

# **GUIDELINES FOR UNIVERSITY OF MARYLAND INDEPENDENT CONTRACTING AGREEMENT**

The standard University of Maryland Independent Contractor Agreement is to be used only for independent contractors providing contracted services or consulting services to UMD. **Do not use this agreement for honoraria payments, cultural events, rental of physical space or equipment, game rentals or exhibitors.**

**SIGNATURE BY PROCUREMENT REQUIRED.** All (ICC) agreements must be signed by an authorized signatory in the Department of Procurement and Business Services before any work commences. “After the fact” (ex post facto) contracts are not authorized.

**NO MODIFICATIONS.** The attached agreement has been pre-approved by the Department of Procurement and Business Services and Office of General Counsel. **Any changes to this form agreement, or any contracts that incorporate the Contractor’s terms, must be negotiated by the Department of Procurement and Business Services until agreement can be reached.** Please plan at least 7 days for these agreements.

**INDEPENDENT CONTRACTOR DETERMINATION.** The Independent Contractor Agreement may be used only for Independent Contractors. Along with each contract it submits to the Department of Procurement and Business Services, the Campus department must submit a completed Independent Contractor/Employee Worksheet with each Independent Contractor Agreement it submits to the Department of Procurement and Business Services.

**NO CURRENT OR PREVIOUS UMD EMPLOYEES.** The Independent Contractor Agreement may not be used for a current University employee, nor an employee during the calendar year in which payment will be made resulting from this contract.

**PROCESSING:** Once the standard Independent Contractor Agreement has been signed by the Contractor, the campus department shall submit the agreement to [delegatedprocurement@umd.edu](mailto:delegatedprocurement@umd.edu) for review and signature.

**RECORD KEEPING.** The campus department must retain the fully executed Agreement, together with any related Purchase Order or other documentation, in compliance with UMD’s document retention schedule for financial documents.

## EMPLOYEE OR AN INDEPENDENT CONTRACTOR WORKSHEET

Before proceeding with an Independent Contractor Agreement, review the following checklist and contact Procurement or OGC with any questions. When making an Employee/Independent Contractor determination, all information regarding the University's degree of control and the Contractor's independence should be considered.

### **Factors supporting classification as an employee:**

- Is the individual an employee of the University of Maryland or of any other agency, department, public corporation, instrumentality or independent unit of the State of Maryland?
- Has the individual been an employee during the current calendar year?
- Is the individual working exclusively or substantially full-time for the University?
- Are the services normally performed or can they be performed by a University employee? (training, etc.).
- Are the services of the individual integrated into the operations of the University?
- Is the University providing long-term assistance to the individual such as additional personnel, support, supplies, equipment, tools, office space, etc. and/or does the individual receive reimbursement for travel and business expenses?
- Is the University providing on-going training and direction concerning how to complete the task? Or is the individual getting more than general directions and the objectives of the task?
- Does the prospective contractor report to a University staff member who has the right to control how, when and where the individual does his/her work?
- Is there a regular or on-going relationship with the prospective contractor? For example, are you engaging the individual for more than a one-time task and is he/she getting paid on an hourly, daily or weekly basis?
- Is the prospective contractor using experience or expertise gained as a current or previous employee of the University to provide the service?
- Can the individual quit prior to completion of the project without incurring any legal liability?
- Can the individual be terminated at will by the University?

### **Factors Supporting Classification As An Independent Contractor:**

- Individual maintains a separate business with their own work facility, equipment, materials or similar accommodations;
- Individual holds or has applied for a federal employer identification number, unless they are a sole proprietor who is not required to obtain a federal employer identification number;
- Individual performs or agrees to perform specific services or work for a specific amount of money and controls the means of performing the services or work;
- Individual incurs the principal expenses related to the service or work that he performs or agrees to perform;
- Individual is responsible for the satisfactory completion to work or services that they performs or agrees to perform and is or could be held liable for failure to complete the work or services;

- Individual receives compensation for work or services performed for a commission or on a per- job or competitive-bid basis;
- Individual may realize a profit or suffer a loss in connection with performing work or services;
- Individual has continuing or recurring business liabilities or obligations; and
- Individual has not been paid as an employee of the University during the current calendar year.