Independent Contractors vs. Employees

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What is a Service?

NIGP:

Intangible commodity

IRS:

Furnishing of labor, time, or effort does not involve any specific end product (good)
Our Story

- Contracting Process
  - Decentralization
  - Origination
  - Management
- Purchasing’s Role
  - Resources
- Volume and Value
- Variety of Agreements
  - Chaos!
IRS AUDIT

• **Timing**
  - Audit began in Fall of 2013
  - Settlement in Spring of 2015

• **Scope**
  - Initial scope
    - 941 Audit
    - 1098-T
    - 1099 / W2
    - Comp Time
A Call For Help

- **Primary Departments:**
  - Contracts & Purchasing
  - Student Accounts
  - Accounts Payable
  - Human Resources
  - Payroll
  - Career Center
  - Legal Counsel

KEEPCALM
AND
CALLYOURTAXACCOUNTANT
Determinations – IRS places determination on the owner

- Can you tell by looking at them?
- Where they reside?
- How about their title?
- How about the amount of the contract?
- What if we ask the requesting department?
Ask Questions!
Why Does it Matter?

- Taxes
- Benefits
- Penalties
- Interests
- Could be sued
IRS Classifications

- Employee
- Statutory employee
- Non-statutory employee
- Independent Contractor
<table>
<thead>
<tr>
<th>IRS</th>
<th>Department of Labor (FLSA)</th>
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<tbody>
<tr>
<td>• Behavioral Control</td>
<td>• Department of Labor Standards differ and sometimes conflict with IRS</td>
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<tr>
<td>• Financial Control</td>
<td>• Updated July 2015</td>
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<td>• Type of Relationship</td>
<td>• Increased focus on use of economic factors to determine nature of the relationship</td>
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<td>• What is the core business of a university?</td>
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Common IRS Employee Attributes

- Comply with instructions about when, where, and how work is to be performed
- Trained to perform services in a particular way
- Services rendered personally
- Continuing Relationship
- Employer sets employer's hours and days
- Is furnished tools, materials, supplies
Common IRS Contractor Attributes

- Set their own hours and do the job their own way
- Perform work by their own method
- Receive no training from the purchaser of their services
- Assign their own workers to do the job
- Hired to do one job; no continuous relationship
- Realize a profit or loss

Areas of Concern

- Individuals with a 1099 and W2 in the same tax year
- Grants:
  - External Evaluators
  - Pass-through grants
- Event Planners
- Students
How to make a determination?

- Vendor questionnaire
- IRS SS – 8
- Contracts – Scope of Work
What happens if you have an improper determination?

- Volunteer Classification Settlement Program
- Relief under Section 530
Post-Audit Action Plan

- Assembled a standing group with representation from all primary departments
- Process mapping
- Workflow
- Decision Trees
- Clear separation on areas of responsibility
- Communication Strategy
Purchasing’s Role

• Improve the Contracting Process
  • Increase efficiencies
  • Transparency
  • Internal Controls

• Challenges
  • Change Management
  • Resources
  • Time
Process Improvement

- Goals
  - Accessibility
  - Efficiency
  - Analytics / Visibility
  - Central Repository
  - Timing
  - Expandability
Our Progress

• A new way of contracting

• Demo of new system

Moving Forward

• System Expansion

• Training and development for campus users
Questions?