

THE UNIVERSITY OF UTAH

EMPLOYEE/INDEPENDENT CONTRACTOR CLASSIFICATION CHECKLIST

INSTRUCTIONS

Contracting for Independent Contractor services with the University of Utah may require completion of the following:

- [Employee/Independent Contractor Classification Checklist](#) (Required when potential Independent Contractor is an individual.)
- [Independent Contractor Services Agreement](#) [Required when potential Independent Contractor is a non-individual Legal Entity or when the Checklist (above) has determined the individual is an Independent Contractor.]
- [IRS Form W-9](#) (Required for payments made to all Independent Contractors.)

PROCEDURAL STEPS:

1. Read Policy 3-111, Service Contracts with Individuals and Other Legal Entities.
2. When in consideration of an individual Independent Contractor, the preparer or unit should then complete the [Employee/Independent Contractor Classification Checklist](#) which will lead to a determination of whether the individual service provider will be classified as an Independent Contractor or a University Employee. If the preparer or unit is in doubt after completing the Checklist, they should contact [Accounts Payable](#) for clarification.
 - a. If the [Employee/Independent Contractor Classification Checklist](#) leads you to the conclusion that this individual service provider should be classified as an Employee, the individual service provider should be retained by following the University's Regulations regarding hiring temporary or permanent Employees.
3. The department requesting the services of an Independent Contractor (individual or other legal entity) should complete the [Independent Contractor Services Agreement](#), providing as much detail as possible. Much of the information will need to be provided by the proposed Independent Contractor.
4. Once both the [Independent Contractor Services Agreement](#) and the [Employee/Independent Contractor Classification Checklist](#) are completed, two signed copies of the agreement should be sent to the Independent Contractor for their signature. One copy will be retained by the contracting department or unit; one copy will be retained by the Independent Contractor.
 - a. A non-original, signed copy of the [Independent Contractor Services Agreement](#), the [Employee/Independent Contractor Classification Checklist](#) and the [IRS Form W-9](#) should be attached to all Payment Requests.
5. When the Independent Contractor's duties involve an externally sponsored project, including federal contracts and grants, a copy of the [Independent Contractor Services Agreement](#) along with the [Employee/Independent Contractor Classification Checklist](#) should be sent to the appropriate administrator in the [Office of Sponsored Projects](#) at the same time that it is sent to the Independent Contractor. A signature from the [Office of Sponsored Projects](#) will be required in addition to the normal approvals required on the [Independent Contractor Services Agreement](#).

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This form is intended to assist you in determining whether a service provider should be classified for federal, state and FICA tax purposes as an Employee of the University or as an Independent Contractor. Your responses to the questions below will support one of these classifications. Generally speaking, an employer must withhold income taxes, withhold and pay social security and Medicare taxes, and pay unemployment taxes on wages paid to an Employee, while an employer is not required to withhold or pay any taxes on payments to independent contractors. Please answer the following questions as accurately as possible.

I. General Information

- a. Is the service provider a Guest Lecturer or Performer (e.g. an individual who lectures or performs at only a few events)?

Yes No



If "Yes" then ignore this form and complete a [Guest Lecturer/Performer Agreement](#).

- b. Will this engagement last less than 1 month **and** result in a total payment less than \$1,000? Yes No



If "Yes" then this this classification checklist is not required.

II. Relationship with the University

- a. Does this service provider currently work for the University as an Employee? Yes No
- b. Is it currently expected that the University will hire this service provider as an Employee following the termination of his or her consulting service? Yes No
- c. During the past 12-months, did the service provider have an official University appointment (including temporary) and provide the same or similar services? Yes No
- d. Is the service provider regular, auxiliary, or adjunct faculty? Yes No
- e. Will the service provider receive or be entitled to benefits such as paid vacation days, paid sick days, health insurance, life or disability insurance, or a pension. Yes No



If the answer is "Yes" to **any** of these questions, proceed to Section VI, Classification, and classify the service provider as an **Employee**. Otherwise, complete Section III through Section VII below.

