

Potential Contractor (Printed Name) \_\_\_\_\_

Date \_\_\_\_\_

**Determination of Status - Employee vs. Independent Contractor Questionnaire**

**Return this form to Classification and Compensation; Human Resources**

IRS regulations make it imperative that the University System of Georgia provides guidelines for determining whether certain personal service arrangements create an employer/employee or an independent contractor relationship. This has significance in that the institution is responsible for the payment and/or withholding of federal and state unemployment taxes, FICA, and income taxes for those individuals where an employee/employer relationship exists. Independent contractors are responsible for their own liabilities. (USG Business Procedures Manual 5.5 Determination of Status – Employee vs. Independent Contractor). Signatures are required on page 4 of this document. This form should be submitted with an unsigned Service Agreement form to Human Resources for a determination of status to be made prior to starting the process in ePro.

Definitions (From USG Policy on Determination of Employee vs. Independent Contractor under Common Law):

- **Employee:** An individual who performs personal services for the Institution where the Institution has the right to control and direct the individual who performs the services, not only as to the result to be accomplished, but also as to the details and means by which that result is to be accomplished. It is not necessary that the Institution actually direct or control the manner in which the services are performed; it is sufficient to establish an employee-employer relationship that the Institution has the right to do so.
- **Employer:** The Institution, when it has a relationship with an individual performing services for its benefit, and where the Institution has the right to subject the individual to its will, and control not only what shall be done but how it shall be done.
- **Independent Contractor:** An individual - who performs personal services for the Institution where the Institution has the right to specify the result to be accomplished by the work, but not the means and methods by which the result is to be accomplished.

For each question, circle Yes or No. (Comments section is for those questions that may not fit your particular situation and need further explanation.)				
		A (Yes)	B (No)	Comments (Explanation of why the question does not fit the situation, etc. Add attachments if necessary)
1	Is the person required to accept instructions dictating the time, place, and manner of work (i.e. is a detailed set of instructions to accomplish the work included in the Service Agreement)?			
2	Did the University pay to train this person to perform the work?			
3	Is the person providing a service integral to the Universities business operations? (If yes, this person is NOT an Independent Contractor.)			
4	Must the person's services be rendered personally? (Answer yes only if the Service Agreement prohibits the services from being delegated or sub-contracted.)			

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		A (Yes)	B (No)	Comments (Explanation of why the question does not fit the situation, etc. Add attachments if necessary)
5	Does the University provide the hiring, supervision, and paying of assistants for this person?			
6	Is the person's ongoing performance of services required without an end date to the services identified?			
7	Does the University set the person's hours, routine or schedule?			
8	Is the person required to devote his or her full time to the services identified?			
9	Are all of the person's business functions required to be conducted at the University? (I.e. all materials required for the person to complete the identified tasks are provided by the University and the person has no offsetting business expenses such as office space, office supplies and equipment, software, professional services, etc.)			
10	Does the University control the order of the tasks required by the person?			
11	Is the person required to provide regular, oral or written reports to the University or a specific person(s) at the University other than those specified in the contract?)			
12	Is the person paid by the hour, week or month? (Do not answer yes if a payment schedule that is based on completion of tasks is defined in the contemplated contract, regardless of the interval of payment.)			
13	Does the University reimburse the worker for business and travel expenses? (Do not answer yes if the person has business expenses such as those identified in question #9. Do not answer yes if the contemplated contract specifies travel required in the performance of the services by the University on a cost reimbursable basis.)			
14	Does the University furnish all tools and materials necessary for the person to perform the services?			
15	Considering all the capital required for the performance of the services, will the University invest more capital than the person for the performance of the services? (Do not consider capital assets provided by the University that are not specific to the performance of the services. For example, a speaker may use a facility to deliver a speech to the University but this facility was not built for this specific speaker's speech and therefore should not be considered in the capital required for the performance of the services. Likewise, neither was the sound or video equipment.)			

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		A (Yes)	B (No)	Comments (Explanation of why the question does not fit the situation, etc. Add attachments if necessary)
16	Is the University responsible for the contractor's profit/loss? (Answer no if the contractor is able to recognize an increase or decrease in profit, based on their performance. For example, if a contractor works quickly and effectively they may spend less time and therefore realize more profit. If they work slowly they may take more time that results in a loss of profit.)			
17	Does the person only offer their services to University? (If the person offers these same services to the general public in addition to the University, then they could be an independent contractor.)			
18	Does the person perform services only for the University? (Independent contractors only perform services pursuant to written contracts.)			
19	Does the University have the right to terminate the person? (Most contracts have explicit terms written in so the contract can be terminated; which in turn terminates the contractor. If the contemplated contract has explicit terms for termination of the contract, answer no.)			
20	Does the University pay for the appropriate certifications, professional occupational licenses or certificates for the person to continue performing the job duties effectively? (Answer no if the person attains their own business registrations, professional occupational licenses or certificates required by law to perform contracted services for their personal business.)			
21	Does the University provide worker's compensation for the person? (Answer N/A if person does not have more than 3 employees.)			
22	Will this person ever be required to drive a University (State) vehicle?			
23	Will this person ever have cash advances or need to have a P-Card issued?			

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For Continuing Education Professionals <u>Only</u> (Circle Yes or No)	A (Yes)	B (No)	Comments
<b>Duration of Course</b>			
Is this course longer than two weeks? (If it is less than two weeks it may be an Independent Contractor unless otherwise dictated by the questionnaire above.)			
Is this a Non-Credit Course that is longer than two weeks (80 hours) or more but less than a semester? (Less than two weeks it may be an Independent Contractor unless otherwise dictated by the questionnaire above.)			
Is this a credit course (semester)?			

**Retirement Status**

Is the potential contractor retired from a GA state retirement system?			
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**USG Employment Status**

Has the potential contractor ever been employed by the University System of GA? If yes, in what capacity? (full-time, part-time, temp, Independent Contractor, etc.) Explain (hours, institution, dates, etc.)

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**Background Investigation Questionnaire**

Background checks are required for Independent Contractors (ICs) who are not business entities. If a background check on file is less than 12 months old, we will use the one on file, EXCEPT WHEN the IC returns to a position of trust (including but not limited to the following: handling of financial matters, audit, management, access to institutional data bases, public safety, involvement with minors, etc.). In such cases, a background check is required at the time of contract (even if a previous background check on file is less than 12 months old).

**Requesting Department Use (circle "Yes" or "No")**

	A (Yes)	B (No)	Comments
Will this position be involved with minors (under the age of 18)?			
Are these minors non VSU students?			
Are these minors' categorized as students of VSU (academically enrolled at VSU)?			
If academically enrolled; does the academic endeavor involve content of a sexual nature?			
If the academic endeavor involves content of a sexual nature, will a professor be in the room at all times to supervisor the academic endeavor?			

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**Signatures**

Requesting Department Representative (Name and Title)	Date
Print:	
Sign:	
Human Resources Representative Signature	Date

**(HR Use Only)**

**Conclusion and Comments (circle "Yes" or "No")**

Is the worker an independent contractor? If yes, is the independent contractor:	Yes	No
Is the worker an employee? If yes, is the employee:	Yes	No
Working in a benefits eligible position?	Yes	No
Is a background check required?	Yes	No
Comments (Please add attachments if space is not sufficient):		

[BOR Business Procedures Manual 5.5](#)

[BOR Policy on Determination of Employee vs. Independent Contractor Under Common Law](#)

\* For any additional questions or concerns please contact Human Resources at 333-5709.

Revised 1/12/2017