

I. PURPOSE

To establish the definition for independent contractor status and to provide guidelines for determining this status according to State and Federal law.

II. POLICY

Personnel will be classified as independent contractors only when the characteristics of their work agreement meet the provisions established by State and Federal law. All other employees are defined by the provisions in Policy No. 010, Definitions of Employment Status.

III. DEFINITION

An independent contractor is any person who performs work where the employer controls the result of that work, but not the means by which the result is accomplished.

In addition to this "right to control" guideline, "secondary factors" are also used in determining independent contractor status. These secondary factors are as follows:

- The person performing the work has a distinct occupation indicative of independent contract status;
 - The work is usually performed without supervision;
 - The worker possesses a special skill;
 - The worker provides his or her own tools;
 - The worker performs the job over a short period of time;
 - The person has his/her own business and the Agency is paying a marked-up overhead rate;
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Independent Contractors, Continued

- The employee is paid a lump sum as opposed to an hourly wage;
- The work performed is not a normal part of the principal business; and
- The parties intended the worker to be an independent contractor.

For workers' compensation purposes, an individual who is already an employee of the Agency will be considered an employee of the Agency in connection with any work performed for the Agency.

IV. PROCEDURE AND RESPONSIBILITIES

- A. When the Department wishes to hire an independent contractor, the Department will follow the appropriate procurement procedures.
 - B. The Contracts Officer will review the independent contractor questionnaire to confirm whether the relationship is an employment or independent contractor relationship.
 - C. If the Contracts Officer has any uncertainty as to whether it is an independent contractor relationship, the question will be submitted to Personnel for review.
 - D. When it is determined that an individual is an independent contractor, there will be no employment relationship, (i.e. the Agency will not make contributions to either unemployment insurance, PERS, or worker's compensation on the staff member's behalf) and the appropriate procurement procedures will be utilized.
 - E. Should it be determined that the person is not an independent contractor, the appropriate hiring procedures shall be followed.
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