

Paying Contracted Individuals: Payroll or Invoice

Purpose:

To determine if a person performing work at the University and receiving payment as an individual is an employee or a contractor as per the Employment Standards Act and to then conclude the appropriate method of payment for those services. Unless an individual is explicitly approved as an independent contractor, the employee payroll processes will apply.

Additional Authority:

Payment Services, Human Resources, Employment Standards Act

Scope:

CBS faculty, staff, and students

Responsible Party:

Administration for each department, CBS Purchasing Unit, faculty

Background

The Employment Standards Act clearly differentiates between contacted service providers and employees. The University must follow all government guidelines in paying individuals to ensure the appropriate tax treatments are provided. In instances where the University is making a payment directly to an individual, it must first be determined if it is deemed to be an employment or a contractor relationship. If this is not done correctly, the institution is subject to penalties and additional costs for statutory deductions that should have been made for an employee.

It is the department's responsibility to ensure that appropriate evidence has been gathered to support the position that the University has engaged an independent contractor. Any penalties that may result from the failure to withhold statutory deductions may be charged to the department and/or grant. Departments can receive assistance in making the independent contractor determination by contacting their human resources service co-ordinator.

The University uses four major factors to determine whether the terms and conditions of the work to be performed constitutes an employee/employer or independent contractor relationship. This determination includes, but is not limited to, an assessment of four factors of the work relationship: control, specific results, chance of profit/risk of loss and organizational integration. It is important to note that one factor alone is not conclusive in determining whether an employee/employer relationship exists.

Per the University of Guelph policy, the [Employment vs. Contracted Services Relationship Questionnaire](#) must be completed **in advance of initiating a work agreement** for all individuals who are proposing to provide services to the University and not be on the University payroll. The relationship questionnaire is used to determine employment status (i.e. to identify an employee/employer relationship or an

independent contractor relationship) and ensures the University remains in compliance with Canada Revenue Agency and other government requirements. This form must be submitted prior to an appointment to determine whether an employment relationship exists.

To provide guidance on when the form is and is not required, a brief summary is included. Please note that it is not exhaustive, and if you are unsure, please contact your administrative officer.

Form Required:

- Consulting services
- Analytic services
- IT or web services
- Writing, editing, proof-reading services
- When an individual has their own named business (e.g. John Smith Consulting Services)

Form Not Required:

- The payment involves **only** reimbursing an individual for receipted expenses such as mileage or supplies.
- Payment of student bursaries, scholarships, etc. from the department instead of Student Financial Services
- Payment of any individual who is on payroll

Procedure

1. Faculty responsible for the grant being charged should ensure the relationship questionnaire is completed and evaluated and signed by the department administrative officer or chair prior to an individual performing service for the University.
2. The chair or budget officer must review and sign the questionnaire and submit it to the appropriate service associate in Human Resources who will determine if an employment relationship exists.
3. The results of the relationship questionnaire will be used to determine appropriate payment methods (i.e. processed Payment Services or through the Human Resources payroll system).
 - a. If an employment relationship exists, the grant-holder must contact the administrative officer in the department to initiate the appropriate HR processes to put the individual on payroll.
 - b. If no employment relationship exists, the grant-holder must complete the order request form and submit it to cbsclerk@uoguelph.ca to initiate a purchase order. In these instances, a social insurance number is required to be included on the order request paperwork to ensure the appropriate tax treatment is administered.

Consequences for not submitting the form

If the questionnaire is not completed as supporting documentation for a payment, and it is determined that the services were provided in the context as an employee, but were paid through Payment Services, the University may be required to pay CPP, EI, Employer Health Taxes plus penalties and interest. The University will also be subject to potential fines for non-compliance. These fees will be charged back to the appropriate grant.