Contractor vs. Employee

Classification

- Classifying individuals as either employees or independent contractors is critical for compliance, pay practices, and institutional accountability.
- Misclassification can create risks for both the individual and the university.
- Individuals who perform work similar to that of LSU employees should be paid through Workday as employees, not as independent contractors.
- Anyone serving as an instructor of record must be hired through Workday as an employee.

Why It Matters

- Legal & Financial Risk: Misclassification can expose LSU to IRS penalties, back taxes, wage claims, and violations of LA Civil Service, and labor laws.
- Fairness of Pay/Benefits: Employees are entitled to protections like overtime pay, benefits, leave, and retirement contributions.
- Operational Integrity: Classification impacts how the organization budgets, applies HR policies, and ensures consistent treatment.
- Reputation and Trust: As a state university, we are held to high standards of transparency. Correct classification protects LSU from public scrutiny and ensures we're honoring commitments to both our workforce and compliance partners.

Key Considerations During Classification

- <u>Control</u>: Does LSU direct when, where, and how the work is performed? Employees typically follow LSU's instructions, and contractors control their own methods and schedule.
- <u>Nature of Work</u>: Is the work essential to LSU's ongoing operations, or is it a distinct service or deliverable provided for a limited time?
- Is the individual part of LSU's organizational structure with ongoing responsibilities, or are they providing expertise on a limited basis?
- <u>Financial Relationship</u>: Does the individual have the opportunity for profit or loss, use of own equipment, or the performance of similar services for other clients?

Key Considerations During Classification Continued

Factor	Employee	Independent Contractor
Control over work	Employer directs when, where, and how work is done.	Worker controls schedule, methods, and work process.
Tools & equipment	Employer provides tools, equipment, and materials.	Worker provides their own tools, equipment, and supplies.
Training	Employer provides training, procedures, or supervision.	Worker uses their own methods, little or no training required.
Schedule	Set hours or shifts, often ongoing/indefinite.	Sets own hours, works project-by-project or on short contracts.
Exclusivity	Usually works only for one employer at a time.	Free to work for multiple clients.
Payment	Paid hourly, weekly, or salary; guaranteed wages.	Paid per project, per milestone, or by invoice.
Expenses	Employer reimburses job-related expenses.	Worker covers their own expenses and overhead.
Profit/Loss	No risk of loss; income is steady.	Can make a profit or suffer a loss depending on how they manage business.
Benefits	Eligible for health insurance, retirement, PTO, etc.	No benefits — must provide their own.
Taxes	Employer withholds income tax, Social Security, Medicare.	Worker pays their own self-employment taxes.
Integration with business	Work is integral to the company’s core operations.	Work is ancillary or specialized, not part of day-to-day business.

Important Reminders

- Departments should coordinate with their HR contact before engaging anyone as an independent contractor.
- Departments should not ask the individual to register as an LSU supplier or submit a purchase requisition until it's confirmed the independent contractor criteria have been met.
- Reach out to your Compensation Consultant for guidance to ensure compliance with Civil Service, IRS, and university policies.