

An Independent Contractor *typically* meets the following requirements:

- Provides a unique service that is not available from another source within USNH or that USNH entities could not provide at the time needed (i.e. due to time/staffing constraints, capabilities, etc.)
- Provides a unique service outside of USNH. The individual should be uniquely qualified, cost effective, and may meet other criteria. (i.e. expert in research field, etc.)
- Provides a service which encompasses 3 days or more per fiscal year, including services provided to any other USNH departments
- Is an individual or partnership, rather than a corporation* (non-profits, i.e. state or federal government agencies, universities, etc., do not require an ICA);
- Does not meet the IRS definition of “employee” ([Independent Contractor \(Self-Employed\) or Employee? | Internal Revenue Service \(irs.gov\)](#))
- Is not a USNH employee
- Does not have a personal or close familial relationship with a USNH employee.

ICA Checklist - For Individuals only IRS Guidance	
	Behavioral: Does the company control or have the right to control what the worker does and how the worker does his or her job?
1.	Must the individual take instructions from your management staff regarding when, where and how work is to be done?
1a.	<i>Typically No. An independent contractor is free from the University System's control or direction when providing services. The Contractor will not be required to follow, nor will he/she be furnished with instructions to accomplish his/her job. If USNH has the right to require compliance with instructions, this level of control is typical of an employee/employer relationship. There may be rare exceptions for academic and research contractors.</i>
2.	Does the individual receive training from your company?
2a.	<i>Independent contractors should not require training to perform their work.</i>
	Financial: Are the business aspects of the worker's job controlled by the payer? (these include things like how worker is paid, whether expenses are reimbursed, who provides tools/supplies, etc.)
3.	Is the success or continuation of your business somewhat dependent on the type of service provided by the individual?
3a.	<i>If the success or continuation of USNH operations depends on the services of the outside contractor, this would likely require a level of direction and control of the worker similar to that of an employee.</i>
4.	Must the individual personally perform the contracted services?
4a.	<i>The Contractor will provide a result and will have the right to hire others to do the actual work. If assistants are hired, it will be at the Contractor's sole discretion. The Contractor will be responsible for hiring, supervising, and paying those assistants.</i>
5.	Have you hired, supervised, or paid individuals to assist the worker in completing the project stated in the contract?
5a.	<i>The Contractor can hire and manage support. USNH staff should not be required to hire supporting staff for the independent contractor.</i>
	Type of Relationship: Are there written contracts or employee type benefits (i.e. pension plan, insurance, vacation pay, etc.)? Will the relationship continue and is the work performed a key aspect of the business?
6.	Is there a continuing relationship between your company and the individual?
6a.	<i>If the relationship is frequent, it will be at irregular intervals, on call (not full-time), or whenever work is available. Part-time, seasonal, or short-duration relationships have no impact on an independent contractor status.</i>
7.	Must the individual work set hours?

7a.	<i>Requiring certain hours would indicate a level of control typical of employees. There may be academic or research exceptions</i>
8.	Is the individual required to work full time at your company?
8a.	<i>An independent contractor is free to work when and for whom he or she chooses.</i>
9.	Is the work performed on company premises?
9a.	<i>Can be yes or no, for example, a photographer may need to work on premise, but a bookkeeper should not be required to work on campus.</i>
10.	Is the individual required to follow a set sequence or routine in the performance of his work?
10a.	<i>The independent contractor sets and follows their own process and schedule. There may be exceptions for academic or research contractors</i>
11.	Must the individual give you reports regarding his/her work?
11a.	<i>Since the Contractor is being hired for the final result he/she will not be asked for progress or interim reports. There may be rare exceptions for academic and research contractors.</i>
12.	Is the individual paid by the hour, week, or month?
12a.	<i>The Contractor will be paid by the job, not by time. Payment by the job can include periodic payments based on a percentage of the completed job. Payment can be based on the number of hours needed to do the job times a fixed hourly rate. However, this will be set in advance of the job.</i>
13.	Do you reimburse the individual for business/travel expenses?
13a.	<i>The Contractor will be responsible for his/her incidental expenses. There may be rare exceptions for academic and research contractors.</i>
14.	Do you supply the individual with needed tools or materials?
14a.	<i>The Contractor will furnish his/her own tools. There may be rare academic or research exceptions.</i>
15.	Have you made a significant investment in facilities used by the individual to perform services?
15a.	<i>No investment should be required for this contractor to complete their work.</i>
16.	Is the individual free from suffering a loss or realizing a profit based on his/her work?
16a.	<i>An independent contractor is free to realize a profit or a loss. Pursues a profit motive - a worker who can realize a profit or loss from his/her services is generally an independent contractor. An employee is not normally in such a position. Contractor can make a profit or a loss for any of the following: - The Contractor hires, directs and pays assistants - He/she has own office, equipment, materials, or facilities</i>

	<ul style="list-style-type: none"> - <i>The Contractor has continuing and recurring liabilities</i> - <i>The Contractor has agreed to perform specific jobs for prices agreed upon in advance</i> - <i>The Contractor's services affect his/her own business reputation</i>
17.	Does the individual have other clients he/she services as an independent contractor?
17a.	<i>The contractor is able to have other clients at any time.</i>
18.	Does the individual make his/her services available to the public?
18a.	<p><i>The Contractor can make his/her services available to the general public by</i></p> <ul style="list-style-type: none"> - <i>Having an office and assistant</i> - <i>Having business signs</i> - <i>Having a business license</i> - <i>Listing his/her services in a business directory</i> - <i>Advertising his/her services</i>
19.	Do you have the right to discharge the individual?
19a.	<i>The contract cannot be terminated so long as the Contractor produces a result which meets the contract specifications.</i>
20.	May the individual terminate his services at any time?
20a	<i>If the person performing the work wants to end the relationship at any time he or she wishes without incurring liability, that indicates an employer-employee relationship.</i>
<i>Comment</i>	<i>An employee can never be an independent contractor.</i>