

# Engaging Contractors and Consultants

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## 1.0 Purpose

The purpose of this procedure is to establish roles and responsibilities associated with ensuring that independent contractors (commonly known at Griffith as 'consultants') are engaged and retained lawfully by Griffith; including that all arrangements are genuine, that contractors are paid superannuation when legally entitled, and that the University meets relevant tax liabilities.

## 2.0 Scope

This procedure applies to all areas of the University's operations, including its staff, appointees of the University, its controlled entities, and to all activities authorised and conducted by or on behalf of the University.

It applies to all circumstances where an independent contractor/consultant is engaged to provide services to Griffith, except where services are being sourced through a labour hire company. Note where labour hire services are being used it is mandatory to check the Qld Government's [online register](#) to ensure that the labour hire company is licensed under the *Labour Hire Licensing Act 2017* (Qld).

## 3.0 Procedure

### 3.1 General Position on Sole Traders

Contractors and consultants provide a range of valuable services to Griffith. However, the engagement of individual 'sole traders' is subject to complex legislative requirements, including the prohibition on sham contracting in the *Fair Work Act 2009* (Cth). To prevent breaches of these requirements, which will cause significant harm to the University, the following principles apply:

- Wherever possible, contractors and consultants should be engaged through a company with an Australian Company Number (ACN),
- Sole traders will be permitted, by exception, where the process (3.2 below) is followed, and it can be reasonably determined that it is a genuine contracting arrangement.

Due to the significant consequences of legislative non-compliance, the University will monitor and when appropriate audit compliance with these procedures.

### 3.2 Engagement Procedures

The table below sets out the process for engaging a contractor or consultant generally, with specific and additional requirements where a sole trader is being engaged set out in the right-hand column.

GENERAL PROCESS	SOLE TRADER REQUIREMENTS (IF ANY)
<p><b>1. Assess the Risk</b></p> <p>When engaging contractors or consultants to provide services to the University, University staff should ensure that they follow an appropriate sourcing process commensurate with value and risk.</p> <p>To assess the risk, University staff should complete either:</p> <ul style="list-style-type: none"> <li>• <b>Basic Risk Assessment Questionnaire</b> if the total cost is expected to be below \$450,000, or</li> <li>• <b>Value Risk Matrix Tool - Sourcing</b> if the total cost is expected to be equal to or greater than \$450,000.</li> </ul>	<p><b>Complete a Genuine Contractor Checklist and check if superannuation entitlements and other requirements apply</b></p> <p>When a sole trader is proposed to provide services under a contract, the below steps must be undertaken:</p> <p><b>Step 1:</b> The <b>Genuine Contractor Checklist</b> must be completed. Where all mandatory checks are passed, Step 2 below applies. Where all the mandatory checks are not passed, the arrangement is likely to be a prohibited sham contract and cannot proceed. The Element must either:</p> <ul style="list-style-type: none"> <li>• Consult with their Human Resource Business Partner (HRBP) about potential or alternative employment options, or</li> <li>• Consider alternative supply arrangements for the services, in consultation with Strategic Procurement and Supply team.</li> </ul> <p><b>Step 2:</b> If the Genuine Contractor Checklist is passed, the proposed arrangement must be assessed for potential superannuation entitlements, payroll tax liability and workers compensation requirements.</p> <p>This is done by sending the proposed arrangement (including the completed Genuine Contractor Checklist) to <a href="mailto:handsafety@griffith.edu.au">handsafety@griffith.edu.au</a>. If applicable, payment of superannuation must be included in the contract for services and any superannuation or payroll tax liabilities will need to be funded from the procuring Element's budget.</p>
<p><b>2. Identify which sourcing process to follow</b></p> <p>By using the risk assessment information combined with the expected total cost, University staff will be able to refer to the <b>Procurement and Supply Thresholds</b> to identify which of the following sourcing guidelines to follow:</p>	

**GENERAL PROCESS**
**SOLE TRADER REQUIREMENTS (IF ANY)**

- Below \$450,000 (exc. GST) and Very Low to Medium Risk Sourcing Guidelines
  - Use the Request for Quotation templates to obtain quotations:
    - Request for Quotation Part A Consultancy Requirements
    - Request for Quotation Part B Supplier Response Schedule (Consultancy)

Above \$450,000 **Strategic Sourcing Guidelines** - remember to engage **Strategic Procurement and Supply** at the "plan the procurement" stage of the process.

**3. Conflicts of Interest Declarations**

One of the key parts of the sourcing process (irrespective of which process you follow) is the mandatory requirement to declare any actual, potential or perceived conflicts of interest. By declaring a conflict of interest, it enables an effective management plan to be put in place that protects both the University staff member and the University. Learn more about **Conflicts of Interest**.

