

Worker Classification: Employee or Independent Contractor

**Worker Classification
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I. Purpose

To ensure compliance with [IRS Regulations](#) for proper classification of a worker as an employee or independent contractor and provide guidance to University employees when selecting, hiring and compensating individuals for providing services to the University. If employees and independent contractors are not appropriately classified, employment taxes and corresponding federal reporting will be incorrect. Employers who misclassify workers as independent contractors can end up with substantial tax bills and face penalties imposed by the IRS for failing to pay employment taxes and failing to file required tax forms. Per the IRS, the general rule is that an individual is an independent contractor if the payer has the right to control or direct only the result of the work, not *what* will be done and *how* it will be done.

II. Definition

- A. *Independent contractor*: An individual who offers services to the general public on a consistent basis and must also meet the following conditions:
1. An independent contractor cannot be a current University employee and must not have been paid as an employee within the preceding twelve months. (Payments from the University will be documented by the issuance of an IRS Form 1099.)
 2. Provides services to the University through a written scope of services.
 3. Renders a service to the University for a specified time period and a specific amount of compensation.
 4. Performs services for which the University does not have the authority to control the methods used to accomplish the results.

III. Policy

All workers retained by departmental administrators and hiring officials to provide services to the University must be properly classified as an employee or independent contractor in accordance with IRS guidelines for worker classification. In order to determine whether an individual should be classified as an employee or independent contractor, the relationship of the worker and the business must be examined – all information that provides evidence of the degree of control and the degree of independence must be considered. Facts relating to evidence of control and independence fall into three categories:

1. Behavioral Control – Does the University control or have the right to control what the worker does and how the worker does their job?
2. Financial Control – Are the business aspects of the worker’s job controlled by the university? This could include how the worker is paid, whether expenses are reimbursed, or who provides tools/supplies.
3. Type of Relationship – Are there written contracts or employee type benefits (e.g., insurance or vacation time)? Will the relationship continue?

IV. Responsibilities

- A. Departmental Hiring Official
1. Complete the [Worker Status Evaluation Form](#).

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2. If the worker is an employee, a position (regular or temporary) should be established with Human Resources.
 3. If the worker is an independent contractor, the independent contractor should complete an [Independent Contractor/Client Scope of Work form](#).
 4. The independent contractor should be established as a vendor. The departmental hiring official will send the worker an invitation through PaymentWorks. The worker will complete the registration in PaymentWorks and submit it to UK.
 5. Select the appropriate method of payment for the type of services through reference to the [Purchasing/AP Quick Reference Guide](#) (Create either a Payment Request Document (PRD) or SRM Shopping Cart.)
 - **Note: Payment to Nonresident Aliens** - all compensation to Nonresident Aliens must be made by a University check through the PRD process with proper documentation. Refer to Business Procedure [BPM E-7-Z](#) for complete procedures.
 6. Attach the Worker Status Evaluation Form or an Independent Contractor/Client Scope of Work Form to either the Payment Request Document (PRD) or the SRM Shopping Cart.
 7. Attach the vendor invoice to the Payment Request Document (PRD) or route the invoice via a [Vendor Invoice and Credit Memo Transmittal](#) to Accounts Payable Services if paid by purchase order.
- B. Human Resources Compensation
1. Evaluate the Worker Status Evaluation Form and classify as Employee or Independent Contractor.
- C. Purchasing
1. Evaluate the Payment Request Document (PRD) for compliance with delegated purchasing authority or the SRM Shopping Cart if appropriate.
- D. Accounts Payable Services
1. Final audit and approval of the Payment Request Document (PRD) or posting of invoice to purchase order.