

Loyola Marymount University

CHECKLIST: EMPLOYEE VS. INDEPENDENT CONTRACTOR STATUS

Instructions for completing check list:

Prior to an engagement, the responsible LMU manager should complete this Checklist to help ensure that the individual is correctly classified as either an employee or an Independent Contractor. Questions should be completed accurately.

The completed Checklist shall be submitted to Accounts Payable for determination of status prior to purchasing such services. For additional information, reference [Policies and Procedures for Paying Independent Contractors](#).

Section 1: NAME OF INDIVIDUAL

Last Name: _____ First Name: _____ M.I. _____

Section 2: RELATIONSHIP WITH THE UNIVERSITY

Yes No

2.1	Has the individual worked for the university as an employee within current calendar year or is the individual currently working for the university as an employee?		
2.2	Does the department want to hire this individual as an employee to provide the same or similar services following a "test period" as an Independent Contractor?		
2.3	Does the individual have a continuing relationship with the department or university, such as by performing the work on a recurring, on-going, or year-to-year basis?		
2.4	Will the individual be required to devote essentially full time hours to perform services for the university, making the individual unable to perform services for other customers during the performance period?		
2.5	Will the individual be expected or required to perform essentially full time work hours at the university or at facilities operated by the university?		
2.6	Will the individual be required to comply with instructions from a university supervisor, as to where, how, and when the work is to be performed?		
2.7	Is the individual required to receive training from a university representative to enable the individual to perform the work in a particular manner?		
2.8	Will the university be responsible for hiring, supervising, and paying workers who will substantially assist the individual in performing the requested services?		
2.9	Will the individual be paid on a recurring basis for a fixed amount? (For example, will the individual be paid every month for several months for a fixed amount, instead of on a per project basis?)		
2.10	Will the individual work as part of a team of regular employees and will the individual's day-to-day participation be essential to the successful performance of the employee team?		
2.11	Is the individual expected / required to perform work during hours that are set by a university supervisor?		
2.12	Will the individual be required to perform services in a sequence or order that is set by a university supervisor?		
2.13	On a regular basis before the project is completed, will the individual be required to provide progress or status updates to a university supervisor?		
2.14	Will the individual perform services for which the university is concerned with the methods used to obtain the results (and not just with the results)?		
2.15	Will the university provide a significant amount of tools, equipment, or other materials needed by the individual to perform the agreed-upon work?		
2.16	Will the individual be subject to termination by the university for reasons other than non-performance of the Independent Contractor Agreement? (For example, can the individual be terminated for violating university personnel policy?)		
2.17	Can the individual terminate the Agreement with the university without incurring any liability for a failure to complete the service? (For example, can the individual terminate the Independent Contractor Agreement without notice or reason?)		

If the Answer is **YES** to **ANY** of the questions in **Section 2**, the individual should be classified as an EMPLOYEE and paid through Payroll.

If the answer is **NO** to **ALL** of the questions in **Section 2**, proceed **→** to **Section 3**.

Section 3: EVIDENCE OF CONTRACTOR'S BUSINESS OPERATION

3.1	In connection with performing the services, could the individual realize either a profit or loss, such as by incurring expenses?		
3.2	Does the individual perform work (or could perform work) at an office or facility off campus that is maintained at the individual's own expense?		
3.3	Will the individual be paid an amount to complete a specified project (as opposed to on an hourly, weekly or monthly basis and for on-going, general purposes)?		

If the Answer is **NO** to **ANY** of the questions in **Section 3**, the individual should be classified as an EMPLOYEE and paid through Payroll.

If the answer is **YES** to **ALL** of the questions in **Section 3**, proceed **→** to **Section 4**.

Section 4: NEED FOR INDIVIDUAL WITHIN DEPARTMENT

4.1	Are the services to be performed by the individual necessary for accomplishment of the mission of the department or school?		
4.2	Is the individual needed because there is no current employee within the department who can satisfactorily perform the work that will be done by the individual?		

If the Answer is **NO** to **ANY** of the questions in **Section 4**, the individual should be classified as an EMPLOYEE and paid through Payroll.

If the answer is **YES** to **ALL** of the questions in **Section 4**, proceed **→** to **Section 5**.

Section 5: CLASSIFICATION OUTCOME

IF ... All questions in Section 2 = NO
 All questions in Section 3 = YES
 All questions in Section 4 = YES

THEN ... Individual is an Independent Contractor. It is okay to prepare an Independent Contractor Agreement. Checklist should be submitted with a copy of the agreement to the Accounts Payable Department with the request for payment.

IF ... All questions in Section 2 = YES
 All questions in Section 3 = NO
 All questions in Section 4 = NO

THEN ... Individual is an Employee. Please refer to respective human resource policies for hiring an employee.

Section 6: SIGNATURE OF MANAGER COMPLETING CHECKLIST

Signature of Responsible LMU Manager

Date

Print Name

Phone

Print Title

Email:

Section 6: DISAGREEMENT WITH CLASSIFICATION

This section only needs to be completed if the department requesting an individual's services disagrees with the Checklist's outcome. Send the completed Checklist along with the below information to Accounts Payable. A representative in Accounts Payable will work with the department and Human Resources to determine the correct classification.

Description of Scope of Work:

Reason why Department believes the individual should be classified as an Independent Contractor: