



**Employee vs Independent Contractor Determination Worksheet**

Please use the following questions to help make the determination on whether an individual should be considered an employee or an independent contractor before you contract them for services. ***If an individual is considered to be an independent contractor, you must fill out the Independent Contractor Questionnaire.***

<b>Section 1 – Current Michigan Technological University Connections</b>	<b>YES</b>	<b>NO</b>
1. Does the individual work at the University as an employee?	Go to #2	Go to #3
2. Does the individual perform the same or similar services in their regular job duties as those they will be providing?	Employee	Go to #4
3. Did the individual previously work at the University, performing the same or similar services as those they will be providing?	Employee	Go to #4

<b>Section 2 – Compensation</b>	<b>YES</b>	<b>NO</b>
4. Is the individual paid a flat fee regardless of how long the service takes?	Go to #6	Go to #5
5. Is the individual paid an hourly rate with a cap on the amount of compensation for the service? (I.e. \$20/hour not to exceed \$300.)	Go to #6	Employee
6. Can the individual hire their own assistants?	Go to Section 3	Employee

**Section 3 – Types of Services Provided – Complete either section A, B or C.**

<b>A. Lecturer/Instructor</b>	<b>YES</b>	<b>NO</b>
7. Is the individual a “guest lecturer”, e.g. an individual who lectures at only one or two class sections?	Independent Contractor	Go to #8
8. Is the individual the primary instructor of a course (college credit, continuing education credit, or noncredit)?	Employee	Independent Contractor
<b>B. Researcher</b>	<b>YES</b>	<b>NO</b>
9. Will the individual be performing research for a University employee under an arrangement whereby the University employee serves in a supervisory capacity (i.e. working under the direction of the University employee)?	Employee	Go to #10
10. Will the individual serve in an advisory or consulting capacity with the University employee (i.e. working in a “collaboration between equals” arrangement)?	Independent Contractor	Employee
<b>C. Individuals not covered under Lecturer/Instructor or Researcher</b>	<b>YES</b>	<b>NO</b>
11. Does the individual routinely offer and/or provide the same or similar services to the general public as part of a continuing trade or business with the opportunity of profit or loss?	Independent Contractor	Go to #12
12. Will the individual be contracted to complete a specific service?	Independent Contractor	Go to #13
13. Will the department provide this individual with specific instructions regarding performance of the required work rather than rely on the individual’s expertise?	Employee	Go to #14
14. Will the University set the number of hours and/or days of the week that the individual is required to work, as opposed to allowing the individual to set own work schedule? (Other than scheduled activities such as presentations at a certain time.)	Employee	Independent Contractor



## INDEPENDENT CONTRACTOR QUESTIONNAIRE

MUST BE COMPLETED BY MICHIGAN TECH PRIOR TO SERVICE

Every individual performing services for the University and compensated by the University is presumed to be an employee unless they can meet the criteria of Independent Contractor (IC) status. Generally, every individual who performs services that are subject to the will and control of the University as to both WHAT must be done and HOW it must be done, is an employee. It does not matter that the University allows the employee considerable discretion and freedom of action, as long as the University has the LEGAL RIGHT to control both the method and the result of the services.

Individual Name:  Business Name:

Explain the service to be provided:

Service to be rendered for the period  to

1. Does this individual / business have a Federal Tax ID Number? Yes  No  Unknown
2. Is the individual a current employee or student at Michigan Technological University? Yes  No
3. Is the payment being paid to the individual or to the business? Individual  Business
4. How is the individual / business being compensated? Flat Fee  Hourly with Cap  Hourly no Cap

<b>These facts show whether the University has the right to control or direct how the worker performs the work, the financial aspect of the work and the relationship of the parties.</b>	<b>TRUE</b>	<b>FALSE</b>
5. The individual will receive instruction/training on how the work will be done rather than rely on the individual's expertise.		
6. The University directs where the work happens, when the work happens and/or how the work happens. <i>(Does not pertain to planned events.)</i>		
7. The University directs who is hired to assist the individual with the work.		
8. The University provides tools, equipment, and/or work space to complete the service. <i>(Does not pertain to classroom technology or meeting space reserved on campus.)</i>		
9. The individual advertises their services <i>(I.e. social media, newspapers/magazines, word of mouth, etc.)</i> and/or provides the same type of service to others outside of the University.		
10. The individual has the ability to employ their own assistants/consultants at their own expense.		
11. The University pays the business/travel expenses of the individual.		
12. The services provided directly affect University business which is the recruitment and education of students.		
13. There is a continuing legal relationship between the University and the individual. <i>(I.e. is there a contractual obligation)</i>		

<b>Provide your name, title, department and telephone number to contact in case additional information is needed.</b>	
Name	Title
Department	Phone
Signature	Date

**PRINT, SIGN AND FORWARD THIS QUESTIONNAIRE TO HUMAN RESOURCES**

**FOR USE BY HUMAN RESOURCES ONLY**

Independent Contractor  Employee

Reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_