



Independent Contractor (Consultant) Guidelines and Checklist

To Be Completed By Requisitioner

VMRF procurement procedures may not be used in lieu of placing an individual on the payroll. An individual may only be retained for professional services as an independent contractor if a determination has been made that an employer-employee relationship does not exist.

Generally:

An employer-employee relationship exists when VMRF has the right (whether or not it exercises the right) to supervise and control the manner of performance, as well as the result of the service.

An independent contractor relationship exists when VMRF has the right to control or direct only the result of the work, not what will be done and how it will be done.

1. Definition of Independent Contractor Services

Professional services performed by independent contractors are generally infrequent, technical, or unique functions performed by individuals rather than partnerships, firms, or corporations. Examples of such services include technical writing or editing, intermittent advisement, non routine data analysis, translation, and technical appraisals. Individuals who supervise other employees cannot serve as an independent contractor.

2. Engaging the Services of an Independent Contractor

The determination of an individual's status as an employee or independent contractor must be made prior to an engagement to perform professional services. As a general rule, individuals should be classified as independent contractors on an exception basis only.

The engagement of an independent contractor for professional services is generally covered by VMRF's standard purchase order form and standard terms and conditions of purchase. Purchase orders/agreements for independent contractor services should not extend beyond one year (12 months) at a time and should not cross project years on funded projects.

Independent contractors must not begin services until review and approval by the Principal Investigator and VMRF Procurement has been completed as evidenced by a valid purchase order number. Payment will not be made for work performed prior to the date of the purchase order number assignment.

3. VA Employees

An individual who is a VA employee cannot be retained as an independent contractor. VMRF policy provides that an employee's VA and private interests must be separated.

4. VMRF Employees

Generally, an individual who is a VMRF employee or who has been a VMRF employee in the past twelve months cannot be an independent contractor with VMRF. For further information please contact Accounting because there may be applicable exceptions.

5. Tax Withholding and Reporting

VMRF has no obligation to withhold income or FICA taxes on amounts paid to an independent contractor. However, if an independent contractor does not furnish a correct social security number, the backup withholding rules require that income tax be withheld at the current federal rate and highest state rate.

Payments made to individuals who do not reside in California, but are paid for services performed as an independent contractor in California may be subject to backup withholding at the current state rate.

If payments in the aggregate to an independent contractor total \$600 or more during a calendar year, payments must be reported on Form 1099-MISC, Miscellaneous Income.

6. Forms to be Completed and Submitted to VMRF Procurement Prior to Engaging the Services of an Independent Contractor

- Independent Contractor (Consultant) Checklist
- Signed Terms and Conditions for Services, as provided by VMRF to Independent Contractor prior to initiation of services as defined in Independent Contractor Agreement
- Independent Contractor (Consultant) Agreement – Supplement to Terms and Conditions for Services
- Purchase Order, including:
 - Name of the proposed individual who will be performing the services
 - Business address and phone number

- "Independent Contractor (Consultant) Services" and the period of performance for the Service Description
- The amount of payment requested by the independent contractor and the method of computation, i.e., by the hour, day, or job (the number of hours and days should be included if applicable)
- A total "not to exceed" dollar amount
- VMRF AP Form
- VMRF Supplier Diversity Program Questionnaire
- IRS W-9 Form

The Independent Contractor Checklist, Independent Contractor Agreement, and Purchase Order are accessible from our website. To obtain all other forms listed, please contact our Procurement Department.

7. Other Documents to be Submitted with the Required Forms

- If the purchase order is for \$10,000 to \$49,999, please attach two quotes from other suppliers of same services. If you cannot supply two quotes, you must allow time for Procurement to seek quotes for the services required. VMRF understands that many independent contractor services required in a medical research setting are highly specialized and that there is only one source for the required services. In those cases, requesters must complete a Sole Source Justification Form.
- If the purchase order is for \$50,000 or more, a formal Request for Proposal (RFP) process may be needed unless a Sole Source Justification Form is submitted and approved.
- If the individual will be using a personal automobile as described in VMRF Contractor (Consultant) Agreement – Supplement to Terms and Conditions, VII., A, please attach a current Certificate of Insurance and a copy of the individual's driver's license.
- Please attach a resume, curriculum vita, or similar supporting documentation.

8. Approval of Independent Contractor

VMRF Procurement will return to you a copy of the purchase order with an assigned number once the independent contractor has been approved to begin services.

Services should not begin until the date of the purchase order number assignment.

9. Payment for Services

No payment for services may be authorized until the following conditions have been met:

- All agreements have been fully executed, and
- All the required documents have been received and approved

Payment will be made upon receipt of an invoice submitted by the independent contractor to VMRF. Invoices must be prepared on the independent contractor's letterhead and submitted to VMRF Accounting preferably on a weekly basis, but no less than monthly. All invoices must include the information listed on the Independent Contractor Invoice Template (see page 5). Each invoice must be signed by the Independent Contractor and approved by the Principal Investigator or his/her designee.

