

# FOREIGN SOURCE INCOME STATEMENT (FSIS) GUIDELINES FOR PAYMENTS TO NON-U.S. RESIDENT EMPLOYEES AND SERVICE PROVIDERS

## A. Purpose of the FSIS

***Payments for services to Non-U.S. Residents which are “foreign source” (i.e. not from U.S. sources) are not subject to U.S. withholding and reporting requirements.***

The FSIS is used to substantiate “foreign source” payments. These statements are on file at UCLA Payroll Services and can be provided to the Internal Revenue Service (IRS) in the event of an inquiry.

***Under IRC Section 1441, payments to a Non-U.S. person that are “U.S. source” income are subject to U.S. withholding and reporting requirements.*** Compensation payments to a Non-U.S. person are sourced based on where the services provided. If the services are provided within the U.S. the compensation is considered “U.S. source” income and is subject to U.S. withholding and reporting. If the services are provided outside the U.S, the compensation is considered “foreign source” income, and is not subject to U.S withholding or reporting.

## B. Department Responsibilities (for payments issued under a PO and / or LVO)

### STEP 1

#### Determine if an FSIS is required

- An FSIS is required if a payment for services is made to a payee who is either:
  - a U.S. non-resident individual (not a U.S. citizen, green card holder or U.S. resident for tax purposes based on the substantial presence test), or
  - a foreign entity (e.g. foreign university or non-profit, foreign corporation, partnership or trust),
  - **AND** all or some of the services are performed outside the U.S.
- Payments for services performed outside the U.S. for which an FSIS is required, include but are not limited to the following:
  - contract labor payments (e.g. day laborers hired for a dig)
  - professional services payments (e.g. accounting, legal and consulting services)
  - research payments (e.g. to foreign university for a joint research project)
  - guest speaker fees
  - payments to performers
  - human subject payments
  - non-cash payments (e.g. barter payments)
- Payments for which an FSIS is not required:
  - Payments to a hotel outside the U.S. for rooms and / or services (e.g. catering for an event or tour guide). Since hotel services will always be local we do not need to substantiate that they were provided outside the U.S.

## STEP 2 Identify the type of service provider.

The type of service provider should be determined in accordance with the guidelines indicated, and supporting documentation provided, to avoid payment processing delays.

- “Independent Contractor” in accordance with the “Independent Contractor Guidelines” in BUS-77.
- “Independent Consultant” in accordance with the “Independent Consultant Guidelines” in BUS 34
- “Subaward Recipient” as defined in BUS-43, Part 1, under a Subaward-Grant or Co-operative Agreement, in accordance with the UCLA /OCGA guidelines at <http://www.research.ucla.edu/ocga> under Subaward Initiation and Management.
- “Subcontractor” in accordance with the guidelines at <http://www.ucla.edu> under Campus Services / Buying / Departmental Buyer / UCLA Subcontracts.
- UCLA employee (See Step 4).

## STEP 3 Complete the FSIS (Complete this step only if the service provider is NOT a UCLA employee).

- Provide the FSIS to the service provider with instructions to **complete Parts 1, 2 and 4, if 100% or some of the services are provided outside the U.S.** (Note that if 100% of the services are provided in the U.S., the FSIS should not be completed).
- The service provider should return the completed FSIS to the Department with the initial invoice. If there are multiple payments under an on-going agreement, the service provider should not have to complete the FSIS more than once, unless the facts on the form change over the course of the agreement.
- Review the FSIS for completeness. If the FSIS is not completed accurately, the payment will be delayed.
- Enter the PO / LVO / Agreement number (as applicable), department name, department contact name, phone number and e-mail address on the top of Page 1, where indicated.
- Attach the FSIS to the initial invoice. For subsequent invoices in a series of payments, verify with the vendor that the facts on the FSIS have not changed. If the original FSIS still applies, attach a copy of the original FSIS to each subsequent invoice in the series. If the facts on the FSIS change during the course of the agreement, obtain an updated FSIS from the vendor.
- **Cash and barter payments (not issued under a PO or LVO), such as:**
  - Cash payments to day laborers in a foreign country
  - Cash payments to human subjects in a foreign country
  - Payments made to service providers via a bartering system

In these situations, the person in charge of the project on-site should complete the FSIS and sign it on behalf of the payee(s). A description of the payee(s) and the type of services provided should be included in the General Information section (Part 1, Line 1) and a list of the payee names should be attached, if available. In the Payee Signature section (Part 4, Signature line), the signer should indicate that he or she is signing on behalf of the payee(s).

**STEP 4. Complete the FSIS (Complete this step only if the service provider IS a UCLA employee):**

- Provide the FSIS to the service provider (employee) with instructions to **complete Parts 1, 2 and 4, if 100% or some of the services are provided outside the U.S.** (Note that if 100% of the services are provided in the U.S., the FSIS should not be completed).
- The employee should return the completed FSIS to the Department.
- Review the FSIS for completeness.
- Complete a Hire Bundle through the Payroll Personnel System (PPS) and include a comment that the employee is not a resident living and working in the U.S.

**STEP 5. Send the following documents to Payroll / A/P:**

- **Payroll (UCLA employee only)**
  - Send completed FSIS to Mike Sattin
- **A/P (non-employee service providers)**
  - Completed FSIS
  - Invoice
  - PO / LVO
  - Substantiation supporting service provider determination, if applicable
  - Copy of contract or agreement, if any

**C. A/P Responsibilities:**

- **100% of the services provided outside the U.S. :**
  - Confirm that FSIS Parts 1, 2 and 4 are complete. Note that when there are multiple payments under an on-going agreement, the original FSIS will be attached to the first invoice and a copy of the original FSIS will be attached each subsequent invoice in the series. The department is responsible for verifying with the vendor that the FSIS is current, and obtaining an updated FSIS if needed.
  - If the FSIS is not attached check if a PDF copy is on file (Payroll will maintain copies of all FSIS filed on Web Extender. See Payroll Responsibilities).
  - If independent contractor (IC) payment of 50K or more, the Pre-Hire Worksheet must be approved by the Tax Director

before the payment is processed. Confirm Tax Director's approval.

- Process payment.
- Send copy of FSIS and PO / LVO to Payroll for filing (unless previously filed with original invoice).

- **Less than 100% of the services provided outside the U.S. :**

- Send FSIS, invoice, PO / LVO and all supporting documents received from Department to Mike Sattin in Payroll.
- If independent contractor (IC) payment of 50K or more, the Pre-Hire Worksheet must be approved by the Tax Director before the payment is processed. Confirm Tax Director's approval.
- Process payment after FSIS approved by Mike and IC determination approved by Tax Director (if needed).

**D. Payroll Responsibilities (Mike Sattin):**

- If the payee is a UCLA employee, process payment through payroll.
- If the payee is not a UCLA employee, review documents received from A/P, approve FSIS (either attached or previously filed) and authorize payment by A/P (subject to IC approval by Tax Director if needed).
- Maintain copies of the FSIS and PO / LVO on Web Extender. A/P and Tax Services will also have access.
- Provide substantiation for "foreign source" payments to the IRS as needed.