**Nonresident Alien – Honorarium and UPPS No. 03.04.06**

**Contracted Services Payments Issue No. 6**

**Effective Date: 01/04/2022**

**Next Review Date: 01/01/2024 (E2Y)**

**Sr. Reviewer: Director, Payroll**

**and Tax Compliance**

**POLICY STATEMENT**

*Texas State University is committed to ensuring compliance with applicable immigration and revenue laws regarding honorarium and contracted service payments to foreign individuals or entities.*

**01. SCOPE**

01.01 This document establishes responsibility and policy regarding the payment to a nonresident alien (NRA) individual or business entity, for services performed within the United States.

01.02 This document also ensures that policy conforms to the United States [Internal Revenue Code (IRC)](https://www.irs.gov/privacy-disclosure/tax-code-regulations-and-official-guidance) and meets [Eligibility for Payment Rules](https://www.uscis.gov/working-united-states/working-us) set by the United States Citizenship and Immigration Services.

**02. DEFINITIONS**

02.01 Honorarium – a payment of money or anything of value for an appearance, speech, or article ([5 CFR 2634.105(1)](https://www.ecfr.gov/current/title-5/chapter-XVI/subchapter-B/part-2634/subpart-A/section-2634.105)).

02.02 Nonresident Alien (NRA) – as set forth in [IRC §7701(b)](https://www.irs.gov/pub/irs-tege/eotopici92.pdf), a person who has neither a substantial presence in the United States, a green card, nor a permanent residence in the United States.

02.03 Nonresident Alien Contractor – an independent contractor who does not have an employee-employer relationship with Texas State University, nor has been offered employment at Texas State, and is an individual or business entity working on a contracted and temporary basis.

02.04 Tax Treaty Exemption – provides a federal tax withholding exemption for aliens from countries who have tax treaties with the United States. However, the Internal Revenue Service (IRS) imposes restrictions on the application of the [tax treaty](https://www.irs.gov/individuals/international-taxpayers/tax-treaty-tables) exemption.

**03.** **PROCEDURE FOR PREPARING THE NONRESIDENT ALIEN’S VISIT TO THE UNITED STATES (NON-EMPLOYED CONTRACTOR)**

03.01 The NRA must obtain the appropriate [type of visa](https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/all-visa-categories.html) that allows to be compensated within the United States and provide the necessary documents prior to performing services for the university.

03.02 The account manager must contact the International Student and Scholar Services (ISSS) at least 45 days in advance to help assess the appropriate visa classification to pursue when inviting international scholars.

03.03 The account manager must contact the Payroll and Tax Compliance Office to determine tax residency and discuss the tax withholding requirements.

**04.** **PROCEDURES FOR WITHHOLDING TAX FROM PAYMENT TO NONRESIDENT ALIENS**

04.01 The university is responsible for withholding income tax when applicable and submitting payment to the IRS immediately following payment to the NRA. The university will withhold federal tax from the NRA’s compensation at the rate of 30 percent, unless otherwise provided by federal law or an applicable tax treaty claimed by the NRA contractor.

04.02 The account manager may gross up the amount the NRA is paid so the net payment equals the original amount to which was agreed.

04.03 The Payroll and Tax Compliance Office is responsible for issuing the annual [IRS 1042-S, Foreign Person's U.S. Source Income Subject to Withholding](https://www.irs.gov/pub/irs-pdf/f1042s.pdf) forms to each NRA and submit the report to the IRS.

04.04 The NRA, individual or business entity, is responsible for filing an [IRS 1040NR](https://www.irs.gov/pub/irs-pdf/f1040nr.pdf) or a [1040-NR-EZ form](https://www.irs.gov/pub/irs-prior/f1040nre--2019.pdf) either claiming their treaty exemption or requesting an income tax refund according to applicable IRS regulations.

**05.** **REVIEWERS OF THIS UPPS**

05.01 Reviewers of this UPPS include the following:

Position Date

Director, Payroll and Tax Compliance January 1 E2Y

Director, Procurement and January 1 E2Y

Strategic Sourcing

**06.** **CERTIFICATION STATEMENT**

This UPPS has been approved by the following individuals in their official capacities and represents Texas State policy and procedure from the date of this document until superseded.

Director, Payroll and Tax Compliance; senior reviewer of this UPPS

Associate Vice President for Financial Services

Vice President for Finance and Support Services

President