

OPERATIONAL SERVICES DIVISION, OFFICE OF THE COMPTROLLER & HUMAN RESOURCES DIVISION

EMPLOYMENT STATUS FORM

FOR DETERMINING STATUS OF CONTRACT EMPLOYEE/INDEPENDENT CONTRACTOR

INDIVIDUAL CONTRACTOR NAME: _____

PROJECT/CONTRACT DESCRIPTION/#: _____

Departments are required to determine the type of work to be performed and whether it qualifies for contract employee or independent contractor status PRIOR TO PROCURING THE SERVICES. Once an individual contractor is hired, this form must be completed and filed with the contract. Pursuant to M.G.L. c. 149, s. 148B, an individual contractor is presumed to be a contract employee unless they meet all factors of the three-factor test (below). The department must attach any relevant documentation in order to support independent contractor status.

Three Factor Test and Factors to Consider. Check the appropriate column box for each of the three numbered factors of the test. If the answer to <u>any</u> of the factors below is “FALSE/NO”, then the overall answer should be “NO” and the individual should be a contract employee. Below each of the three test factors are additional factors to consider in determining each respective test factor.	TRUE YES	FALSE NO
1. The individual is free from control and direction in connection with the performance of the service, both under his/her contract for the performance of service and in fact.		
a. The department does not provide instructions to the worker about when, where, and how he or she is to perform the work, does not set the work hours and daily schedule as it would for its employees and the worker is not required to perform the services in a standard or predefined order or sequence set by the department. The department does not provide the same or similar training to the worker to perform the work for the department that it provides to its other employees.		
b. The department does not hire, supervise and pay assistants for the worker or pay for business or traveling expenses of the worker (unless travel is negotiated as a requirement of the contract and costs are negotiated). Any assistance needed by the worker is self-provided since the worker may not supervise department staff.		
c. The work relationship between the department and the worker will not continue beyond the current project/contract. If the individual is continually hired from project to project and maintains an ongoing contractual relationship with the department, the answer to this section is “NO” and the presumption will be that the individual should be a contract employee unless all other factors support independent contractor status.		
d. Work is performed on the department's premises with limited access to department resources only to the extent necessary to perform services and not because the worker does not have available facilities or equipment. The worker furnishes his/her own tools, materials and equipment, relies little on department support resources, and has a significant investment in his/her own facilities.		
e. Worker is required to submit oral or written reports to the department documenting work status because department is not overseeing day-to-day performance.		
2. The service is performed outside the usual course of the business of the employer.		
The services performed by the worker are not integrated into the department's business operations. If the services or work performed are the same or similar as work performed by other state employees, or the department as a whole, the answer to this section is “NO” and the individual will be a contract employee.		
3. The individual is customarily engaged in an independently established trade, occupation, profession or business as services provided for the department.		
The worker does not devote substantially full time to the business of the department. The worker provides services for more than one client at a time or to the general public. If the individual's business is substantially subsidized by a single department with limited funding from other clients, the answer to this section is “NO” and the individual will be a contract employee.		

The department hereby certifies to the best of their knowledge and belief that the individual contract relationship described above qualifies as (select only one):

Contract Employee OR Independent Contractor

Signature

Title

Printed Name

Date