

Determination of Employment
Relationship Policy

University Policy : HR6325
Classification: Human Resources
Approving Authority: Vice-President Finance & Operations
Effective Date: June 2019
Supersedes: May 1998
Last Editorial Change: December 2020
Mandated Review: June 2026

Associated Procedures: [Determination of Employment Relationship Procedures](#)

- Purpose
- 1.00 This policy provides guidance in determining the relationship of workers who provide services to the university as employees or independent contractors, and the appropriate method of payment.
- Scope
- 2.00 This policy applies to the engagement of workers from all sources of funding administered by the university.
- Definitions
- 3.00 A contract of service, or employer -employee relationship , generally exists when a worker agrees to work for an employer, on a full-time or part-time basis, for a specified or indeterminate period of time, normally in return for wages or a salary. Subject to the principles of academic freedom, the employer has the right to decide where, when, and how the work is to be done.
- 4.00 A contract for services , or business relationship , generally exists when a self-employed worker agrees to perform a specific task for a payer in return for payment. The worker is in business in their own right and provides services to other businesses as an independent contractor. The worker is free to choose the means of performing the work and is not normally required to perform the services personally.

Tax) from salary payments, and to pay WorkSafeBC premiums. The University of Victoria will comply with the

Appendix 1

Factors to Determine an Employee or Independent Contractor Relationship

The determination of a worker's employment status is a question of fact. It is not always easy to determine because there is no one test or rule that can be applied. Rather, the determining factors have evolved from decisions rendered by the tax courts over the years. The following factors are those most commonly used in determining whether a worker is an employee or an independent contractor.

1. The level of control / supervision the university has over the worker

Generally, in an employer/employee relationship, the employer has the right to direct and control the employee's method of doing the work by instructing when, where, and how the work will be performed. It is not necessary that immediate control be exercised at all times, as long as the employer has the right to exercise this control. The degree of control exerted may be viewed in light of the following:

- the extent to which the worker is supervised
- the university's right to determine the hours or work and where the work will be performed
- the extent which the workw 1g 9 /LB Tw 37002 Tc 0.o002 Tc 0.o002 Tc 4a01 08q6 (e)5..2 (w)-23(he)e 0 Tw 4

No one factor will be determinative; rather, the whole arrangement must be considered. In certain cases, some factors will be more relevant than others. Even where the facts appear to be the same, the CRA and tax courts have sometimes arrived at different conclusions.

Determination of Employment Relationship Procedures

Procedural Authority: Vice-President Finance & Operations
Procedural Officer: Executive Director, Financial Services

Effective Date: June 2019
Supersedes: New
Last Editorial Change:

Parent Policy: [Determination of Employment Relationship Policy \(HR6325\)](#)

Purpose

- 1.00 The purpose of these procedures is to provide guidance to individuals entering into or approving Contracts for Services with independent contractors.

Procedures

- 2.00 A Checklist for Determining Employment Status should be completed prior to engaging any independent contractor. The checklist should be completed and signed by both a university representative and the worker to ensure both parties are in agreement with respect to the nature of the work required.

- 3.00 Existing employees of the university who work beyond the expectations of their normal appointment, whether in or outside of their home unit, will be considered to have an employer-employee relationship with the university for all services provided and will not be considered an independent contractor. Any additional payments must be made through Payroll. For Academic

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with a confirmation that the CV and checklist submitted with the original contract still apply.

5.03 Questions of interpretation or application of this policy or its procedures as they relate to Academic Services should be referred to the AVP Faculty Relations and Academic Administration whose decision is final.

6.00 When no employer-employee relationship exists and the contract is for Non-Academic services:

(i) For all contracts to be paid from Sponsored Research funding, the Checklist for Determining Employment Status and the completed, unsigned Services Agreement - Non Academic Services should be forwarded to Research Accounting using the university's electronic Webreq system prior to commencement of the work for confirmation that subcontractor expenses are allowable under the terms of the funding source, obtaining prior approval from the funder, when required, and appending appropriate terms and conditions to the Services Agreement-Non Academic Services as may be required by the terms of the funding source. The Webreq and attached documents will then be forwarded to Purchasing to sign the Services Agreement and issue a purchase order.

(ii) For contracts below the university's purchase order threshold (currently \$5,000), the unit is to complete the Checklist for Determining Employment Status and sign the completed Services Agreement – Non-Academic Services. Once the contract is approved a copy is to be sent to Accounts Payable. Payment to the contractor will be made by submitting an approved invoice to Accounts Payable under the terms of the Services Agreement and a T4A will be issued to sole proprietors who are not registered for GST.

(iii) For contracts above the university's purchase order threshold (currently \$5,000) the following documents are to be completed prior to commencement of the work and submitted to Purchasing Services using the electronic Webreq system for approval:

- A completed purchase requisition (WebReq)
- A Directed Purchase Request form (if applicable)
- A completed Checklist for Determination of Employment Status
- A completed, unsigned Services Agreement – Non Academic Services

6.01 If a Request for a Directed Purchase is approved by Purchasing, a Purchase Order will be issued and the Services Agreement – Non-Academic Services will be signed.

6.02 If no Request for Directed Purchase is provided or a request is not approved, Purchasing will arrange a competitive process to identify a contractor to provide the requested service, working with the originating unit. Once a contractor is selected a Purchase Order will be issued and a Services Agreement signed. Payment to the contractor will be made