INDEPENDENT CONTRACTOR POLICY PROCEDURES

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I. Summary and Purpose

The purpose of this document is to clarify procedures at the Harvard T.H. Chan School of Public Health (SPH) related to Harvard University's Financial Policy on Independent Contractor Classification. A worker providing services to the University must be classified as either an employee or an Independent Contractor. This classification is governed by federal and state laws to assure that individuals are appropriately categorized for taxation, benefit and retirement contribution purposes. This document does not replace Harvard's policy, but is meant to provide supplemental guidance.

II. Discussion

When purchasing services from an individual (including individuals operating under a business name), appropriate review and approval must be completed before services are provided and before execution of a service contract. This process ensures proper classification of the individual as an employee versus independent contractor. It ensures a contract is in place and has undergone the appropriate review. Finally, these steps provide the University with written evidence of this process.

Classification of an Independent Contractor: Key factors that determine Employee versus Independent Contractor status

The “common law standard” in the past was the primary guideline used to determine worker status. Under this standard, an employer-employee relationship exists when the business has the right to direct and control the worker who performs a service. If the employer has a great deal of control over the work, including providing regular supervision, decision-making and guidance, then the person is an employee (and eligible for benefits). Through the years, the IRS, as well as Massachusetts law, has provided additional guidance on making the distinction between an employee and an Independent Contractor. This guidance is summarized in the questions below:

1. (a) Was the worker previously an employee at Harvard?
   (b) If yes, are they performing substantially similar services under similar direction and control?
      If yes, classify as an employee
2. Are co-workers performing substantially similar work under similar direction and control as part or all of their jobs?
   **If yes, classify as an employee**

3. Is the worker currently a student at Harvard?
   **If yes, classify as a student/temporary employee**

4. If the answer to the above questions is NO, three factors must be demonstrated in order to classify as an Independent Contractor:
   - The worker must be free from Harvard's control and direction in connection with the performance of the service, both under a contract for the performance of the service and in fact.
   - The service performed by the worker must be outside the usual course of Harvard’s business. It cannot be the same work performed by an employee in the University.
   - The worker must be customarily engaged in an independently established trade, occupation, profession, or business of the same type as the service being performed for Harvard.

5. The *Independent Contractor Questionnaire or SPH IC Single Short-Term Engagements Form* must be completed in order to determine the scope of control and to provide reasonable documentation of Independent Contractor classification (regardless of the amount of the contract).

**Summary of Differences Between an Independent Contractor and an Employee:**

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</thead>
<tbody>
<tr>
<td><strong>Employee</strong>*</td>
<td>Employer directs and controls the worker</td>
<td>Payroll system (Using Wasabi→People Soft)</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes*</td>
</tr>
<tr>
<td><strong>Independent Contractor</strong></td>
<td>Employer does NOT direct and control the worker</td>
<td>Invoice payment (Using HCOM)</td>
<td>No**</td>
<td>No**</td>
<td>No</td>
</tr>
</tbody>
</table>

* Treatment of student employees may differ. Not all employee categories are eligible for benefits. Please direct questions to your HR partner.

** Independent contractors are responsible for filing estimated federal and state income tax payments.
### III. Procedures

#### Steps to take before entering into an Independent Contractor agreement

When engaging an Independent Contractor, the following steps must be followed before services are provided and before execution of a contract. (If the person is to be a guest speaker or lecturer, follow the steps described in the next section.) Forms referred to in the steps below are located on the SPH HR website (link provided in the Related Documents and Policies section of this document).

<table>
<thead>
<tr>
<th>Step</th>
<th>Action</th>
</tr>
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<tbody>
<tr>
<td>1</td>
<td>Review the IC Process Workflow Job Aid <a href="#">here</a> and contact HR or Faculty Affairs to discuss and determine whether the Independent Contractor Questionnaire or SPH IC Single Short-Term Engagements Form should be completed.</td>
</tr>
<tr>
<td>2</td>
<td>The Department contact completes the Independent Contractor Questionnaire or SPH IC Single Short-Term Engagements Form (regardless of the funding source) and forwards it along with the scope of work to their HR Partner for review and approval. Keep in mind that when preparing sponsored budget proposals, it is important to anticipate whether Independent Contractor status is allowable; if not, the budget may need to include fringe costs for the employee.</td>
</tr>
</tbody>
</table>
| 3 | The HR Partner reviews the Independent Contractor Questionnaire or SPH IC Single Short-Term Engagements Form and determines appropriate status.  
  - If approved as an Independent Contractor, HR forwards the approved Questionnaire back to the Department  
  - If NOT approved as an Independent Contractor, HR contacts the Department to determine next steps (e.g., employee status with payment as temp, LHT, short-term appointment) |
| 4 | Once the approved Independent Contractor Questionnaire or SPH IC Single Short-Term Engagements Form is received, the Department contact completes and forwards to their HR Partner:  
  - If less than $50,000, a HU Short Form Model Consultant Agreement (“short” contract version) OR  
  - If $50,000 or more, a HU Long Form Consulting Agreement (“long” contract version)  
  
