



UPPER PENINSULA LAND CONSERVANCY

Policy 7C: Consultants and Contractors

Standard 7C, 2021 Land Trust Alliance Standards and Practices

Board Approved: April 12, 2022

PURPOSE

The purpose of this policy is to establish policies for those who engage in professional services for a fee with UPLC who are not employees. This policy outlines requirements for accompanying procedures, so that they align with Land Trust Alliance **Standard 7C: Consultants or Contractors:**

Clearly define relationships with consultants or contractors, ensure they are consistent with federal and state law, and document them in a written contract, as appropriate.

INTRODUCTION

From time to time, UPLC may seek services outside of board and staff expertise to complete specialized or technical work through hiring consultants or contractors. Contracts or consultants possess specialized skills, knowledge, or credentials that are not readily available among UPLC staff.

DEFINITIONS

Independent Contractor/Consultant: *An independent contractor is an individual or organization, not affiliated with UPLC, providing professional services under a written agreement for a temporary period of time.*

Employee: *A person who is regularly scheduled to work for UPLC. Individuals who have not formally established their own independent business or who will work exclusively for the land trust are more likely to be employed.*

POLICY

Summary: It is the policy of the Upper Peninsula Land Conservancy to clearly define consultant and contractor relationships that are consistent with federal and state law, and are documented in a written contract.

Contractor vs Employee Determination



UPPER PENINSULA LAND CONSERVANCY

The determination of whether an individual is considered an employee vs contractor is dependent on the person's relationship with the organization and is a matter of legal compliance. As an independent contractor, the UPLC has no control over direct results in when or how the work will be completed. Individuals work through an independent business enterprise. On the contrary, UPLC has control over the work conducted on a day-to-day basis and how it will be completed by UPLC employees.

If answer “Yes” to the following indicated that the individual should be considered an employee rather than a contractor:

- Will the individual work exclusively for the land trust?
- Will the land trust establish the work hours?
- Will the land trust provide supplies, equipment or personnel assistance?
- Will the individual work in the land trust's office?
- Will the individual require more than minimal training from the land trust to perform the work?
- Does the land trust intend to create a continuing relationship with the individual?
- Will the land trust pay the individual's set amount on a regular basis?
- Will the land trust reimburse the individual for other than incidental expenses?
- Is this type of work done by employees in other similar organizations?

Hiring Contractors and Consultants

The services of a consultant may be secured when a determination has been made by the Executive Director that the services are required due to urgent, special, temporary, or highly technical circumstances that current UPLC do not have the capacity to handle during the course of their normal responsibilities and duties. The need for contractors and consultants should be anticipated in the formation of the annual budget, which is approved by the Board. When a contractor or consultant is secured, a written contract must be created and signed by both parties prior to service engagement. The contract must include a detailed scope of work and spell out the terms of the working arrangement. It shall also include the compensation and payment details, term length, insurance and indemnification, and confidentiality agreement. Contracts should be reviewed by qualified legal professionals and signed by the Executive Director or Board President as long as the authorization to hire contractors has been provided as part of the annual budget or through individual action.

Reporting Payments

In accordance with IRS requirements, a form 1099-NEC, Nonemployee Compensation, must be reported for the payments of services performed for UPLC business. A copy of the 1099 must be filed and sent to the individual. Filing Form 1099-NEC is required if:





UPPER PENINSULA LAND CONSERVANCY

- Payments were made to someone who is not your employee
- Payment for services in the course of your trade or business
- Payment to an individual, partnership, estate or in some cases, a corporation
- Payment made to payee of at least \$600 during the year

REVISIONS

This policy should be reviewed by the Board Secretary on an annual basis. Any amendments must be approved by vote of the Board of Directors and will require a simple majority to be changed.

This policy may be amended or repealed, and new related policies may be adopted, from time to time by the Board of Directors of the Upper Peninsula Land Conservancy (the Board/The Conservancy), except that no change in the policies will affect obligations accepted by the Conservancy for funds or properties donated prior to the change, unless such change is approved in writing by the donor or donors of such properties, interests, or funds.

The Board may make reasonable exceptions to the policy in particular cases by Board vote with simple majority, and will document the reasons accordingly in the minutes of the meeting where the decision was made and copies will be placed within the appropriate files in accordance with Recordkeeping policies.