

INDEPENDENT CONTRACTOR / EMPLOYEE CHECKLIST

Current Employee: STOP – current employees can never also be an independent contractor, and must be paid through the payroll system.

Former Employees & Returning Retirees: Please consult with your HR Consultant for review and endorsement PRIOR to committing to - or processing - any payment.

For each of the 20 categories, check the response in Column A or Column B that better describes the individual's work relationship with the institution. Guidelines for interpreting your results are at the end of the checklist.

CATEGORY		<input checked="" type="checkbox"/>	COLUMN A	<input checked="" type="checkbox"/>	COLUMN B
1	INSTRUCTIONS	<input type="checkbox"/>	The individual would be expected to comply with instructions from a supervisor or manager at Vanderbilt about when, where, and how the work is to be performed.	<input type="checkbox"/>	It would be completely up to the individual to decide when, where, and how to perform the work or accomplish the required outcome.
2	TRAINING	<input type="checkbox"/>	The individual would receive training from more experienced workers, or by attending meetings, or by other methods because Vanderbilt has expectations that the work would need to be performed in a particular method or manner.	<input type="checkbox"/>	The individual would receive no training in skills or methods from Vanderbilt, and would be expected to be able to fully perform the requirements of the work without such training.
3	INTEGRATION	<input type="checkbox"/>	The individual's services are part of, or integrated into, the regular, ongoing business operations or activities of the department.	<input type="checkbox"/>	The individual's services are largely independent of the regular, ongoing business operations or activities of the department, and are services that would not generally be performed by a departmental employee.
4	SERVICE RENDERED PERSONALLY	<input type="checkbox"/>	The individual would be expected to perform the work or services personally, in order to provide the outcomes or final deliverables as agreed upon.	<input type="checkbox"/>	The individual could "sub-contract" some or all of the work or services out to others; it doesn't matter so much who does the work, as long as the outcomes or final deliverables are as agreed upon.
5	ASSISTANTS	<input type="checkbox"/>	The individual would be expected to perform the work or services themselves rather than hiring and paying assistants to whom they would delegate work.	<input type="checkbox"/>	At their own expense or as part of the agreed-upon total cost, the individual could hire, supervise, and pay assistants to whom the individual could decide to delegate work.
6	CONTINUING RELATIONSHIP	<input type="checkbox"/>	The individual might well have a continuing working relationship with the organization.	<input type="checkbox"/>	The individual's working relationship with the organization would be time-limited in nature, just until completion of a defined project or deliverable.

7	HOURS OF WORK	<input type="checkbox"/>	Someone at Vanderbilt would generally determine the hours of work or basic work schedule of the individual.	<input type="checkbox"/>	The individual may schedule their work activities and work schedule completely at their own discretion, without approval or oversight by someone at Vanderbilt.
8	FULL-TIME RELATIONSHIP	<input type="checkbox"/>	The individual would generally be expected to work full time for Vanderbilt during the period of the relationship.	<input type="checkbox"/>	The individual is free to work whenever he or she chooses, and may well not commit full time to Vanderbilt during the period of the relationship.
9	EMPLOYER'S PREMISES	<input type="checkbox"/>	The individual would generally be expected to perform their work or services on Vanderbilt's premises.	<input type="checkbox"/>	The individual could work from their own location or another site of their own choosing rather than working on Vanderbilt's premises.
10	ORDER OR SEQUENCE OF WORK	<input type="checkbox"/>	Someone at Vanderbilt would generally determine and set the order or sequence of work to be performed by the individual, or retain the right to do so.	<input type="checkbox"/>	The individual is completely free to determine for themselves the order or sequence of work that will lead to the completion of the agreed-upon service, project, or deliverable
11	REGULAR REPORTS	<input type="checkbox"/>	The individual would be required to submit regular verbal or written reports documenting their activities or progress.	<input type="checkbox"/>	The individual would not be required to submit regular verbal or written reports documenting their activities or progress, as long as the final deliverable is provided as agreed upon.
12	PAYMENT METHOD	<input type="checkbox"/>	The individual will be paid by the hour, week, or month for the work that they performed during that period.	<input type="checkbox"/>	The individual will be paid an agreed-upon fee at completion of the deliverable or conclusion of the service or project, or will be paid on a straight commission basis.
13	EXPENSES	<input type="checkbox"/>	The institution will pay for general business or travel expenses incurred by the individual in the course of performing the work.	<input type="checkbox"/>	The individual will be fully responsible for any business or travel expenses incurred in the course of performing the work, except expenses negotiated as part of an initial agreement.
14	TOOLS & MATERIALS	<input type="checkbox"/>	Vanderbilt will provide the basic tools and materials to be used by the individual in the course of performing the work, including computers or other technical equipment.	<input type="checkbox"/>	The individual will be fully responsible for their own tools and materials to be used in the course of performing the work, including computers or other technical equipment.
15	FACILITIES INVESTMENT	<input type="checkbox"/>	The facilities used by the individual in order to perform the work will generally be those of the institution.	<input type="checkbox"/>	The facilities used by the individual in order to perform the work will generally be those in which the individual has their own investment.