[Address Line 1]
[Address Line 2]
Phone: [(000) 000-0000]
E-mail: [independentcontractor@email.com]

INVOICE #:[000000]

DATE: [00/00/0000]

PAYMENT TERMS: [TERMS]

Veterans Medical Research Foundation
3350 La Jolla Village Drive, 151A
San Diego, CA 92161

[Project service or description]
P.O. #:[000000]

I am aware that Federal Law (18USC, section 209) prohibits any individual from accepting compensation from any source for effort that is already being paid for by the Department of Veterans Affairs or any other federal source. Acceptance of this independent contractor agreement with VMRF does not involve dual compensation for effort that is already being paid for by the Department of Veterans Affairs or any federal source.

Date _____

Date _____



Veterans
Medical Research
Foundation

Independent Contractor (Consultant) Checklist

Purchase Order # _____


Prior to submitting a purchase order (PO) and Independent Contractor Agreement to VMRF Procurement for an independent contractor, the following items must be completed:

NAME OF INDIVIDUAL:

1. Does the individual have a City, State, County or Federal business license or tax identification number, other than a social security number?

☐
Yes

☐
No

- If yes, . There is no need to continue with checklist. The individual would not be what VMRF defines as an independent contractor. Complete a PO and attach a Statement of Work (SOW) signed by both the individual and Principal Investigator (PI). PO will be processed the same as that for any requisition for supplies or products.

- If no, continue with checklist.

2. Is the individual currently a VA employee?

☐
Yes

☐
No

- If yes, . The individual cannot be an independent contractor with VMRF.

3. Is the individual currently a VMRF employee OR has this individual been a VMRF employee in the past twelve months?

☐
Yes

☐
No

- If yes,  and contact VMRF Accounting for further information.

4. Is the payment for services being made to or on behalf of a U.S. citizen or legal permanent resident?

☐
Yes

☐
No

- If no, please contact VMRF Accounting for further information.

5. Has the individual rendered services to VMRF previously?

☐
Yes

☐
No

- If yes, when?

6. Does the individual have privileges to see patients at the VA?

☐
Yes

☐
No

7. Clearly describe in detail the services to be provided by the individual. Please provide a complete description of the project or services to be performed by the independent contractor, including work plan, required deliverables, milestones, etc.

8. Where will the services be performed (please list the specific location such as home address, lab, etc.)?

9. a. Is your purchase order for \$10,000 to \$49,999?

☐
Yes

☐
No


- If yes, please provide quotes from two other suppliers of same services and attach to purchase order.
- **If you cannot supply the above, you must allow time for Procurement to seek other quotes for the services required, or complete a Sole Source Justification Form if applicable.**

9. b. Is your purchase order for \$50,000 or more?

☐
Yes

☐
No

- **If yes, you must allow time for Procurement to go through a formal Request for Proposal (RFP) process, or complete a Sole Source Justification Form if applicable.**

10. Will the individual require training or instruction from a member of your department?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
11. Will the department be furnishing equipment, materials and/or space to the individual? <ul style="list-style-type: none"> If yes, clearly define what the department will be supplying and/or at what location the individual will perform the services. If no, state where the services will be performed and what supplies and/or equipment the individual will be supplying. 	<input type="checkbox"/> Yes	<input type="checkbox"/> No
12. Will the department establish hours and guidelines under which the individual will be expected to perform the services?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
13. Does the department retain the right to change the methods or direction established by the individual to perform and complete the services?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
	IF THE ANSWER TO QUESTIONS #10 THROUGH #13 IS YES, then a clear and defined Employer-Employee relationship exists and the individual cannot be retained as an independent contractor. The department can only then retain the individual as an employee of VMRF.	
14. Will the individual be performing stated services alone? <ul style="list-style-type: none"> If the individual is hiring others to work with him/her to perform the services required, it must be clearly stated within the purchase order that all taxes, worker's compensation and other liabilities are those of the independent contractor. 	<input type="checkbox"/> Yes	<input type="checkbox"/> No
15. Is the individual using a personal automobile as described in VMRF Contractor Agreement, VII., A.? <ul style="list-style-type: none"> If yes, attach a current Certificate of Insurance and a copy of the individual's driver's license to the Contractor Agreement. 	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The information from questions #16 through #18 is used to determine whether or not the individual does, in fact, work as an independent contractor under normal circumstances. If not, then further review by Procurement will be required to determine if the individual can be retained as an independent contractor, should be referred to Human Resources, or if the department will be required to seek another source for the services.		

16. How many hours per week and weeks per month do you anticipate the individual will be providing services for your department?		
17. Does the individual perform same or similar services for clients other than VMRF?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
18. Does the individual advertise same or similar services to the general public? ▪ If yes, in what media?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

The hiring of independent contractors is always under close scrutiny by the state and federal governments and it is each department's responsibility, as well as that of Procurement, to ensure that VMRF is at all times in compliance with the guidelines established by these agencies.

I have reviewed, understood, and approved this checklist for submission.

I have provided a copy of the Independent Contractor (Consultant) Guidelines to the proposed independent contractor.

VMRF Principal Investigator

Date

ATTACH THIS COMPLETED, SIGNED CHECKLIST TO PURCHASE ORDER.

INCLUDE COPY OF RESUME, CURRICULUM VITA OR OTHER DOCUMENTATION.

ORIGINAL SIGNATURES PREFERRED ON ALL DOCUMENTS.