

**ARTICLE VIII: COURSE AND VENDOR CONTRACTS**  
**Section 1. Protocol and Procedures for Contracts**  
**Policy 1.4: Employee - Independent Contractor**  
**Issued: March 1, 2010**

**DEFINITIONS**

Certain words appear frequently throughout this policy and have the following meanings:

**Independent Contractor**

An independent contractor is a business firm or an individual that agrees to provide services for which the University controls or directs at most the result of the service, not the means and methods of accomplishing the result.

**Contractor**

A contractor is either a business firm or an individual (who is not a University employee) who agrees to perform a service for the University. Departmental units should contact the Office of Human Resources or the Office of Administration and Finance when hiring former employees of the University as independent contractors.

**Employer-Employee Relationship**

An employer- employee relationship exists when an employer has the right to direct and control the work of an individual who performs the services, including not only the results to be accomplished but also the methods and means by which the results are accomplished. Even if the employer does not exercise the right to direct or control the manner in which the worker performs the services, the fact that the employer retains the right to do so is sufficient to create an employer- employee relationship.

**Basic Policy**

University departments may contract for the purchase of professional and artistic services to accomplish the objectives of the University when such services are specialized, highly technical, and cannot be economically or satisfactorily performed by University employees as part of their normal duties. Contractors are used for specific tasks and for explicit periods of time. Contractors can be either business firms or individuals who are not employees of the University.

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**Guidelines for Selection of Professional and Artistic Services Contractor**

- A determination is made that the services cannot be performed more economically or satisfactorily through the University employment process.
- Avoid Conflict of Interest. The following contractors are prohibited from contracting with the University: members of the General Assembly; elected state officers; state employees (unless certain conditions are met - see below); members of The Board of Trustees; University officers and employees; and, in every case, their spouse, parents, and children. In the case of University officers, employees, and their families, an exception can be made by the President of the University or delegate if the contract is deemed essential to University operational, research, or academic needs. See the Higher Education Procurement Rules, Section 526.5013 for more details.
- It is the responsibility of the University to properly classify an individual as a contractor or an employee. The Internal Revenue Service (IRS) may impose penalties on an employer that fails to correctly classify an individual as an employee and thereby fails to withhold the required income and employment taxes. Departments should contact the Office of Human Resources for information and assistance on determining independent contractor versus employee status.
- The University employment contract provides that intra-University consultation is part of an employee's obligation to the University. When an employee provides services to more than one department, those departments may apportion the costs of the services between them. Except in unusual cases, employees may not receive additional financial compensation beyond their full-time base salary (and additional summer appointment, if applicable).