

DETERMINING EMPLOYEE/CONTRACTOR STATUS

Date

Worker's Name: _____ Worker's SSN: _____

Proposed Dates of Service: _____

Services to be Rendered: _____

- | <u>Yes</u> | <u>No</u> | |
|------------|-----------|---|
| ___ | ___ | This worker has been an employee of Lamar for the past 12 months. |
| ___ | ___ | This worker will have a Purchase Order processed for payment of these services. |
| ___ | ___ | This worker provides similar services to the public. |
| ___ | ___ | This worker represents to the public that he/she is in the business of providing similar services to the public. |
| ___ | ___ | This worker is required to provide all the required tools, materials, and supplies necessary to complete the work. |
| ___ | ___ | This worker is paid on a "per job" basis. The time necessary to complete the work does not effect the worker's remuneration. |
| ___ | ___ | All expenses associated with the performance of these services, including travel and meals, are borne by this worker. |
| ___ | ___ | This worker may hire and supervise others to assist in completion of the work. The decision to hire is solely in the control of the worker. |
| ___ | ___ | Assistants hired by this worker are subject to review by the University. |
| ___ | ___ | Any compensation paid to assistants is borne by this worker and in no way effects the agreed upon remuneration. |
| ___ | ___ | Where services are required to be performed on the University's property, the hours at which this worker performs these services is solely at this worker's discretion. |
| ___ | ___ | Where services are not required to be performed on the University's property, the University may require that services be performed within certain hours, but cannot require that this worker be present at any specific time during those hours. |
| ___ | ___ | Lamar does have the right to control the services performed. |
| ___ | ___ | This worker establishes the sequence of tasks to accomplish the work. |
| ___ | ___ | This worker is required to perform the services personally. |
| ___ | ___ | Lamar does train the worker. |
| ___ | ___ | This worker does report to a Lamar employee. |
| ___ | ___ | This worker may be discharged at any time without Lamar incurring liability. |
| ___ | ___ | The worker may quit at any time without incurring liability. |
| ___ | ___ | The service provided by this worker shall be performed for the time period covered in this worker's contract. Neither this worker nor the University has the right or obligation to provide or receive services for any period beyond that covered by the contract. |

Completed by: _____ LU Phone: _____ LU P.O. Box: _____

Payment Information: ___ Hourly ___ Salary ___ Lump Sum ___ Other-Describe: _____

Pay as: ___ Employee ___ Contractor

Reviewed by: _____ Date: _____

Human Resources

INFORMATION FOR DETERMINING EMPLOYEE/CONTRACTOR STATUS

Below is a list of factors used by the IRS to determine if a worker should be treated as a contractor or an employee. Each factor has been defined as EMPLOYEE and as CONTRACTOR. The IRS uses these same factors to audit. In addition, the IRS prefers that workers be paid as employees as this assures a report of wages and taxes being withheld.

Please KEEP this information sheet to review when answering the questions on the EMPLOYEE/CONTRACTOR Form.

IN EMPLOYMENT

vs.

INDEPENDENT CONTRACTORS

1. INSTRUCTIONS

Receives instructions about when, where and how work is to be performed.

Does the job his or her own way without any kind of instructions as to details or methods.

2. TRAINING

Trained by an experienced employee working with him or her. Required to take training courses. Attendance at meetings for instructions on how the employer wants the services performed.

Uses his or her own methods and receives no training from the purchaser.

3. INTEGRATION

Services of the individual are merged into the overall business. Success and continuation of the business depends upon these services. Employer coordinates work with that of other workers.

Success and continuation of business are not dependent on his or her services.

4. SERVICES RENDERED PERSONALLY

Services must be rendered personally. Not able to engage other people to do the work.

Contractor able to assign one of his or her helpers to do the job, or engage a substitute.

5. HIRING, SUPERVISING AND PAYING ASSISTANTS

Hires, supervises, and pays workers at the direction of the employer (acts as foreman or supervisory representative of the employer.)

Hires, supervises, and pays the other workers as the result of a contract under which he or she agreed to provide materials and labor and is responsible for the results.

6. CONTINUING RELATIONSHIP

The individual continues to work for the same person month after month or year after year.

Hired to do one job of limited or indefinite duration. No continuous relationship. May or may not be used again at some later date.

7. SET HOURS OR WORK

The hours and days are set by the employer, or the individual is "on call" when needed. Employer may have a priority over individual's time.

Is master of his or her own time.

8. FULL - TIME REQUIRED

Must devote full-time to the business of the employer. Restricts him or her from doing other gainful work.

Free to work when and for whom he or she chooses.

9. DOING WORK ON EMPLOYERS PREMISES

Implies that the employer has control; individual is physically within the employer's direction and supervision.

Works away from employer's premises, uses own office, desk, telephone, or has option of performing the services at alternate location of his or her choice.

10. ORDER OF SEQUENCE SET

Performs services in the order or sequence set by the employer.

Concerned about the end result and sets his or her own sequence as to how that result is accomplished.

11. ORAL OR WRITTEN REPORTS

Required to submit regular oral or written reports to the employer.

Submits no regular oral or written reports.

12. PAYMENT BY HOUR, WEEK, MONTH

Paid by the employer in regular amounts at stated intervals.

Paid a flat amount for the job.

13. PAYMENT OF BUSINESS AND/OR TRAVELING EXPENSES

The employer pays the person's business and/or travel expenses.

Is responsible for his or her own expenses. Is not reimbursed for these costs.

14. FURNISHING OF TOOLS, MATERIALS

Employer furnishes tools, materials, equipment, etc.

Furnishes his or her own tools, materials, equipment, etc.

15. SIGNIFICANT INVESTMENT

Little or no investment; depends on the employer for facilities and equipment necessary for the work.

Has a real essential and adequate investment in an independent business.

16. REALIZATION OF PROFIT OR LOSS

Cannot realize a profit or loss; is basically paid for services rendered.

Can realize a profit or suffer a loss as a result of his or her services.

17. WORKING FOR MORE THAN ONE FIRM AT A TIME

Usually works for one employer.

Usually works for a number of persons or firms at the same time.

18. MAKING SERVICE AVAILABLE TO GENERAL PUBLIC

Does not make his or her service available to the public except through the company for which he or she works.

Has own office and assistants. Holds business license, listed in business directories or maintains business telephone. Advertises in newspaper, etc.

19. RIGHT TO DISCHARGE

Can be discharged at any time.

Cannot be fired so long as he or she produces a result which meets contract specifications.

20. RIGHT TO TERMINATE

Can end his or her relationship with employer at any time.

Is legally responsible for satisfactorily completing a specific job. If leaves before completion, is liable for cost of completion.