

# Employee Versus Independent Contractor Checklist



The checklist below is to be used to determine how to properly classify a worker (an employee versus an independent contractor), considering the "totality of the circumstances" based on the following categories – Behavioral Control, Financial Control and Relationship of the Parties per the Internal Revenue Services (IRS). This form needs to be completed by the Brown employee seeking to engage the individual. If the individual is a current or former Brown employee, you must receive prior approval from University Human Resources (UHR) before entering into a Professional Services Agreement (PSA). If the individual does not meet the independent contractor test, the individual can only be hired through UHR or the temporary employment agency Brown contracts with.

A "YES" response to the question tends to either strengthen or weaken the case that the individual is an independent contractor. Place close attention to the "yes" responses. Please note that a second level review may be required by UHR.

## Section I

BEHAVIORAL CONTROL- DOES BROWN HAVE THE RIGHT TO DIRECT AND TO CONTROL THE WORK PERFORMED BY THE WORKER?	YES	NO
DOES THE INDIVIDUAL CURRENTLY WORK FOR BROWN OR WILL THE INDIVIDUAL BE PERFORMING SERVICES IN SIMILAR CAPACITY OR UNDER THE SIMILAR ADMINISTRATION AND CONTROL AS TO WHEN THEY WERE AN EMPLOYEE? (SAME DEPARTMENT/SAME SUPERVISOR)	<input type="checkbox"/>	<input type="checkbox"/>
IS THE INDIVIDUAL REQUIRED TO COMPLY WITH INSTRUCTIONS FROM BROWN AS TO WHEN, WHERE, AND HOW THE WORK IS COMPLETED?	<input type="checkbox"/>	<input type="checkbox"/>
DOES BROWN REQUIRE TRAINING ON HOW TO PERFORM THE TASK?	<input type="checkbox"/>	<input type="checkbox"/>
DOES THE INDIVIDUAL HIRE AND SUPERVISE EMPLOYEES OF BROWN?	<input type="checkbox"/>	<input type="checkbox"/>
DOES THE INDIVIDUAL SET OWN HOURS?	<input type="checkbox"/>	<input type="checkbox"/>
DOES THE INDIVIDUAL PERFORM SERVICES OFFSITE?	<input type="checkbox"/>	<input type="checkbox"/>
DOES BROWN DETERMINE THE SEQUENCE OF TASKS REQUIRED TO COMPLETE THE WORK?	<input type="checkbox"/>	<input type="checkbox"/>
DOES THE INDIVIDUAL HAVE THE OPTION OF SUBMITTING WRITTEN OR ORAL REPORTS TO BROWN?	<input type="checkbox"/>	<input type="checkbox"/>

## Section II

FINANCIAL CONTROL- DOES BROWN HAVE A RIGHT TO DIRECT OR TO CONTROL THE FINANCIAL AND BUSINESS ASPECTS OF THE WORKER'S JOB?	YES	NO
DOES THE INDIVIDUAL RECEIVE PAYMENTS OF REGULAR AMOUNTS AT SET INTERVALS, RATHER THAN PAID BY THE JOB?	<input type="checkbox"/>	<input type="checkbox"/>
DOES BROWN PAY FOR BUSINESS AND/OR TRAVEL EXPENSES FOR THE INDIVIDUAL?	<input type="checkbox"/>	<input type="checkbox"/>
DOES BROWN PROVIDE THE EQUIPMENT, SUPPLIES, OR MATERIALS NECESSARY TO PROVIDE THE SERVICE?	<input type="checkbox"/>	<input type="checkbox"/>
DOES THE INDIVIDUAL HAVE AN OWNERSHIP AND/OR FINANCIAL INTEREST IN OWN BUSINESS?	<input type="checkbox"/>	<input type="checkbox"/>
WILL THE INDIVIDUAL RECOGNIZE A PROFIT OR A LOSS BASED ON GOOD OR BAD MANAGEMENT DECISIONS?	<input type="checkbox"/>	<input type="checkbox"/>

## Section III

RELATIONSHIP- THE TYPE OF RELATIONSHIP DEPENDS UPON HOW THE WORKER AND BROWN PERCEIVE THEIR INTERACTION WITH ONE ANOTHER	YES	NO
DOES THE INDIVIDUAL WORK ONLY FOR BROWN?	<input type="checkbox"/>	<input type="checkbox"/>
IS THE INDIVIDUAL A BROWN STUDENT?	<input type="checkbox"/>	<input type="checkbox"/>
HAS THE INDIVIDUAL HAD OR WILL THEY HAVE A LONG TERM RELATIONSHIP WITH BROWN?	<input type="checkbox"/>	<input type="checkbox"/>
COULD THE INDIVIDUAL INCUR LEGAL LIABILITY IF THE CONTRACT TERMS ARE NOT MET?	<input type="checkbox"/>	<input type="checkbox"/>
CAN THE INDIVIDUAL BE FIRED AT ANY TIME BY BROWN?	<input type="checkbox"/>	<input type="checkbox"/>
DOES THE INDIVIDUAL ADVERTISE THEIR SERVICES TO OTHER ENTITIES?	<input type="checkbox"/>	<input type="checkbox"/>
IS THE SERVICE PROVIDED INTEGRAL TO THE REGULAR OPERATIONS OF BROWN AND PERFORMED ON A ROUTINE BASIS?	<input type="checkbox"/>	<input type="checkbox"/>
FOR ASSISTANCE, DOES THE INDIVIDUAL HIRE OWN EMPLOYEES?	<input type="checkbox"/>	<input type="checkbox"/>
WILL THE WORK BE PERFORMED OUTSIDE OF THE UNITED STATES?	<input type="checkbox"/>	<input type="checkbox"/>
<b>CERTIFICATION: Based on the above, it is my determination that the proper classification on this individual is:</b> Employee:	<input type="checkbox"/>	
Independent Contractor:	<input type="checkbox"/>	

**Note: A misclassification may result in taxes, interests, and penalties being assessed by the IRS. If this happens, department will be billed for their proportional taxes, interest, and penalties.**

PERIOD OF PERFORMANCE: \_\_\_\_\_ DEPARTMENT: \_\_\_\_\_  
 NAME OF PROPOSED INDEPENDENT CONTRACTOR: \_\_\_\_\_

PRINTED NAME OF PERSON COMPLETING: \_\_\_\_\_ DATE: \_\_\_\_\_