility of the appointing department. In instances where a contractor has no Social Security Number due to citizenship status, the University's Office of Human Resources will make a good faith effort, based on name alone, to confirm that no residential history or criminal convictions have been recorded for this individual. The background check requirement is waived for contractors indicated in the "Exclusions" section below.
  - The PID and name of the department representative most familiar with the individual and the work to be performed is required on the EICDC in ConnectCarolina.
  - The tax identification number of the Independent Contractor will be required for creation of the EICDC. Attach the following documents via ImageNow:
    1. a) If total payment to the contractor in a 12-month period is less than $10,000.00, submit EICDC W9, and refer to background check policy and procedures.
    2. b) If total payment to the Contractor in a 12-month period is more than $10,000.00, submit EICDC W9, refer to background check policy and procedures, Independent Contractor Service Agreement and Statement of Work, and Customer Request for a Brand/Vendor Specific Waiver of Competition.
    3. c) Page four (4) of the Authorization for Background Check form, showing background check completion.
      - Allow sufficient time for the review process of the EICDC as in some cases the University's Office of Human Resources or University Counsel's Conflict of Interest Officer concurrence is required.

Frequently Asked Questions

Q: We have a speaker who will give a public lecture including students. Do we need a background check?
A: No.

Q: We will have a contractor who performs her services in her NY office and has access to the student files.
Do we need a background check?
A: Yes because she will have access to sensitive data.

Q: Our department will pay a contractor $11,000 including $2,000 of expenses. Does this require an IC Service Agreement?
A: No, since the total fee/income is less than $10,000 only the EICDC is needed.

Q: If I hire an independent contractor to work only at UNC-CH for twelve days continuously or over an extended period of time, does the individual need to have a background check?
A: Yes, because the assignment will last longer than ten (10) days.

Q: If I were to hire an independent contractor in another country who will never travel to the U.S. as part of this assignment, does the individual need to have a background check?
A: No.

Q: How does this policy affect non-resident aliens if there is not a mechanism to do international criminal background checks?
A: If non-resident aliens are working in the United States, this policy still applies. It does not impact non-resident aliens working internationally.

Q: What impact would this have on Aramark and Xerox?
A: Large vendor contracts (such as Aramark and Xerox) are not affected. "C" corporations are defined by the IRS as not Independent Contractors.

Q: Does this policy only apply to Independent Contractors who will be working on campus?
A: No, the policy applies to anyone working in the United States.

Q: How will Independent Contractors who work for various departments on campus be treated? Will each department have to complete a background check?
A: If the work is different and/or performed for another department, yes, multiple forms will need to be filled out.

Q: What will the turnaround time be on criminal background checks? We often don't know we need to hire an Independent Contractor until a few days before a project begins.
A: The turnaround is seven (7) business days.

Q: Will we have to run a new criminal background check each year for contractors we use from year-to-year (i.e. photographers for our magazine, freelance writers, etc.)?
A: Yes, if the independent contractor has not had a background check in the past six months.

Q: Will the Independent Contractor rules apply to foundations?
A: Foundations have their own rules. UNC does not administer IC rules for the foundations.

### Related Data

- [708.1.1rd](#) - Domestic Vendor Independent Contractor Workflow
- [708.1.2rd](#) - Foreign Vendor Independent Contractor Workflow
- [708.2](#) - University of North Carolina at Chapel Hill Procedure on Paying an Independent Contractor
- [OHR Policy](#): Background Checks for Faculty and Non-Faculty Employees, Student Employees and Affiliates

### History

Revised:
July 5, 2018: Fixed pagination on form 708.1.2rd to ensure signature pages were correct; updated background check links.

October 13, 2017: Form 708.1.1f revised to state: "Independent Contractor approval status is effective for services provided between the contract dates specified, not to exceed 12 months from start date."

April 18, 2017: New HR policy for exclusion from background check moves from seven-day assignments to ten.

April 13, 2017: Updated Q&A section to reflect background check policy of being conducted in the past six months.

August 31, 2016: Updated background check request process and link.

October 1, 2014: Updated background determination process in Procedure Statement; removed steps and updated process in Forms and Instructions section.

August 28, 2014: Removed FAQ on year-to-year hires.

June 30, 2014: Added information on background check rules.

May 20, 2013: Made changes to Forms section.

August 23, 2010


Attachments:

- 1232.1.1 f – Customer Request for a Brand/Vendor-Specific Waiver of Competition
- 708.1.1f - Employee-Independent Contractor Determination Checklist
- 708.1.2f - Independent Contractor Services Agreement Statement of Work

Approval Signatures

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<thead>
<tr>
<th>Step Description</th>
<th>Approver</th>
<th>Date</th>
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<tbody>
<tr>
<td>Publication by Office of Ethics and Policy</td>
<td>Matthew Teal: University Program Specialist</td>
<td>7/9/2018</td>
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<tr>
<td>Finance Communications Office</td>
<td>Christine Shia: Public Comm Specialist</td>
<td>7/9/2018</td>
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Applicability

The University of North Carolina at Chapel Hill