  While the appropriate Department signature should be on the Agreement at this point, the signature from the potential Independent Contractor should **NOT** be on the Agreement, as the necessary HR and OFS approvals are not yet in place. |
| 5 | The HR Partner reviews the Agreement and once approved, forwards the approved Agreement to:  
  - If less than $50,000, the Department contact  
  - If $50,000 or more, OFS for appropriate signatures; OFS will send documentation back to Department |
| 6 | Once the approved Agreement is received, the Department obtains the Independent Contractor’s signature on the Agreement. |
| 7 | The Department retains copies of all documents (the Questionnaire or Short-Term Engagements Form and the Agreement) for audit support for six years from date of execution. |
Required signatures on Independent Contractor documentation are as follows:

<table>
<thead>
<tr>
<th>Signature requirements</th>
<th>Department</th>
<th>HR</th>
<th>OFS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agreements less than $50,000</td>
<td>IC Questionnaire or SPH IC Single Short-Term Engagements Form</td>
<td>Dept Administrator/Designee</td>
<td>HR Partner</td>
</tr>
<tr>
<td></td>
<td>Short Agreement</td>
<td>Dept Administrator/Designee</td>
<td>HR Partner</td>
</tr>
<tr>
<td>Agreements $50,000 or more</td>
<td>Questionnaire</td>
<td>Dept Administrator</td>
<td>Chief of HR</td>
</tr>
<tr>
<td></td>
<td>Long Agreement</td>
<td>Chair</td>
<td>N/A</td>
</tr>
</tbody>
</table>

**Steps to take when engaging a One-Time Guest Speaker**

An *Independent Contractor Questionnaire* does not need to be completed when engaging a one-time guest speaker or lecturer. For information on how to engage a guest speaker/lecturer, please refer to page two of the *Independent Contractor Policy* (link provided in the Related Documents and Policies section of this document) and the *IC Process Workflow* here.

**Payment procedures for Harvard Chan School Departments hiring Independent Contractors**

- Prior to services being provided by an Independent Contractor, the Department must have in place (in accordance with the steps and appropriate SPH approvals outlined previously): an *Independent Contractor Questionnaire* and a an executed *Agreement* with the Independent Contractor.
- The *Independent Contractor Questionnaire and Agreement* must be retained locally by the Department for six years from date of execution; these documents should not be submitted with the invoice to Accounts Payable.
- The Department reviews the Independent Contractor invoice(s) for appropriateness.
- Departments are encouraged to request copies of all receipts to ensure that expenses are consistent with the *Independent Contractor Agreement*. Copies of these receipts should not be forwarded to Accounts Payable, but may be retained by the Department.
- The Department processes payment through HCOM. Payment through HCOM is the only acceptable method of paying Independent Contractors. Harvard employees must not pay for such services out of pocket, or by using a Corporate Card or PCard. The department must attach the HCOM documentation for these payments including a copy of the ICQ or the ICQ Exception Form.
- The Department must code payments to the appropriate object code, generally a professional services object code.
- The Department must submit original invoices to Central Accounts Payable in support of the HCOM requisition.

**Procedures for Independent Contractors**
The Independent Contractor must have a *HU Independent Contractor Consulting Agreement* in place.

The Independent Contractor providing services to Harvard submits an itemized invoice to the department that has retained its services. Invoices must include professional fees and billable expenses related to the services performed, such as travel. (Though Independent Contractors may prefer to be separately reimbursed for expenses, it is standard industry practice to combine professional fees and reimbursable expenses in one invoice. Combining fees and expenses simplifies and expedites the payment process.)

The Independent Contractor retains original receipts for expenses and provides copies of such receipts to Harvard upon request. It is the responsibility of the Independent Contractor to report and deduct travel and other expenses when they file their personal tax returns.

Independent Contractors are required to report to the IRS all income from services to Harvard, even if less than $600.

**Payment options available if an individual does not qualify as an Independent Contractor**

If after review it is determined that an individual may not be paid as an Independent Contractor, then the following options may be considered. **Note that the employee categories are assessed a fringe charge, so this should be included when determining the cost of the services.** You should consult with SPH HR or OFA to discuss these options.

