

Office of Fiscal Service - **Service Provider Evaluation Worksheet**

General Information and Instructions for Departments:

- This worksheet is for the convenience of the department only.
- You should not attempt to complete this worksheet until after the service provider has returned his/her Service Provider Questionnaire. The information provided in the questionnaire will assist in completing this worksheet.
- This worksheet includes the primary components of the “IRS 20 Factor Test”. These twenty factors or elements have been identified as indicating whether sufficient control is present to establish an employer-employee relationship. The twenty factors have been developed based on an examination of cases and rulings considering whether an individual is an employee. The degree of importance of each factor varies depending on the occupation and the factual context in which the services are performed. The twenty factors are designed only as a guide for determining whether an individual is an employee. It is a tool designed to assist departments in evaluating the nature of the relationship between Hastings and the service provider.

1. Name of service provider being evaluated: _____
2. Name of Hastings employee completing this worksheet: _____
3. Department Name: _____
4. Date of completion: _____
5. Did the service provider complete the Service Provider Questionnaire? Yes ____ No ____
If yes, please attach the completed questionnaire.

IRS Common Law Guidelines

Behavioral Control: (Check all that apply)

	Yes	Generally Indicates Employee Classification	No	Generally Indicates Independent Contractor Classification
1. Will you provide instruction about when, where, and how the work is to be done?		Complies with the unit's Instructions.		Determines own schedule, location, and tasks.
2. Will you provide training to the individual?		Trained by Hastings.		Responsible for own training.
3. Will you require the individual to perform the services personally?		Must be performed personally.		Can be performed by his/her employees or subcontractors.
4. Will Hastings establish the hours of work?		Hastings sets the hours.		Responsible for his/her own schedule.
5. Will Hastings require the services full-time during the duration of the contract?		Hastings requires full-time commitment.		Can work for others during period of the contract.
6. Will the work performed on Hastings's premises?		Performed at Hastings.		Performed at the individual's place
7. Will Hastings require progress reports on a regular basis?		Hastings requires reports.		Reports are not required unless stipulated in contract.

Financial Control: (Check all that apply)

	Yes	Generally Indicates Employee Classification	No	Generally Indicates Independent Contractor Classification
8. Will the contract be based on hourly, weekly, or monthly rate?		Hastings pays on an hourly, weekly, or monthly basis.		Hastings pays per project.
9. Will Hastings pay the worker's business and/or traveling expenses?		Hastings pays the business and traveling expenses		Responsible for all expenses and can maximize profit by managing costs.
10. Will Hastings furnish any of the following: office space, equipment, materials, tools, and/or supplies?		Hastings furnishes equipment, materials, tools, and/or supplies.		Individual furnishes everything.
11. Is the service provider's principle place of business a “home office”?		Works at home.		Rents office space at fair market value from an unrelated party and/or has employees as a workforce for his/her projects. Has significant investment in business.

Relationship: (Check all that apply)	Yes	Generally Indicates Employee Classification	No	Generally Indicates Independent Contractor Classification
12. Does the service provider work for one firm at a time?		Works for only one firm at a time.		Performs services for multiple unrelated customers at the same time.
13. Does the service provider make his/her services known to the public primarily through word of mouth?		Makes his/her services known by word of mouth.		Advertises his/her business in publications, yellow pages, web, etc.
14. Does Hastings have the right to discharge the worker?		Hastings has the right to discharge.		Cannot be fired if he/she produces a result based on the specifications of the contract.
15. Does the individual have the right to end his/her relationship with Hastings at any time without incurring liability?		The individual can terminate at any time.		The service provider incurs liability for non- delivery of services specified in the contract.
16. Does Hastings anticipate a continuing relationship?		Hastings anticipates a continuing relationship.		A continuing relationship is not anticipated. Projects will be awarded only when the need arises, and will be based on bids and specifications
17. Will you integrate the worker's services into your daily operations by providing email, an office, and requiring attendance at meetings?		Integrated into unit		Independent of unit activities.

