

Determination of Employee or Independent Contractor Status

FIN-PAY-IV-220



About This Policy

Effective Date:

08-01-1996

Last Updated:

07-01-2007

Responsible University Office:

Financial Management Services

Responsible University Administrator:

Vice President and Chief Financial Officer

Policy Contact:

Mary Byrde

Director, Payroll and FMS Support

mbyrde@indiana.edu

Scope

Policy Statement

Reason For Policy

Procedure

History

[Back to top](#)

Scope

-

[Back to top](#)

Policy Statement

Any individual performing services for the university will be presumed to work under the direction and control of the university and therefore deemed to be an employee unless the individual meets all of the independent contractor criteria, established within this policy, **and** provides the university with a valid federal taxpayer identification number; this may be either an employee identification number or a social security number. Refer to procedures relating to Form W-9 below.

All independent contractors who are not U.S. citizens must receive verification of (a) work authorization status and (b) tax treaty status, **prior to** employment or IU acceptance of a contract for services.

In order for an individual to be compensated as an independent contractor, the following five (5) criteria must all be met:

1. The university does not control or direct the means or methods used to perform the task. That is, the individual is and will continue to be free to use whatever means and methods he/she deems appropriate to accomplish the task.
2. The task or service being performed is outside the regular course of the university's primary business purpose. The primary business purpose of the university includes teaching and instruction (both in credit and non-credit granting courses), research and public service.

3. The individual is engaged in an independently established business, trade, occupation or profession and is responsible for (a) providing any equipment, tools and materials required to perform the task and (b) is responsible for hiring/managing/firing any subcontractors or assistants that are required to complete the task.
4. The task is of short duration and is not indicative of an ongoing relationship. Contractual relationship that are completed within a 30 consecutive day period or less will be treated as being completed within a short duration, per se.
5. A written agreement exists with the university which spells out the task or service(s) to be performed. The agreement or related documents must contain:
 - a. Contractor name, address, telephone #
 - b. U.S. citizenship status (non-U.S. citizens must include visa type, work authorization status, and number of days present in the U.S.)
 - c. Corporate status (corporation, partnership, sole proprietor, not-for-profit)
 - d. Nature and location of services to be performed
 - e. Performance schedule (starting and ending dates, etc.)
 - f. Departmental contact person and address
 - g. Payment method (per piece, per job, installments, etc.)

[Back to top ↗](#)

Reason For Policy

To assist departments in making a determination of whether payments made to individuals for services performed for the university should be paid and reported as employee wages, or as compensation to an independent contractor.

[Back to top ↗](#)

Procedure

All independent contractors must provide the university with a signed copy of IRS Form W-9, Request for Certification of Federal Taxpayer Identification Number, or equivalent, in order for any payments to be processed.

The university will issue IRS Form 1099-MISC, which reports the amount of compensation paid to the independent contractor on an annual basis, if payments to that contractor equal or exceed \$600.00 in the calendar year (or if payments equal or exceed \$10.00 in the calendar year if the payments are for royalties).

The following examples are given to provide additional guidance regarding workers who might meet the criteria for independent contractor status include:

- Guest performers or artists who otherwise are not affiliated with the university, whose engagement with the university is of short duration.
-
- Guest speakers or lecturers who are brought to the university for a short duration because of their expertise in a given field of study.
-
- Individuals providing professional services such as attorneys, accountants or other consultants.

[Back to top ↗](#)

History

The source to this policy is:

Internal Revenue Code and Regulations, Fair Labor Standards Act, Indiana Code