Declaring conflicts of interest should be undertaken as soon as potential consultants have been identified and prior to issuing any documents such as a Request for Quote or Request for Proposal. Note that there is an ongoing obligation to declare conflicts of interest that can arise during the sourcing process. Learn more about Conflicts of Interest requirements specific to **Procurement / Purchasing**.

To submit a conflict of interest declaration:

- use the **Conflict of interest submission tool**, or
- to obtain conflict of interest declarations from multiple people use the **Declaration of Interest Form (Microsoft Form)** and refer to the **User Guide**. If a conflict of interest is declared to you following this process:

**GENERAL PROCESS**
**SOLE TRADER REQUIREMENTS (IF ANY)**

<ul style="list-style-type: none"> <li>○ refer to the conflict of interest guidance relating to <b>Procurement / Purchasing</b>, and</li> <li>○ if the impacted staff member is unable to be removed from the process, a management response must be agreed with the relevant line manager and a further conflict of interest submission will need to be made using the <b>Conflict of interest submission tool</b></li> </ul>	
<p><b>4. Agreements</b></p> <p>Once the relevant process has been followed, the next step is to obtain approval to enter in an appropriate agreement, which in most cases will be a consultancy agreement. The University staff member should:</p> <ul style="list-style-type: none"> <li>● complete the <b>Consultancy Agreement</b></li> <li>● complete a <b>Contract Approval Form</b>. Note that as part of completing the form you will need to identify who has delegated authority (both signing and financial) to enter into the agreement. Refer to the <b>Delegations webpage</b>.</li> <li>● submit for approval by the Delegate <ul style="list-style-type: none"> <li>● Delegates responsibilities specific to procurement and supply activities are outlined in <b>Roles and Responsibilities</b>.</li> </ul> </li> <li>● organise for both parties to sign (execute) the Consultancy Agreement</li> <li>● upload the contract into the <b>Contract Register (ConvergePoint)</b> <ul style="list-style-type: none"> <li>○ <b>Learn how to upload a contract into ConvergePoint</b></li> <li>○ <b>Demo videos (ConvergePoint)</b></li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>● In all cases where a sole trader is involved, a Consultancy Agreement is required.</li> <li>● If an alternative contract to the standard Griffith Consultancy Agreement is proposed, <b>Legal Review</b> is required.</li> <li>● The completed Genuine Contractor Checklist should be included in ConvergePoint.</li> <li>●</li> </ul>

**GENERAL PROCESS**
**SOLE TRADER REQUIREMENTS (IF ANY)**

- **ConvergePoint Contract Register - Onboarding & Training Request**

Note that Consultancy Agreements are not required if the total cost is less than \$5,000 (however, this exception does not apply to sole traders).

**5. Create a purchase order or pay using a Griffith Credit Card**

A purchase order should be created for all contractor or consultancy services, except where the use of a Griffith credit card is permitted as outlined below: For contracts with a total cost (inclusive of GST):

- Less than \$5,000 pay using a Griffith credit card - in accordance with **credit card procedures**.
- equal to or greater than \$5,000 a **purchase request** should be created in PeopleSoft. When creating a purchase request, the following needs to be attached:
  - Quote(s) and supporting documentation
  - Conflict of interest declaration - only required if a declaration has been made
  - Contractor/Consultant's certificate of currency (insurance)
  - Consultancy agreement (signed by both parties)
- Once approved, the Purchase Order will be issued to the consultant with the Consultancy Agreement.

- The consultancy agreement, and the Completed Genuine Contractor Checklist must be sent to Payroll ([payroll@griffith.edu.au](mailto:payroll@griffith.edu.au)) for payroll tax purposes. This applies to all sole trader arrangements regardless of whether the payment is via credit card or purchase order.

GENERAL PROCESS	SOLE TRADER REQUIREMENTS (IF ANY)
<p><b>6. Invoicing Requirements</b></p> <p>Except where the consultancy services have been paid by Griffith credit card, University staff must forward all invoices to <a href="mailto:fin-billto@griffith.edu.au">fin-billto@griffith.edu.au</a> to ensure timely payment. To facilitate timely payment ensure that the Purchase Order is included in the invoice or otherwise advised to Accounts Payable.</p>	
<p><b>7. Varying, extending or renewing a Consultancy Agreement</b></p> <p>If you need to vary, extend or renew the contract, please follow the process outlined in the <a href="#">Contract Management Guidelines</a>. See also the contract management processes, guidelines, templates and tools section of the <a href="#">purchasing webpage</a>.</p>	<ul style="list-style-type: none"> <li>• When a sole trader arrangement is varied, extended, or reviewed, the Genuine Contractor Checklist must be reviewed.</li> <li>• The Payroll team (<a href="mailto:payroll@griffith.edu.au">payroll@griffith.edu.au</a>) must be notified of the changes to the arrangements.</li> </ul>

