



## UNIVERSITY OF MASSACHUSETTS DARTMOUTH PROCUREMENT MANUAL

### Section 5.5 - Independent Contractors

1. **Independent Contractor Status:** All Contracts for Services with individuals (non incorporated vendors) require the pre-screening and approval of the Human Resources Department prior to the commitment of University funds, regardless of the dollar value. Human Resources will determine if the individual is an Independent Contractor whose services can be obtained through a Contract for Services or whether they should be considered an employee and processed through the Human Resources Department.
2. **Note: Contracts for Services may not be issued for services rendered by University employees.**
3. **Independent Contractors and Use of the Contract for Services Form:**

From time to time, it may be necessary to contract for professional services from a source other than an enterprise registered as a corporation. In all such cases, the University will comply with Federal and State regulations and guidelines concerning the classification of an individual as an employee or an independent contractor.

An independent contractor is defined as a person engaged in an independently established business, a person engaged in an occupation that contracts work according to their own methods, without being subject to control of the employer except for results. The basic tenet of an independent contractor relationship is that the contractor has an independent occupation and is only responsible for the finished product.

Whether someone providing a service is an employee or an independent contractor is critical. It becomes important for determining benefits and pension eligibility, worker's compensation coverage, wage and hour laws, unemployment compensation and personal tax liability. Each situation must be analyzed independently as the determination of the status may change with each circumstance.

In accordance with IRS regulations, the Contract for Services Form may not be used to contract with individuals when the working relationship would qualify them as an employee instead of an independent contractor.

Note that this only applies to directly contracting with individuals. If the contract is with a company or corporation for services rendered by one or more individual(s) within that organization, then the Contract for Services form may be used without additional documentation.

Prior to engagement of any services the University shall determine whether a worker qualifies as an employee or independent contractor which is based on the common law test of control (See Employment Status Form.) Under this test, if you have the right to control and direct what a worker does and how he or she does it, a relationship between you and the worker exists and the worker must be classified as an employee.



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This means that the individual must be processed through the University Payroll System and have State and/or Federal taxes withheld. In the absence of such control, a worker may be classified as an independent contractor.

For example, if you wish to hire an individual to work in your office for specific work, one would assume that you have the right to control and direct what the individual does and how they do it. This person would therefore be classified as an employee and would have to be processed through the University Payroll system.

If, on the other hand, you wish to hire an individual to create a software package for your office computer, one would assume that the individual would control what they do and how it is done (hours worked, where work is done, how work is accomplished, etc.). This person could therefore be classified as an independent contractor and the contractual commitment should be processed on a Contract for Services Form.

All independent contractor contracts for services must have the Employment Status form completed, reviewed and approved by Human Resources prior to the engagement of any services.

**The Employment Status Form can be found at the following link:**

<http://www.umassd.edu/hr/forms/>