



Minnesota
STATE COLLEGES
& UNIVERSITIES

Human Resources Guideline & Interpretation

Hiring Standards/Conflict of Interest: Employees vs. Contractors

#STG0006

Purpose: To provide guidelines regarding the hiring of independent contractors and consultants.

Affects:

All system colleges, universities, and the office of the chancellor

Authoritative References:

<http://www.irs.gov/businesses/small/article/0,,id=99921,00.html>

[Laws of Minnesota, Chapter 254, Article 1, Section 55](#)

Required Forms: None

Responsibility for Implementation:

College and university hiring managers responsible for ensuring that outside consultants are used appropriately. Chief Human Resource Officers should be aware of the independent contractor provisions and be able to properly advise managers or know when to consult with financial or legal experts.

Attachments: None

Introduction:

Colleges and universities occasionally find it necessary to hire outside contractors for special projects. It is sometimes difficult to determine if it is more appropriate to hire employees for these projects or to contract with an outside vendor. The above-referenced IRS web-site, *Independent Contractor vs. Employees*, should assist campuses determine when it is/is not appropriate to contract for these services. Since contractors are not subject to withholding for federal, state, FICA/Medicare, or other deductions, it is important that campuses carefully consider the ramifications of entering into contractual agreements with vendors. Failure to hire under the correct category could result in retroactive charges for federal/state withholding and possible tax penalties. Due to income tax reporting concerns, individuals should not be processed to both the payroll system and hired as a consultant during a calendar year.


In addition to the IRS guidelines, Laws of Minnesota, Chapter 254, Section 55 regarding Professional or Technical Service Contract Conflict of Interest Guidelines provides that any employee who is involved in making contracting decisions should not:

1. have any financial interest in and not personally benefit from the contract;

2. accept from a contractor or bidder any promise, obligation, contract for future reward, or gift; and
3. appear to have a conflict of interest because of a family or close personal relationship to a contractor or bidder, or because of a past employment or business relationship with a contractor or bidder.

Campuses should document reasons for using the contractor classification where appropriate in case of an audit.

Original approval: **November 22, 1996**
Revised: **April 4, 2001**
 February 9, 2007



Vice Chancellor, Human Resources

February 12, 2007

Date