

**Oklahoma State University - Independent Contractor Status Determination**

(Revised 12/16/2022)

Individual to be paid - Full Name \_\_\_\_\_  
 Business Name \_\_\_\_\_  
 Address \_\_\_\_\_

Taxpayer Identification Number \_\_\_\_\_  
 Banner ID (if employee) \_\_\_\_\_

Type of Organization (check one below):  
 Individual / Sole Proprietor   
 Partnership   
 Corporation   
 Other (Specify) \_\_\_\_\_

1. Is the individual a current employee, employed within that last year, or a retiree less than 2 yrs of Oklahoma State University or any of the branch campuses? Yes  No

**NOTE: If 'Yes' is checked, per OSU Policy 3-0148 (Sales of Goods or Services to the University by an Employee), the purchase must comply with the competitive bidding procedures through the Office of Central Procurement. Also, the bottom portion of this form must be completed and approved by OSU Payroll Services.**

2. Does the individual provide essentially the same services as an employee of Oklahoma State University and at the same time/place? Yes  No

3. If the individual has previously been paid as a University employee to perform essentially these same tasks, does the individual perform these services solely for Oklahoma State University rather than advertising and making services available to other organizations? Yes  No

**Note: Per Oklahoma Statutes Title 70 Section 3227, no institution within the Oklahoma State System of Higher Education shall enter into a contract for consultant services with any person who has retired from employment for two years after their retirement date (except for part-time teaching or research). Per Oklahoma Statutes Title 74 Section 85.42, state agencies are prohibited from entering into a contract for services with any person who has terminated employment with that agency for one year after the termination date of the employee .**

4. Does the University have a legal right to control how the individual will perform or accomplish this service? Yes  No

5. Will the individual supervise or direct University employees as a part of the service provided? Yes  No

**If the answer to any one of questions two (2) through five (5) is yes, STOP. The individual is to be treated as an employee for tax purposes. If all answers above are NO and the person is NOT an employee, sign form and attach to an OK Corral vendor request form. If the answer to question one (1) is yes and the answer to all questions two (2) through five (5) above are NO, go to the Employee Vendor Request portion of this form and complete questions six (6) through eight (8), sign form, and attach to an OK Corral vendor request form. Combine documents as a single PDF and email to payroll.services@okstate.edu for review and signature.**

Common law rules indicate a worker is an employee if the person for whom s/he works has the right to direct and control the way s/he works, both as to the final results and as to the details of when, where, and how the work is to be done. The employer does not need to exercise the control, it is sufficient that s/he has the RIGHT to do so. Because of the need to properly classify employees and independent contractors, the IRS has developed a 20 factor test designed to help employers determine a worker's status. **THIS TEST IS NOT INTENDED TO PROVIDE A CONCLUSIVE DETERMINATION OF A WORKER'S STATUS, BUT SHOULD ONLY BE USED AS A GUIDE.** (Form SS-8 can be filed with the IRS for work status determination.)

The courts have found the following seven (7) of the common law factors to be especially important in determining whether a worker is an employee or an independent contractor.

1. The degree of control exercised by the employer over the details of the workplace.
2. A continuing relationship between the parties.
3. The right to discharge the Worker.
4. The Worker's opportunity for a profit or loss.
5. The relationship the parties intended to create.
6. Which party invests in the facilities used in the work
7. Whether the work is a part of the employer's regular business.

For each factor on the 20 Factor Test, determine whether A or B best identifies your relationship with the individual worker and mark the appropriate box. Situation A is usually typical of an employee-employer relationship and Situation B is usually typical of an Independent Contractor relationship. After completing the 20 Factor Test, if your determination is the individual worker is an Independent Contractor, please read the following, sign, and date the form. Maintain the original form in your files and attach a copy to the request for payment.

**I understand that should the IRS later determine that the Independent Contractor status was incorrect and the individual should have been classified as an employee, the department will be responsible for payment of any penalties or back taxes.**

Fiscal Officer or Department Head Signature  
 Name \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_

Submitted by:  
 Name \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_

**ONLY COMPLETE THIS PORTION IF THE ANSWER TO QUESTION ONE (1) IS YES AND THE ANSWER TO ALL QUESTIONS TWO (2) THROUGH FIVE (5) ARE NO.**

**Employee Vendor Request form**

According to IRS guidelines, it is possible to have a W-2 employee who also performs work as a 1099 independent contractor so long as the individual is performing completely different duties that would qualify them as an independent contractor. OSU requires a sealed bid process (OSU policy 3-0148) to select and pay any employee for services outside their regular duties.

6. Briefly describe the tasks to be performed by the employee as an independent contractor:  
 \_\_\_\_\_  
 \_\_\_\_\_

7. Attach a copy of the employee's job duties as an employee. Add any additional duties here  
 \_\_\_\_\_  
 \_\_\_\_\_

8. Provide a brief explanation of why the services provided as an independent contract are significantly different than work performed as an employee. Explain why the independent contractor services are not part of the other duties as assigned for the employee.  
 \_\_\_\_\_  
 \_\_\_\_\_

Payroll approval:  
 Name \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_

Combine this signed form and an OK Corral vendor request form as a single pdf file and email to payroll.services@okstate.edu for review and signature.

Payroll Services will forward approved requests to the Office of Central Procurement for vendor setup. Payroll Services will contact the submitter with additional instructions for denied requests.