IRS Guidelines for Classifying Service Providers

Service provider classification is based on facts and circumstances; no one fact determines service provider classification. The IRS currently emphasizes three broad categories: behavioral control, financial control, and the overall relationship. These categories are directly related to the "20-Factor Test", which is described in IRS Revenue Ruling 87-41. The factors contained in the IRS "20-Factor Test" are described below.

An independent contractor generally:

- sets the sequence of tasks needed to accomplish the work. The college has no right to set this sequence.
- is subject to the instructions outlined in the contract, but is not instructed by the college about when, where, and how to work.
- furnishes his/her own tools, materials, and the like.
- may hire and supervise others to assist in the completion of the work. The decision to hire assistants is within the control of the independent contractor and in no way affects his/her remuneration.
- bears all business expenses associated with the performance of the work, including insurance, travel, meals and lodging.
- is in a position to realize a profit or suffer a loss as a result of his/her services.

Note: A service provider paid by the hour is not in a position to realize a profit or loss; he/she is merely compensated for time and effort. If the service provider is subject to a real risk of economic loss due to significant investments or a bona fide liability for expenses, such as salary payments to unrelated employees, these factors indicate the service provider is an independent contractor.

Additional characteristics of an independent consultant include:

- cannot be discharged if the contract specifications are being met.
- cannot terminate the service contract with the college without incurring a liability.
- makes his/her services available to the general public (outside the college community). This may include holding a business license, advertising a service, or providing a listing of his/her business telephone.
- is not providing services that become integrated into the day-to-day operations of the college.
- is free to work when, for whom, and for as many firms as he/she chooses and is not required to work full-time for any one employer. There should be no agreement of exclusivity with the hiring firm.
- chooses working hours at his/her discretion. When the work is performed on college premises, the independent contractor may be required to function within certain hours, but need not be present at any specific time.
- is paid a fixed fee.
- does not have a continuing relationship with the college. Services may be considered continuing although they are performed at irregular intervals, on a part-time basis, seasonally, or over a short-term.
- is not required to work on college premises.
- is not subject to training by the college and uses his/her own methods to accomplish the work.

INSTRUCTIONS TO DEPARTMENTS

The information on both this questionnaire and the Service Provider's questionnaire should be carefully reviewed by the department head when determining the service provider's status. If after reviewing the questionnaires you are still unsure of the service provider's status, you should further discuss this matter with the Director of Business Services, the Controller or the Director of Human Resources. If necessary, General Counsel may even be asked to opine.

The improper classification of the service provider can have significant negative consequences for the College. For example, if the service provider is incorrectly classified as an independent consultant, the College may be subject to fines and penalties by the IRS. Further, the IRS may require the College to pay for the employer's share of payroll taxes.

If the service provider is incorrectly classified as an employee of the College, the College may incur additional, unnecessary expenses such as employer payroll taxes. Additionally, the College may be subject to liability that it could have avoided under the independent consultant agreement.

1. Once you have completed the questionnaire, review it to determine if it indicates whether the service provider is an employee or an independent consultant.
 - If you answered 'yes' to most of the questions, the service provider should most likely be classified as an employee of the College.
 - If you answered 'no' to most of the questions, the service provider should most likely be classified as an independent contractor.
2. **Independent Consultant** - If the service provider is determined to be an Independent Consultant, the department should proceed in preparing an independent consultant agreement form. A copy of this questionnaire and the completed Service Provider's questionnaire should be attached to the Agreement and forwarded to Purchasing. Purchasing will keep both questionnaires on file to demonstrate the College's performed its due diligence to determine the proper classification of the service provider.
3. **Employee** - If the service provider is determined to be an employee of the College, the department should contact HR and inform them of the intent to hire the service provider as an employee. The department head should forward a copy of this questionnaire and the completed Service provider's questionnaire to HR to be maintained in the employee's file to demonstrate the College performed its due diligence to determine the proper classification of the service provider.

Please contact the Director of Business Services or the Controller if you have any questions.

D. Tran, Controller – August 2010

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