



The University of Vermont

Policy V. 4.6.3

Responsible Official: Vice President  
for Finance and Treasurer

Effective Date: March 16, 2018

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# Employee vs. Independent Contractor

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## Policy Statement

In accordance with Internal Revenue Service Guidelines, the University must properly determine whether an individual providing services should be classified as an employee or as an independent contractor before any purchase requisitions are initiated or services are performed. This policy provides a standard process for making this determination and identifying appropriate supporting documentation.

## Reason for the Policy

To ensure that the University operates in compliance with IRS Guidelines for the classification of individuals as employees or independent contractors.

## Applicability of the Policy

This policy applies to all members of the University of Vermont community who engage individuals to perform services for the University, authorize expenditures related to such services, or process payment transactions.

## Policy Elaboration

See Procedures below.

## Definitions

*Employee-employer relationship:* An employee-employer relationship exists when the University has the right (whether or not it exercises it) to supervise, control or direct the manner of performance as well as the result of the service.

*Independent contractor relationship:* An independent contractor relationship exists when the University has the right to specify the result to be accomplished by the work, but not the means and methods by which the result is to be accomplished.

## Procedures

### *Step 1: Evaluation of Classification Criteria*

In order to compensate an individual as an independent contractor, the respective dean, director or chair of the unit or department obtaining the individual's services must first review the Employee vs. Independent Contractor Classification Criteria (<https://www.uvm.edu/sites/default/files/Division-of-Finance/Forms/indcontractclass.pdf>), which summarize the IRS' 18 common law factors, grouped by behavioral control, financial control, and relationship of the parties. When applicable, each of the 18 common law factors are presented as a question to which an affirmative response either strengthens or weakens the case for considering the individual as an independent contractor of the University.

### *Step 2: Initiate Proper Payment*

**Factors Indicate Employee Status:** Upon consideration of the relevant facts, if a review of the classification criteria in their entirety does not present a strong case for compensating the individual as an independent contractor, payment of the individual should be pursued through the University's Human Resource Services and Payroll Services in accordance with standard hiring processes.

**Factors Indicate Independent Contractor Status:** If consideration of the relevant facts presents a strong case for classifying the individual as an independent contractor, a completed Employee vs. Independent Contractor Status Determination Form (<https://www.uvm.edu/sites/default/files/Division-of-Finance/Forms/indcontractform.pdf>) (Form) must then be certified by the respective dean, director or chair of the unit or department obtaining the services. The information provided on the Form will be made available to internal and external auditors, IRS examiners, and others as required.

- *Section I: General*

The Form requires the name of the service provider (payee); vendor number, or last four digits of their social security number; requisition number; the unit/department; and the name, phone number, and email address of the preparer of the Form. The Form must include a response as to whether the individual is a U.S. citizen, lawful permanent resident (a.k.a. green card holder), or foreign national.

**Note:** If the individual is a foreign national, initiate payment via Check Request, to be submitted to Tax and Treasury Services. Additional documentation will be required pursuant to the *Payments to Foreign Nationals and Entities Policy*. See the Office of International Education's Bringing Foreign Nationals to Campus (<https://www.uvm.edu/oie/bringing>) for a summary of documentary requirements.

- *Section II: Relationship with the University*

It is incumbent upon the department or unit acquiring the services of an individual to verify, and to reflect accurately on the Form, whether the individual has been paid or reimbursed as an employee in the current or previous calendar year. Contact Human

Resource Services at (802) 656-3150 for confirmation of employment status. Contact the Disbursement Center at (802) 656-4192 for confirmation of employee reimbursement.

It is the policy of the University that any paid employment in the current calendar year (including student employment, work-study employment and temporary employment) precludes the individual from being classified as an independent contractor of the University. It is also the policy of the University that any paid employment in the preceding calendar year presumptively precludes the individual from being classified as an independent contractor of the University. In limited and exceptional circumstances, a former employee may provide services to the University as an independent contractor, particularly if he or she provides similar services to others and otherwise meets the criteria for classification as an independent contractor. Exceptions asserted under the previous sentence must be approved by the Vice President for Finance and Treasurer. In the discretion of the Vice President for Finance and Treasurer, the University Controller may be asked to submit to the IRS Form SS-8, *Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding* to obtain an official status determination for a service provider.

