

UNIVERSITY REGULATION
PART V - FINANCE AND BUSINESS MANAGEMENT
Chapter 05.02 - Accounting and Fiscal Reporting

R05.02.030. Compliance Reporting.

A. Status: Independent Contractor, Honorarium, or Employee

The University shall report all payments to the Internal Revenue Service as required by law and regulation. There shall be a determination of the status as an independent contractor, honorarium, or employee prior to initiating work or payment for such work. All payments shall be reported in accordance with Internal Revenue Service (IRS) Regulations.

1. General

- a. For purposes of federal tax reporting requirements, individuals performing professional or other services for the University shall be considered employees, unless a determination is made that such individuals are appropriately classified as independent contractors.
- b. Determinations of independent contractor status shall be made by the MAU's chief financial officer, or his/her designee, or the controller for statewide administration, in accordance with IRS Regulations and rulings and the guidelines for independent contractor status determinations provided below. Exceptions to the guidelines may be authorized in writing by the vice president for finance.
- c. Agreements or contracts with partnerships, corporations or other organizations requiring the exclusive services of named individuals are also subject to the independent contractor determination guidelines.
- d. All independent contractors regardless of their status as individuals, corporations or other organizations will be required to provide a social security or federal employer identification number.
- e. Responsible EEO/AA employment and contracting practices shall be considered in the selection of contractors.

2. Guidelines For Independent Contractor Status Determinations

The following guidelines shall be used for independent contractor status determinations and documentation.

- a. A determination that an individual is an independent contractor must include clear and convincing evidence supporting such a conclusion.

- b. All determinations of independent contractor status for individuals, except for those individuals engaged as guest speakers or entertainers as described in item g below, shall be evidenced by completion of an "Independent Contractor Determination Form." A copy of the appropriate form is included in the University of Alaska Procurement Manual and is also available at the regional procurement offices.
- c. Individuals engaged as instructors for credit courses (and, in general, for continuing education credit courses) shall be classified as employees.
- d. Individuals engaged as instructors for noncredit courses (and certain continuing education credit courses for which the institution has minimal rights to control course content or course conduct) may be classified as independent contractors, if the facts and circumstances surrounding such engagement clearly indicate that a bona fide independent contractor relationship exists.
- e. Individuals engaged as instructors for noncredit who teach, or are intended to teach programs, seminars or workshops for periods exceeding 40 cumulative contact hours over a 2-year period, even on an irregular or intermittent basis, should be classified as employees.
- f. Individuals employed half time or more by the University as employees may not be treated as independent contractors, even if the new service requested differs significantly from those services currently provided by the individual as an employee.
- g. Individuals who are engaged as guest speakers or performers to provide short-term non-recurring services for a fee and who are not otherwise employed by the University shall be treated as independent contractors. This provision does not include workshop instructors, presenters or coordinators.
- h. All material terms and conditions for performance of the services to be provided shall be drafted, in writing, and attached to the "Independent Contractor Determination Form."
- i. No payment may be made to an independent contractor unless the University has been provided with the contractor's social security or federal employer identification number.
- j. Contracts with corporations, governmental agencies, professional organizations, and other colleges and universities shall be treated as contracts with independent contractors.

- k. A private determination made by the IRS shall supersede internal determinations, unless there is reasonable cause to believe that the facts, upon which the IRS determination was based, were incomplete or inaccurate or are no longer applicable to the current arrangement.

3. Criteria For Independent Contractor Status Determination

A statement of the criteria for independent contractor status determination and a discussion of relevant Internal Revenue Service Rulings, examples and illustrations are included in the University of Alaska Procurement Manual. Since many factors must be considered in the evaluation of independent contractor/employee status, generally, no one factor in itself can be considered conclusive.

4. Insurance Requirements for Independent Contractors

- a. Independent contractor applicants must provide a certification of workers' compensation coverage, as required by law; and other insurance coverage, as applicable, such as general liability, auto liability, and professional liability, with minimum limits to be established by the Statewide Office of Risk Management.

The University of Alaska Procurement Manual, Appendix I, includes a reproduction of the Statewide Office of Risk Management standard insurance and indemnity provisions for professional service and other contracts.

- b. All contracts shall include a provision that failure to provide evidence of insurance coverage shall be considered a material breach and grounds for termination of the contract.
- c. Waiver of insurance requirements for independent contractors may be approved by the statewide director of risk management or designee, if the exposure to loss is substantially limited by the nature of the work performed or availability of other coverage.

5. Written Contracts Required For Independent Contractors

Contracts for professional and other services must contain insurance coverage requirements, provision of federal identification numbers and other terms and conditions required by statute and University procurement regulations. Insurance provisions are generally not required for contracts with guest speakers. Prescribed standard form contracts are available from regional procurement offices.

6. Honoraria

An honorarium is a gift provided to an individual or organization as a display of gratitude or custom, for services for which no fee was established or agreed upon, and for which there is no legal obligation or entitlement to payment.

An honorarium may not be paid to an employee of the University, unless such payment is included on the individual's payroll earnings record.

No honorarium payment may be made to an individual or other entity unless the following information has been provided to the University and is included with the request for payment:

- A complete name,
- A social security or federal ID number,
- A permanent mailing address, and
- A clear statement of the purpose or reason for payment of the honorarium.

All honorarium payments shall be reported on Form 1099 in accordance with Internal Revenue Service Regulations.

7. Employee, All Others Payments

Payments to an applicant who does not meet the requirements of Independent Contractor or Honorarium must be paid as a payment to a University employee. The personnel office should be contacted regarding procedures to be followed when work is to be performed by a person classified as an employee rather than an independent contractor. **NO EXCEPTIONS CAN BE GRANTED TO THE ABOVE.**

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