

Contractor/Employment Checklist

In recent years, additional clarification of the proper characterization of workers as independent contractors or employees has been provided as a result of the increased scrutiny by the Internal Revenue Service and other governmental agencies (both state and federal) with respect to whether individuals or entities are properly characterized as independent contractors or employees. This checklist is one aspect of MATC's response to such clarification as it strives to make proper internal characterizations of an individual as an independent contractor or employee. Your completion of this checklist will help keep MATC in compliance with tax and employment laws, rules and regulations.

Before proceeding to the detailed Checklist, the MATC supervisor must answer and initial the answers to the following questions about the work to be performed:

- 1) Is the person who will perform the work a current or retired MATC employee? _____
- 2) Is the person who will perform the work an MATC student? _____
- 3) Is the person who will perform the work replacing an MATC employee, due to leave of absence or other temporary circumstance? _____
- 4) Do any current employees perform these tasks as part of their regular job? _____
- 5) Does the project you are planning involve bargaining unit work? _____
- 6) Is the person who will perform the work a retired MATC employee, who is being brought back for a short time to perform some or all of his/her prior work, or to train someone in the performance of such work? _____

If the answer to any of these questions is "YES" or "I don't know" STOP here.



Employee classification is required and you do not need to complete the Checklist. Consult an HR Recruiter to begin the hiring process.

If the answer to all of the prior questions is "NO," proceed to answer the more detailed questions below, and attach documentation as appropriate.

Name of Proposed Person/Entity Who Will Perform Work: _____

Describe Proposed Task/Services (attach separate sheet if necessary): _____

Initiating Dept. _____

Checklist Completed By: _____ **Date** _____

Budget Manager: _____ **Date** _____

Extent of Control over the Person Performing Work

One of the most important factors in determining whether an individual or entity is an employee or an independent contractor is whether the hiring party has a significant degree of control over that individual or entity. The greater the degree of control, the more likely that employee classification is appropriate.

1. Will the person be supervised in the day-to-day performance of its tasks? Yes No
2. Will the person be trained by MATC? Yes No
3. Will MATC mandate that the subject tasks (or a portion thereof) be performed by a particular individual? Yes No
4. Will MATC require the person to complete certain components of the contemplated task before others? Yes No
5. Will MATC require the person to make or file periodic progress reports? Yes No

Time Required of the Person Performing Work

Generally speaking, the greater demand MATC places-on an individual's or an entity's time, the greater the likelihood that employee classification is appropriate.

1. Will the project require over one-third (1/3) of the person's time? Yes No
2. Will the project require over two-thirds (2/3) of the person's time? Yes No
3. Is MATC expected to retain the person for more than two (2) weeks? Yes No
4. Is MATC expected to retain the person for more than three (3) months? Yes No
5. Will the person be paid by the hour, day, week or month? Yes No
6. Will the person be working for only MATC during the contemplated project? Yes No

Established Business – Include Documentation

The propriety of a classification as independent contractor may often turn on whether or not the individual or firm has an established business. For this reason, not only are your answers to the following questions important, but so too is the follow-up related to building the file with advertisements, business cards and other evidence of the established nature of the individual or firm's business. Failure to include documentation supporting the responses to the questions below may result in denial of independent contractor status.

1. Does the person maintain its own place of business?
(For purposes of this question, please disregard an office maintained at the proposed independent contractor's personal residence) Yes No
2. Does the person make its services available to the general public?
(e.g., Yellow Pages ad, business cards, newspaper ads, etc.) Yes No
3. If the person will employ its own workers on the project, will the person obtain workers' compensation insurance and pay employment taxes for such workers? Yes No
4. Does the person have a Federal Tax ID? Yes No
5. Does the person provide the same exact services to other businesses? Yes No

Independence of Person Performing Work

The greater the extent to which an individual or firm will rely on MATC in the performance of its tasks, the greater the likelihood that employee classification is appropriate.

1. Will MATC supervise any of the person's assistants? Yes No
2. Will MATC provide or hire assistants for the person? Yes No
3. Will MATC be responsible for any of the person's business expenses? Yes No
4. Will MATC be responsible for any of the person's traveling expenses? Yes No
5. Will MATC be responsible to provide the person with any of the tools and materials that the project requires? Yes No
6. Will MATC be responsible for the maintenance of any such tools or materials? Yes No
7. Has the person made relatively little or no investment in its business? Yes No
8. Does the entity perform the same work of MATC employees? Yes No

Nature of Agreement

The language of an independent contractor agreement can have a significant impact on the proper characterization of the proposed independent contractor. If a non-standard agreement is to be used, it must be approved by MATC General Counsel.

1. Will the person enter into an approved written independent contractor agreement with MATC? Yes No

Risk Assumed by Person

Independent contractors characteristically face some degree of risk – their profits will depend on their efficiency or they may bear the burden of the failure of a certain contingency to occur. The absence of any such risks is indicative of employee status.

1. Will the person be guaranteed a certain level of profit on the contemplated project? Yes No

Yes No

2. Will both MATC and the person be free from any restrictions on, or penalties related to, their ability to terminate the agreement?

Scoring

Section		
Extent of Control over person	# of yes answers	_____
Time Required of person	# of yes answers	_____
Established Business	# of no answers	_____
Independence of person	# of yes answers	_____
Nature of Agreement	# of no answers	_____
Risk Assumed by person	# of yes answers	_____
	Total	_____

Result

0 - 6 Requestor routes this completed Checklist to the Office of General Counsel, Main Campus, Room M278 for review.

7+ Because evaluation points to an employment relationship, supervisor should enter person into employment process in Human Resources or complete a new Checklist for a different vendor/contractor, or:

Supervisor may consult the Office of General Counsel for further clarification.

For General Counsel Use:

Result: Independent Contractor Further Review Required Employee

Reviewed by HR: _____ **Date** _____

If the Office of General Counsel codes this request as an Independent Contractor arrangement - **Requestor's Next Steps:**

- Contact the Purchasing Department at 414-297-7724 or visit Room M70 to obtain Independent Contractor (IC) Agreement and W-9 forms.
- Complete IC and W-9 forms. Attach forms to the Approved Checklist and return to the Purchasing Department – Room M70.
- Enter a requisition (EPR) in Cosmo for this request.