16	PROFIT & LOSS	<input type="checkbox"/>	The individual would not generally be expected to experience a profit, or risk of economic loss if the project, service or deliverable came in significantly over or under budget.	<input type="checkbox"/>	The individual could experience a profit, or risk economic loss, if the project, service, or deliverable came in significantly over or under budget.
17	MULTIPLE CLIENTS	<input type="checkbox"/>	The individual would not generally be performing the same or similar services for other businesses or business clients at the same time.	<input type="checkbox"/>	The individual could perform the same or similar scope of services for a number of businesses or business clients at the same time.
18	SERVICES TO GENERAL PUBLIC	<input type="checkbox"/>	The individual does not generally offer or market these services to the general public on a regular and consistent basis.	<input type="checkbox"/>	The individual offers or markets these services to the general public on a regular and consistent basis.
19	DISCHARGE	<input type="checkbox"/>	Vanderbilt reserves the right to discharge the individual if it deems appropriate.	<input type="checkbox"/>	Vanderbilt would not have the right to discharge the individual if the individual is meeting the specified agreed-upon outcomes.
20	QUITTING	<input type="checkbox"/>	The individual could resign or quit without incurring financial liability.	<input type="checkbox"/>	The individual could not resign or quit and would incur financial liability if they did not hold to the terms of the agreement.
TOTALS			<input checked="" type="checkbox"/> in COLUMN A		<input checked="" type="checkbox"/> in COLUMN B

HOW TO INTERPRET YOUR RESULTS

- If **all** -- or virtually all (all but 1-2) -- of the responses you checked are in **Column B**, you can probably safely treat this individual as an **independent contractor** and pay them through Procurement rather than through HR/Payroll.
- If **most** of the responses you checked are in **Column A**, you should put this individual on **payroll** through HR/Payroll as a temporary employee. If this work will be a continuing assignment (longer than 6 months), consider establishing a limited-term or regular position.
- If you checked **more than a couple** of responses in **Column A**, you should probably be safe, rather than sorry (from an IRS tax liability & penalty perspective), and pay the individual as an **employee**, through Payroll.

***WHY?** Even though these "20 questions" come from the IRS's own guidelines, the IRS won't publish any helpful "bright-line" cutoffs for employers to use, such as, "More than X out of 20 means you must treat the person as an employee." As is typical with the IRS, they make employers guess, and then, if they come audit you and decide you guessed wrong, they hold you liable for misclassification of workers as independent contractors. The IRS believes employers have incentives to misclassify employees in order to avoid the employer-matching contributions for FICA taxes, etc. And getting caught misclassifying workers could mean big IRS fines & penalties for your department.*

- If you've gone through the checklist and want **advice** to assess your results and your risk of liability, contact your HR Consultant.