Service Provider Information

Service Provider's Name

Social Security Number

Chartfield

Department

Preparer's Name

Preparer's Phone Number

III. Behavior Control

- a. Will a current University Employee, have the right to instruct the service provider about how to do the work? Yes No
- b. Will the University supply necessary tools, materials, and equipment? Yes No
- c. Will the University provide assistants? Yes No
- d. Is the effort and expertise of this specific service provider required? Yes No
- e. Is the order or sequence to follow specified in the pro forma contract? Yes No
- f. Will the service provider prepare regular verbal or written progress reports? Yes No
- g. Will the University provide periodic or on-going training for the service provider about procedures to be followed and methods to be used? Yes No



If the answer is "Yes" to **any** of the above questions in Section III, these responses indicate that the University has the right to direct and control **how** the service provider performs the work for which they were hired, and therefore suggest **Employee** classification. Based on your answers above, please sum the total number of classification factors from this section.

Number of **Employee** classification factors _____

Number of **Independent Contractor** classification factors _____

IV. Financial Control

- a. Will the University reimburse the service provider for expenses that are not included in the agreement? Yes No
- b. Will the service provider use their own facility in which to perform their services? Yes No
- c. Does the service provider provide the same or similar services to other entities as part of a trade or business? Yes No
- d. Does the service provider make his or her services available to the general public? Yes No
- e. If the answer to "D." is "Yes" then do they have a business license? Yes No
- f. Is the service provider compensated for the work on an hourly, daily, weekly, or similar basis? Yes No
- g. Is the service provider free to make business decisions which affect the **service provider's** profit or loss? Yes No



Employee classification is indicated if "Yes" is answered to questions **a** or **f**. These responses show that the University has the right to control the business aspects of the service provider's job.

Independent Contractor classification is indicated if "Yes" is answered to questions **b, c, d, e, or g**.

Number of **Employee** classification factors _____ Number of **Independent Contractor** classification factors _____

V. Relationship of the Parties

- a. Can the University withhold payment for unsatisfactory work? Yes No
- b. Can the worker terminate the services at any time without incurring a liability? Yes No



Employee classification is indicated if "No" is answered to **a**, or if "Yes" is answered to **b**.

Independent Contractor classification is indicated if "Yes" is answered to **a**, or if "No" is answered to **b**.

Number of **Employee** classification factors _____ Number of **Independent Contractor** classification factors _____

VI. Classification

Section III: Behavior Control

Number of **Employee** classification factors _____ Number of **Independent Contractor** classification factors _____

Section IV: Financial Control

Number of **Employee** classification factors _____ Number of **Independent Contractor** classification factors _____

Section V: Relationship of the Parties

Number of **Employee** classification factors _____ Number of **Independent Contractor** classification factors _____

Total **Employee** classification factors _____ Total **Independent Contractor** factors _____

This Service Provider should be classified as as **Independent Contractor**

This Service Provider should be classified as an **Employee**

Key Notes

If the service provider is classified as an Employee, based upon the above considerations, the service provider should be retained by following the University of Utah's policies and procedures governing hiring temporary or permanent employees. If you do not agree with this classification, and have corroborating reasons why the service provider should be classified as an independent contractor, please explain in the space below.

VII. **Certification**

After evaluating the above checklist, in my judgment we should classify this service provider as an independent contractor.

If a determination is made that a person previously classified as an Independent Contractor should have been paid as an Employee – through Payroll, the department will be responsible for any employment taxes, penalties and interest, and appropriate administrative costs. Further, the department may be required to retroactively award certain benefits such as retirement contributions, workers compensation, or other Employee benefits consistent with payment as an Employee. Tax Services is the final arbiter of classification status.

Preparer Name Preparer Signature Date

Principle Investigator/Account Executive

I have reviewed this document and the responses herewith and agree with the above conclusion.

Name Signature of Principal Investigator/Account Executive Date

Special instructions: If the service provider is classified as an Independent Contractor, complete the **Independent Contractor Services Agreement** and submit the required documentation to the Office of Sponsored Projects, Accounts Payable, or Hospital Accounts Payable as appropriate.