### 3.3 Monitoring and Review of Genuine Sole Trader Arrangements

The Element remains responsible for ensuring the engagement remains genuine and does not become an illegal sham contracting arrangement (for example, through multiple contract extensions or changes in the nature of work being provided). In addition to using the Genuine Contractor Checklist, you can seek advice from HR Business Partners.

Finance will, as part of normal compliance and fraud detection activities, monitor consultancy engagements and audit system records to ensure that these procedures are being followed.

## 4.0 Roles and Responsibilities

ROLE	RESPONSIBILITY
Heads of Elements	Ensure that contractors and consultants are engaged in compliance with these procedures.
Head of Business Partnering (Human Resources)	<p>Ensure that Business Partners are aware of the prohibition on sham contracting and able to provide advisory support to Elements.</p> <p>Work with Elements where there is an awareness of circumstances that may lead to sham contracting arrangements being implemented.</p> <p>Provide advice to Elements about potential or alternative employment options that may be pursued when a contract arrangement is not genuine and cannot be pursued, in consultation with Office of General Counsel.</p>

Escalate and take corrective action when potential sham contracting arrangements are identified, in consultation with Office of General Counsel.

Head of Operations and Systems (Human Resources)

Advise whether superannuation is payable to a sole trader.  
 Implement and maintain processes to pay sole traders superannuation as required.  
 Assess notified sole trader arrangements for payroll tax liability and workers compensation requirements.  
 Keep appropriate records of notified sole trader arrangements.

Head of Strategic Procurement and Supply (Finance)

Promote these procedures and ensure that the procedures and Genuine Contractor Checklist is readily available to staff undertaking procurement.  
 Provide advice to staff about compliance with these procedures.  
 Monitor compliance with the requirement to complete the Genuine Contractor Checklist.

Legal Services

Support the development of appropriate contracts to engage consultants and provide general advisory support.

Internal Audit

In accordance with approved Annual Internal Audit Plan where applicable, undertake audits of these procedures.

## 5.0 Definitions

**Employee:** means a Griffith staff member who has entered into an employment agreement with Griffith and is paid through the Griffith payroll function. As an employee, they are entitled to rights, benefits and protection provided under the *Fair Work Act 2009* (Cth) and other relevant employment legislation.

**Independent Contractors:** means a person or entity that runs their own business and sells their services to clients such as Griffith. They are commonly known as consultants within Griffith and when they are an individual providing services they are referred to in this procedure as a ‘sole trader’.

**Sham Contracting:** means an arrangement where a person is engaged as a “contractor” or “consultant” but should legally be engaged as an employee under an employment contract. Sham contracting is illegal and carries significant penalties.

## 6.0 Information

Title	Engaging Contractors and Consultants Procedure
Document number	2024/0001034
Purpose	The purpose of this procedure is to establish roles and responsibilities associated with ensuring that independent contractors (commonly known at Griffith as 'consultants') are engaged and retained lawfully by Griffith; including that all arrangements are genuine (ie. not sham contracting), that contractors are paid superannuation when legally entitled, and that the University meets relevant tax liabilities.
Audience	Staff
Category	Operational
Subcategory	Staff
UN Sustainable Development Goals (SDGs)	This document aligns with Sustainable Development Goal: 8: Decent Work and Economic Growth
Approval date	13 December 2023
Effective date	13 December 2023
Review date	2026
Policy advisor	Head of Strategic Procurement and Supply
Approving authority	Chief Operating Officer

## 7.0 Related Policy Documents and Supporting Documents

Legislation	<p><i>Fair Work Act 2009 (Cth)</i></p> <p><i>Superannuation Guarantee (Administration) Act 1992 (Cth)</i></p> <p><i>Payroll Tax Act 1971 (Qld)</i></p>
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*Labour Hire Licensing Act 2017 (Qld)*

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Policy                      Procurement and Supply Policy  
                                    Legislative Compliance Policy

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Procedures                Below \$450,000 (exc. GST) and Very Low to Medium Risk Sourcing  
                                    Guidelines  
                                    Strategic Sourcing Guidelines  
                                    Contract Management Guidelines

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Local Protocol             N/A

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Forms                        Sham Contractor Factsheet and Genuine Contractor Checklist

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