

INDEPENDENT CONTRACTOR - CONSULTING & PROFESSIONAL SERVICES INSTRUCTIONS

THE INSTRUCTIONS BELOW WILL ASSIST IN COMPLETING THE INDEPENDENT CONTRACTOR - CONSULTING & PROFESSIONAL SERVICES WORKSHEET. READ ALL THE INSTRUCTIONS. THE PAYEE AND ACCOUNTABLE OFFICER MUST SIGN SECTION 6 OF THE INDEPENDENT CONTRACTOR - CONSULTING & PROFESSIONAL SERVICES WORKSHEET.

Note: Payment of an honorarium is defined as a gratuitous payment to a person as a token of appreciation for participation in an academic activity such as a lecture, teaching or performance for which no fee is legally required. Completion of the Independent Contractor – Consulting & Professional Services Worksheet is NOT required and payment is made via Accounts Payable Payment Request Form (PRF). Written or verbal communication that USF will pay a predetermined amount is a fee for services and worksheet must be completed to determine worker classification.

The purpose of the Independent Contractor – Consulting & Professional Services Worksheet is to assist USF departments in classifying individuals providing services to the university as either employees or independent contractors. This determination will be made by [Purchasing](#), [Human Resources](#) and the [Controller's Office](#) (Tax Advisors) based on IRS guidance (refer to Section IV below), State laws (refer to Sections V and VI below), Federal labor laws, explanation of services, employment status with the university and responses in Sections 1 - 5 of the worksheet. The department should complete the worksheet in conjunction with the consultant in order to provide accurate responses to all required questions prior to signing and dating the form. Department may be contacted to provide additional information. The worksheet is also used to gather facts about recurring payments made for services performed outside the US and those with related US travel which are subject to additional review.

I. INFORMATION FOR SECTION 1 OF USF CONSULTING & PROFESSIONAL SERVICES WORKSHEET.

- a) **PAYEE CLASSIFICATION FOR TAX PURPOSES (see [Business Structure](#) information on IRS website)**
 - a. **GOVERNMENTAL ENTITY** – The United States or any of its agencies or instrumentalities. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions.
 - b. **CORPORATION** – C Corporation reports business income on IRS Form 1120; S Corporation reports business income on IRS Form 1120-S.
 - c. **PARTNERSHIP** – Reports business income on IRS Form 1065.
 - d. **LLC (ELECTED CORPORATE TAX STATUS)** - C Corporation reports business income on IRS Form 1120; S Corporation reports business income on IRS Form 1120-S.
 - e. **LLC (ELECTED PARTNERSHIP TAX STATUS)** - Reports business income on IRS Form 1065.
 - f. **INDIVIDUAL** – Reports business income on his or her individual IRS Form 1040 (may use Schedule C).
 - g. **SOLE PROPRIETOR** – Unincorporated business; owner reports business income on his or her individual IRS Form 1040 (may use Schedule C).
 - h. **LLC – SINGLE MEMBER DISREGARDED FOR TAX PURPOSES** – Reports business income on his or her individual IRS Form 1040 (may use Schedule C).
- b) **The FAST Vendor Request Process must be used by departments for the University to obtain W-9's and W-8's. Departments are NOT to receive W-9's or W-8's.**
- c) **Additional information must be gathered for Non-Resident Alien Payees when USF:**
 - a. **Has a regular or ongoing relationship with the individual (pays more than once in a year or engages over multiple years).**
 - b. **Pays a individual who performs any services in the US.**
 - c. **Uses university funds (including Research and DSO) to pay for the individual to travel to the US (to work, attend meetings/conferences/training, etc).**

II. EXAMPLES OF PERSONS THAT ARE EMPLOYEES OF USF:

- a) A person **teaching a course for credit** (even if the course is only one day long). A sole proprietorship or single member LLC (disregarded entity) is considered an employee.
- b) A person **teaching a continuing education course not for credit or providing teaching, workshops or training via any USF department or unit** (even if the course is only one day long). A sole proprietorship or single member LLC (disregarded entity) is considered an employee.
- c) A person employed by USF in any other capacity (including Student Appointments in Human Resources). Approval to pay dual compensation is not approval to pay an individual as an independent contractor.

- d) Persons performing **services that are a key aspect of regular business** performed by the hiring USF unit or department (except as described in Section III. b. and c. below). **Examples of this include:**
1. Computer personnel for Information Technologies, an accountant for University Controllers' Office, an aerobics instructor for Campus Recreation, an attorney for Office of General Counsel. Principal Investigators (PI) and Co-Principal Investigators (Co-PI) must be paid as employees (or if Co-PI works at another institution – work should be sub-contracted to the other institution. A sole proprietorship or single member LLC (disregarded entity) is considered an employee.
 2. An individual who is a full-time employee elsewhere and performs services for USF and has no proof of business.
- e) Former employees that return on either a full or part time basis to perform duties similar to those performed previously for USF (former employees may be Independent Contractors but their GEMS records require review).
- f) Individuals performing services for USF that do not perform those services for other businesses.
- g) Students performing services as note takers or providing other assistance to disabled students are employees.

