



# UTAH VALLEY UNIVERSITY

## Policies and Procedures

<b>POLICY TITLE</b>	Independent Contractors	<b>Policy Number</b>	210
<b>Section</b>	Financial Affairs and Development	<b>Approval Date</b>	February 23, 2023
<b>Subsection</b>	General Financial Policies	<b>Effective Date</b>	February 23, 2023
<b>Responsible Office</b>	Office of the Vice President of Finance and Administration		

### 1.0 PURPOSE

**1.1** This policy sets forth procedures and practices that ensure payments for compensation of services by individuals outside of university payroll are handled in a manner consistent with Internal Revenue Service's (IRS) guidelines to avoid misclassification that could result in additional taxes and penalties imposed on the University.

### 2.0 REFERENCES

**2.1** IRS, Topic 762, *Independent Contractor vs. Employee*

**2.2** IRS, Publication 15-A

### 3.0 DEFINITIONS

**3.1 Employee relationship:** An employee relationship exists when the University can supervise and control the way the work is performed, as well as the result of the service.

**3.2 Form 1099-misc.:** A year-end IRS form given to an entity (individual, business, or company) showing total payment amounts for goods and services. No taxes are usually withheld. These total payment amounts are paid through the Accounts Payable Office.

**3.3 Form W-9:** An IRS form requesting name, address, entity type (individual, partnership, corporation, etc.), taxpayer ID number, and a signature certifying that the information is correct and that the entity is not subject to backup withholding. This form, or an approved substitute form, is required for all independent contractor payments.

**3.4 Independent contractor relationship:** An independent contractor relationship exists when the University can exercise only its right as to the result of service, not how the work is performed.



**3.5 Small independent contractor threshold:** The dollar threshold, as set and maintained by Procurement and Contract Services, under which an independent contractor may be engaged via a simplified contracting process as detailed in Procurement and Contract Services procedures.

#### 4.0 POLICY

**4.1** The University complies with governmental regulations for reporting payments made to independent contractors through a proper classification of employees and independent contractors. The University's classification is subject to final determination by the appropriate governmental agency.

**4.2** The relationship between the University and a worker is classified as an independent contractor or an employee under common law as determined by evidence that falls into three categories—behavioral control, financial control, and the type of relationship:

**4.2.1** Behavioral control covers facts that show whether the University has a right to direct or control what work is accomplished and how the work is done through instructions, training, or other means.

**4.2.2** Financial control covers facts that show whether the University has a right to direct or control the financial and business aspects of the worker's job. This includes:

- 1) The extent to which the worker has unreimbursed business expenses,
- 2) The extent of the worker's investment in the facilities or tools used in performing services,
- 3) The extent to which the worker makes their services available to the relevant market,
- 4) How the University pays the worker, and
- 5) The extent to which the worker can realize a profit or incur a loss.

**4.3** Type of relationship covers facts that show how the parties perceive their relationship. This includes:

- 1) Written contracts or oral agreements describing the relationship the parties intended to create,
- 2) Whether the University provides the worker with employee-type benefits, such as insurance, a pension plan, vacation pay, or sick pay,
- 3) The permanency of the relationship, and



4) The extent to which services performed by the worker are a key aspect of the regular business of the University.

See section 5.1 for how relationship type is determined.

## 5.0 PROCEDURES

### 5.1 Determination of Relationship Type

5.1.1 Relationship types should be determined following the procedures below.

5.1.1.1 All proposed payments to individuals representing compensation for service should be compared to the IRS classification criteria, as referenced in section 4. 2, for classifying an individual as an employee or independent contractor. Answers to these criteria will be used by Procurement and Contract Services, Finance and Business Services, and/or People and Culture in determining employee or independent contractor status.

5.1.1.2 For those workers classified as independent contractors, a written contract between the University and the worker, listing specific projects or services the individual will perform, must be in place before the worker starts performing services. The contract should specifically note that this worker is considered independent (not classified as an employee), will not receive any employee benefits, and no tax withholding will be made on behalf of this worker (unless required by IRS backup withholding rules). Any worker deemed to be an independent contractor will be responsible for all taxes, including self-employment tax. No part of this tax will be paid by the University (other than deducting income taxes from payments that require backup withholding).

5.1.1.3 University departments hiring independent contractors must follow the procedures in sections 5.1.1.1 and 5.1.1.2 and in Procurement and Contract Services guidelines before the independent contractor renders any services or the University provides payment and/or other consideration for services to be performed.

### 5.2 Independent Contractors Paid less than the Small Independent Contractor Threshold per Engagement

5.2.1 Once an individual is properly classified as an independent contractor, the appropriate payment request form must be completed and submitted to Accounts Payable for payment along with a copy of the completed contract. This contract must include a completed IRS Form W-9 with the independent contractor's taxpayer identification number and certification.

5.2.2 Even if an independent contractor is hired only for engagements under the small independent contractor threshold, the independent contractor will be provided IRS Form 1099



for aggregate annual payments that exceed the IRS payment reporting threshold by the annual due date.

### **5.3 Independent Contractors Paid an Amount Equal to or Greater than the Small Independent Contractor Threshold per Engagement**

**5.3.1** Engagements with independent contractors where an independent contractor is paid an amount equal to or greater than the small independent contractor threshold are subject to existing procurement and contract rules and policies. These requests must be submitted to Procurement and Contract Services, utilizing the appropriate process as stated in purchasing procedures before the independent contractor is engaged by the university department or division.

**5.3.2** The independent contractor will be provided IRS Form 1099 for aggregate annual payments that exceed the IRS payment reporting threshold by the annual due date.

### **5.4 Individuals Not Qualifying as Independent Contractors (Employees)**

**5.4.1** Individuals not deemed to be independent contractors are classified as employees. The recruitment, hiring, and compensation of employees are governed by UVU's Human Resource policies and processes with payment for work performed processed through Payroll.

<b>POLICY HISTORY</b>		
<b>Date of Last Action</b>	<b>Action Taken</b>	<b>Authorizing Entity</b>
October 10, 2007	Approved.	UVU Board of Trustees
August 1, 2019	Non-substantive change: Changed "his or her" to "their."	UVU Policy Office
February 23, 2023	Revisions to regular policy approved.	UVU Board of Trustees