▪ *Section III: Classification Guidelines*

The Form must accurately reflect the completion of the respective Part (Part A: Guest Lecturer, Speaker, Grand Rounds presenter; Part B: Researcher, or Part C: An Individual Not Covered within Parts A or B) that best describes the services to be performed.

▪ *Section IV: Certification and Submission*

A completed Form supporting an independent contractor determination must be certified by the unit or department's dean, director, chairperson, or authorized designee thereof, (see Departmental Delegation of Authority Letter).

1. The completed Form is to be submitted to Purchasing Services by scanning and attaching to a requisition in PeopleSoft to support a purchase of the individual's services.
  2. A purchase requisition for services by an individual will only be processed if a completed Form has been submitted that supports an Independent Contractor determination, and has been certified by the unit or department's dean, director, chair, or authorized designee with valid delegation on file.
  3. A completed departmental delegation of authority letter must be kept on file in the requesting department for seven years and is subject for review for audit purposes.
- If the individual is a foreign national, initiate payment via Check Request, to be submitted to Tax and Treasury Services. See *Section I Note* above.
  - If the Form indicates that the individual should be compensated as an employee, payment for services rendered must be initiated through Human Resource Services and Payroll Services.

## Forms

Check Request Form (for payments to foreign nationals)

<https://www.uvm.edu/sites/default/files/Division-of-Finance/Forms/checkrequestsingle.xlsx>

Employee vs. Independent Contractor Classification Criteria

<https://www.uvm.edu/sites/default/files/Division-of-Finance/Forms/indcontractclass.pdf>

Employee vs. Independent Contractor Status Determination Form

<https://www.uvm.edu/sites/default/files/Division-of-Finance/Forms/indcontractform.pdf>

Departmental Delegation of Authority Letter

[https://www.uvm.edu/sites/default/files/Division-of-Finance/Forms/indcontractdept\\_delegation.docx](https://www.uvm.edu/sites/default/files/Division-of-Finance/Forms/indcontractdept_delegation.docx)

Services Agreement Template

<https://www.uvm.edu/sites/default/files/Division-of-Finance/Forms/svcsagmttemplate.docx>

Speaker Engagement Template

<https://www.uvm.edu/sites/default/files/Division-of-Finance/Forms/speakerengagement.docx>

Speaker and Services Templates Procedures

<http://www.uvm.edu/~cntrllrs/purchasing/Procedures.Speaker.Services.Agmts.docx>

## Contacts

Questions related to the daily operational interpretation of this policy should be directed to:

Disbursement Center (verification of employee reimbursement)

(802) 656-4192

[disburse@uvm.edu](mailto:disburse@uvm.edu)

Human Resource Services: (verification of existing employment)

(802) 656-3150

[HRInfo@uvm.edu](mailto:HRInfo@uvm.edu)

Payroll Services: (guidance for initiating payment to an employee)

(802) 656-0164

[payroll@uvm.edu](mailto:payroll@uvm.edu)

Purchasing Services (guidance on requisition or contract process)

(802) 656-6610

[purchasing@uvm.edu](mailto:purchasing@uvm.edu)

Tax and Treasury Services (regarding classification questions or IRS Form SS-8)

(802) 656-0674

[taxadmin@uvm.edu](mailto:taxadmin@uvm.edu)

The Vice President for Finance and Treasurer is the official responsible for the interpretation and administration of this policy.

## **Related Documents/Policies**

Contract Approval and Signatory Authority Policy

<http://www.uvm.edu/policies/procure/contract.pdf>

IRS Employer's Supplemental Tax Guide

<https://www.irs.gov/pub/irs-pdf/p15a.pdf>

IRS - Independent Contractor (Self-Employed) or Employee?

<https://www.irs.gov/businesses/small-businesses-self-employed/independent-contractor-self-employed-or-employee>

IRS Publication 1779, Independent Contractor or Employee Brochure

<https://www.irs.gov/pub/irs-pdf/p1779.pdf>

Payments to Foreign Nationals and Entities Policy

<http://www.uvm.edu/policies/acct/nonresidentialiens.pdf>

## **Effective Date**

Approved by the President March 20, 2018