- **Less than half time (LHT)**
  - 14 hours or less a week; can have more than one LHT role as long as all jobs are 14 hours or less
  - Assignment may or may not have an end date
  - May become eligible for limited benefits if the individual works 9 of 12 months for at least 360 hours in a given fiscal year

- **Temporary payroll – Administrative and professional or non-exempt staff**
  - Up to three months maximum for non-exempt staff and six months maximum for exempt staff
  - Can be up to full time
  - Must have a 8 month break before another assignment in the same department or School for non-exempt temps
  - Agency temps fall under the 3-month maximum; monitored by Labor Relations for union agreement compliance
  - Not eligible for benefits

- **Temporary payroll – Academic appointment**
  - Used to pay course instructors for teaching, recurring speaking engagements
  - Timeframe on the payroll is flexible
  - Not eligible for benefits

- **Term appointment**
  - Must be posted on Harvard Careers (ASPIRE)
  - Can be up to full time
  - Extension subject to an additional FTE request
  - Eligible for full benefits

- **Payment through an outside agency (for out of state hiring)** – May require an administrative fee
- Temporary agency
- Payroll service provider
- Affiliate institution

- Harvard Global (separate entity)
  - Option for expatriate employment and payroll
  - Possibilities vary by country

- Payment through another organization or University
  - Make contact to determine feasibility
  - Could be subcontract/agreement

- **Honorariums**: A payment of no set value made to reward a guest speaker or a lecturer as a "thank you" gesture of good will and appreciation. It is not an agreement or legal obligation to pay.

  **For individuals on the payroll, the payment must be processed through Additional Pay:**
  - For **active paid** academic employees only (specifically Sr. Faculty, Jr. Faculty, & Other Academics)
  - Use the Honorarium earnings code reason
  - Charge to object code 6200 (Wasabi will populate this for you)
  - Recurring situations must be discussed with Faculty Affairs. In these cases, additional payments may need to be processed as Additional Pay Professional Services.

  **For one-time honorariums to individuals not on the payroll or to a company:**
  - Payments are processed in the HCOM system
  - Charge to object code 8690 or 8692
  - For recurring honorariums to individuals not on the payroll, discuss with your HR Partner or Faculty Affairs **in advance** to determine the best course of action.

  **Note**: An honorarium **is not** based on an agreed amount between the individual providing services and the individual seeking services (and therefore an invoice should not be received). If payment is agreed upon, this constitutes a contractual agreement which must be formally recognized in some contractual form.

- See section VI. Related Documents and Policies on page 9 for additional guidance from University Financial Services on Honoraria and Reimbursements for Foreign Nationals

**IV. Roles and Responsibilities**

**Harvard Chan School departmental faculty and staff** are responsible for:
- Following the guidance set forth in this document
- Consulting with the departmental administrator on any questions about the information presented in this document

**The Departmental Administrator** is responsible for:
- Ensuring the information presented in this document is communicated to and followed by faculty members, as well as communicated to other departmental staff as needed
- Consulting with SPH Human Resources and/or the SPH Office of Financial Services on questions about the information presented in this document before engaging an individual or individual operating under a business.

**Harvard Chan School Human Resources** is responsible for:
• Maintaining, updating, and communicating changes to the information presented in this document
• Providing guidance and support needed by departments to follow the procedures presented in this document
• Reviewing and approving any IC arrangements prior to engagement

**Harvard Chan School Office of Financial Services** is responsible for:

• Working with the Harvard Chan School Human Resources to maintain, update and communicate changes to the information presented in this document
• Providing guidance and support needed by departments to follow the procedures presented in this document
• Providing guidance and support for the HCOM system where appropriate

**V. Contacts**

For questions on the information presented in this document, please contact:

• Your HR Partner
  Harvard Chan School Human Resources
  [http://www.hsph.harvard.edu/human-resources/whos-who-in-hr/who-we-are/](http://www.hsph.harvard.edu/human-resources/whos-who-in-hr/who-we-are/)
VI. Related Documents and Policies

- **Harvard Policy on Independent Contractor Classification**:  
  [http://policies.fad.harvard.edu/pages/independent-contractors](http://policies.fad.harvard.edu/pages/independent-contractors)

- **HU/Harvard Chan School Forms Related to this Policy:**
  - *Harvard Chan School Form for Short Term Engagements*
  - *Harvard Chan School Approval Form for Short Term Engagements Less than $3K*
  - *Independent Contractor Questionnaire*
  - *HU Short Form Model Consultant Agreement (DOC) - less than $50K*
  - *HU Long Form Model Consulting Agreement (DOC) - $50K or more*  
    [http://ogc.harvard.edu/pages/model-documents](http://ogc.harvard.edu/pages/model-documents)

- *Model Speaker Consent Form for Audio/Video Recordings*
- *Model Speaker Consent Form-No Recording*  
  [http://ogc.harvard.edu/pages/model-documents](http://ogc.harvard.edu/pages/model-documents)

- **Fringe Rates**:  

- **Honoraria and Reimbursements for Foreign Nationals**  