

**Checklist for Determining Whether an Individual is an Employee or an Independent Contractor**

|   | Employee   | IC         |
|---|------------|------------|
| <b>Part I: Will UWM do, or have the right to do, any of the following: [Yes = Employee; No = Independent Contractor]</b>  | <b>Yes</b> | <b>No</b>  |
| 1. Tell the individual how, when, or where to do the work (as opposed to relying on the individual's expertise)?  |            |            |
| 2. Dictate what tools or equipment should be used to complete the project?  |            |            |
| 3. Decide who, if anyone, the individual can hire to help with the work?  |            |            |
| 4. Pay, hire and/or supervise any assistants hired to help the individual with the project?   |            |            |
| 5. Determine where the individual can purchase supplies and/or services?  |            |            |
| 6. Train the individual?  |            |            |
| 7. Provide insurance, sick leave, vacation or other benefits?   |            |            |
| 8. Require him/her to attend regular meetings?  |            |            |
| 9. Require that the services be personally rendered (the individual cannot hire someone else to complete the job)?  |            |            |
| 10. Set specific work hours (e.g. 9-4) or require that a set number of hours be worked (as opposed to allowing him/her to set his/her own schedule)?  |            |            |
| 11. Require the individual to work full-time or devote substantially all of his/her time to the project?  |            |            |
| 12. Discharge the individual?   |            |            |
| 13. Terminate the agreement/relationship with the individual at any time without incurring liability?   |            |            |
| 14. Dictate the order or sequence that the work is performed (as opposed to merely expecting the delivery of the final product)?  |            |            |
| 15. Require the individual to submit regular oral or written reports?   |            |            |
| 16. Is the work performed at UWM or at a place controlled by UWM or does UWM otherwise require the individual to perform work at a specified location?  |            |            |
| 17. Pay the individual an hourly, weekly, or monthly rate (however, a lump sum can be paid in smaller increments without indicating employee status)?   |            |            |
| 18. Pay any of the individual's business and/or traveling expenses (e.g. mileage, phone bills, parking, conference fees)?   |            |            |
| 19. Provide the individual with the tools, materials and/or equipment to carry out the work (e.g. voicemail, office space, a phone, computer, fax machine)?                                   |            |            |
|   |            |            |
| <b>Part II. [Yes = Employee; No = Independent Contractor]</b>   | <b>Yes</b> | <b>No</b>  |
| 20. Do the parties have a continuing relationship (frequently recurring although irregular intervals should be counted as a continuing relationship)?   |            |            |
| 21. Is the individual the primary instructor of a course, be it for college credit, continuing education credit or non-credit (as opposed to a one or two time guest lecturer)?               |            |            |
| 22. Are the services being performed in regularly scheduled classes over a period of time?  |            |            |
| 23. Is the individual being hired to perform services for a University Department?  |            |            |
| 24. If the individual is a researcher, will s/he be working under the direction of a UWM professor or other UWM employee (as opposed to in a collaborative, advisory or consulting capacity)? |            |            |
|   |            |            |
| <b>Part III. [No = Employee; Yes = Independent Contractor]</b>  | <b>No</b>  | <b>Yes</b> |
| 25. Does the individual have a significant investment in tools/facilities necessary to complete the work (e.g. s/he has a home office or rents office space or owns his/her own equipment)?   |            |            |
| 26. Can the individual realize a profit or suffer a loss under the contract?  |            |            |
| 27. Is the individual performing more than de minimis services for clients other than UWM?  |            |            |
| 28. Is the individual making his services available to the general public (e.g. advertises, holds himself as out as an individual for hire)?  |            |            |
| 29. Does the individual provide services under a registered or licensed business name?  |            |            |
| 30. Is the individual receiving an unusually large (indicating expert) or small (indicating token appreciation) amount of pay for the services provided?                                      |            |            |

If the answer to any question in Part I or Part II was "yes" and/or the answer to any question in Part III was no, the UBR must consider the totality of the circumstances and make a reasoned decision as to whether the individual is more like an employee or an independent contractor. That analysis should be documented in case of future audit. When the determination is unclear, the UBR should contact the Office of Legal Affairs to discuss.

\_\_\_\_\_  
Name of Person Completing Checklist

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

UWM & UW System policies which the UBR may also want to consult can be found at:

- Financial Administration: Personal Services Payments (F31) <http://www.uwsa.edu/fadmin/fppp/fppp31.htm>;
- UWM Administrative Services Manual: Policy 2.4.1 (Employer/Employee Relationships) <http://www.bfs.uwm.edu/ASM/view.aspx?id=2.4.1&d=1>;
- Policy 2.4.3 (Independent Contractors) <http://www.bfs.uwm.edu/ASM/view.aspx?id=2.4.3&d=1>;
- Policy 2.4.4 (Academic Support Services Agreements) <http://www.bfs.uwm.edu/ASM/view.aspx?id=2.4.4&d=1>