



# Harvard University

**RE: Guidance Regarding Independent Contractor Policy Requirements During the Coronavirus Disease 2019 (COVID-19) Public Health Emergency**

**Date: March 31, 2020**

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With the current **COVID-19** public health emergency, many questions have emerged about Harvard's Independent Contract (IC) Policy classification requirements. The state and federal requirements as detailed in the **Independent Contract Policy remain in effect**. If any changes are made, we will advise accordingly. Schools and units remain responsible for any financial consequences of a misclassification, and should bear that in mind when assessing the options. Please contact your local **Human Resources Office** and **Global Support Services**, as appropriate, for additional guidance. See **Payroll Guidance During the COVID-19 Public Health Emergency** for guidance on employees who planned to relocate to Massachusetts (MA) to work on campus but are no longer able to do so because of remote work requirements and/or travel restrictions.

## **Individuals Working Within the United States**

For work inside MA, Harvard must follow MA and federal rules and regulations for IC classification. For consistency, Harvard follows the MA and federal rules and regulations for IC classification for work outside of MA as well. Due to the transition to remote working and learning, as well as restrictions and advisories on travel imposed both by Harvard and the federal government, individuals who would have been classified as an employee with the expectation that they would be working on campus at Harvard may no longer be doing so. See **Payroll Guidance During the COVID-19 Public Health Emergency** for guidance on employees who had had accepted an offer of employment on or before 4/3/20 with the expectation that they relocate to Massachusetts to work. All other workers must be paid based on their current correct classification following federal and state requirements. Listed below are the most likely options for payment for individuals working outside of MA.

### ***Option 1: Partner with an established organization***

- Often individuals offering services to Harvard may have a primary work affiliation, at another university for example. In those cases, it may be possible for Harvard to partner with that organization and pay the organization directly through a service agreement, which may then pay the individual. This is often the most cost-effective, expedient, and low-risk solution.

### ***Option 2: Partner with an Outside Payroll/Agency Payroll***

- Schools participating in the **Harvard/Yoh Managed Services Program (MSP)** can ask individuals to sign up with one of the agencies under the program.
- Hiring departments can have an individual sign up with an outside agency such as **All Source**. Contact your local Human Resources Office for additional guidance.

## **Individuals Working Outside of the United States**

Harvard must follow the rules and regulations based on the country in which the work is taking place. Due to the pandemic, individuals who would have been classified as employees with the expectation that they would be traveling to or remaining in the U.S. may no longer be placed on a Harvard Payroll. Contact your Global Support Services consultant (if known) or **Global Support Services** for additional guidance. Below are the three most likely options for payment.

### ***Option 1: Partner with an established organization***

- Often individuals offering services to Harvard may have a primary work affiliation or other local employer affiliation. In those cases, it may be possible for Harvard to partner with that organization through a service agreement and pay the organization directly, which may then pay the individual. This is advantageous because the organization is familiar with the local laws of that country. This is often the most cost-effective, expedient, and low-risk solution.



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## ***Option 2: Work with Global Support Services to hire the individual through a Harvard office or an in-country professional employer organization (PEO)***

- The Harvard office or PEO is responsible for compliance with local laws.
- This may take several weeks to set-up and may not be optimal for work that may have already started in anticipation of the individual traveling to the U.S. and being placed on a Harvard payroll.
- This option can entail substantial fees.

## ***Option 3: Pay the Worker as a Vendor/Contractor***

- In certain circumstances, a worker might appropriately be classified as a contractor consistent with the Harvard IC Policy. The hiring department must confirm in writing with the individual that they are 1) authorized to work in the country to which we are processing a payment and 2) responsible for complying with any applicable regulations surrounding independent contractors, including taxes and business registrations. Schools should also complete a contract using the templates available on the OGC website.

## **Additional Information**

- [Payment Categories and Hiring Methods for Individuals Classified as an Employee](#)
- [Payroll Guidance During the COVID-19 Public Health Emergency](#)