III. EXAMPLES OF PERSONS THAT MAY BE INDEPENDENT CONTRACTORS:

- a) An independent contractor only receives instructions regarding the end result; he/she is not directly controlled or supervised by a USF employee and does not receive evaluations or direction regarding how the work is to be performed. Independent contractors do not supervise or provide operational instruction to other USF employees.
- b) A person who is not a USF employee that is not the primary instructor of record, who is being paid as a guest speaker to present a brief lecture in a classroom or at a conference sponsored/conducted by USF.
- c) A person (who is not a USF employee) that is in the business of providing a service to the general public and provides the same service to USF. Examples include:
 - 1) Piano mover/string tennis racquets
 - 2) Consultant providing specific expertise such as evaluating USF business practices
 - 3) Individual training provided to USF employees or students not associated with a USF course
 - 4) Accreditation evaluation services
 - 5) Athletic game officials, University Interscholastic League judges and assistants
 - 6) Financial and legal services provided by individuals who perform these services for the general public
 - 7) Guest speakers, artists, performers and professional models
 - 8) Medical services provided by individuals who perform services for the general public
 - 9) Photography or graphic services
 - 10) Provides goods/products only
 - 11) Rental services – facilities and equipment
 - 12) Research participants
 - 13) Royalties
 - 14) Tuning/adjustment of university musical instruments

Individuals performing services for USF (*excluding examples of individuals that must be hired as USF employees as described in II above*) that perform those services for other customers must have "proof of business" which may include the following: business cards, brochures, business website, and/or marketing materials. As an alternative, the contractor may provide a statement attesting he/she has an active business (business card, customer list, etc. is helpful).

IV. IRS DETERMINATION (FEDERAL LAW):

USF must correctly determine whether individuals providing services are employees or independent contractors - see information on [IRS website](#). The USF Consulting and Professional Services Worksheet documents the relationship between USF and individuals providing services. USF's decision to hire an employee or independent contractor will be based on the degree of control and independence between the parties, evidence of which will fall within three categories:

1. **Behavioral:** Does the company control or have the right to control what the worker does and how the worker does his or her job?
2. **Financial:** Are the business aspects of the worker's job controlled by the payer? (These include things like how worker is paid, whether expenses are reimbursed, who provides tools/supplies, etc.)

3. **Type of Relationship:** Are there written contracts or employee type benefits (i.e. pension plan, insurance, vacation pay, etc.)? Is there a regular or ongoing relationship? Is the work performed a key aspect of the business?

USF must take into account evidence in all three categories when determining whether a worker is an employee or independent contractor. Some factors may indicate that the worker is an employee, while other factors indicate that the worker is an independent contractor. There is no “magic” or set number of factors that “makes” the worker an employee or an independent contractor, and no one factor stands alone in making this determination. Also, factors which are relevant in one situation may not be relevant in another.

V. FLORIDA STATUTE (STATE LAW):

Under [Florida Statute Chapter 440.02\(15\)\(d\)1.a.\(i\)-\(vi\)](#) an individual must meet at least four of the following criteria:

1. The independent contractor maintains a separate business with his/her own work facility, truck, equipment, materials, or similar accommodations;
2. The independent contractor holds or has applied for a [federal employer identification number](#), unless the independent contractor is a sole proprietor who is not required to obtain a federal employer identification number under state or federal regulations;
3. The independent contractor receives compensation for services rendered or work performed and such compensation is paid to a business rather than to an individual;
4. The independent contractor holds one or more bank accounts in the name of the business entity for purposes of paying business expenses or other expenses related to services rendered or work performed for compensation;
5. The independent contractor performs work or is able to perform work for any entity in addition to or besides the employer at his or her own election without the necessity of completing an employment application or process; or
6. The independent contractor receives compensation for work or services rendered on a competitive-bid basis or completion of a task or a set of tasks as defined by a contractual agreement, unless such contractual agreement expressly states that an employment relationship exists.

VI. IF FOUR OF THE CRITERIA LISTED ABOVE IN SECTION V. DO NOT EXIST, AN [INDIVIDUAL](#) MAY STILL BE PRESUMED TO BE AN INDEPENDENT CONTRACTOR AND NOT AN EMPLOYEE BASED ON FULL CONSIDERATION OF THE NATURE OF THE INDIVIDUAL SITUATION WITH REGARD TO SATISFYING ANY OF THE FOLLOWING CONDITIONS (Per [FLORIDA STATUTE CHAPTER 440.02\(15\)\(d\)1.b.\(i\)-\(VII\)](#)):

1. The independent contractor performs or agrees to perform specific services or work for a specific amount of money and controls the means of performing the services or work.
2. The independent contractor incurs the principal expenses related to the service or work that he or she performs or agrees to perform.
3. The independent contractor is responsible for the satisfactory completion of the work or services that he or she performs or agrees to perform.
4. The independent contractor receives compensation for work or services performed for a commission or on a per-job basis and not on any other basis.
5. The independent contractor may realize a profit or suffer a loss in connection with performing work or services.
6. The independent contractor has continuing or recurring business liabilities or obligations.
7. The success or failure of the independent contractor's business depends on the relationship of business receipts to expenditures.

Notwithstanding anything to the contrary in this subparagraph, an individual claiming to be an independent contractor has the burden of proving that he or she is an independent contractor for purposes of this chapter.

KEEP THE INSTRUCTIONS ABOVE FOR YOUR RECORDS. DO NOT ATTACH TO THE FAST SYSTEM REQUISITION OR SUBMIT WITH THE WORKSHEET. QUESTIONS ABOUT THIS FORM SHOULD BE DIRECTED TO THE [PURCHASING DEPARTMENT](#).