

**Milwaukee Area Technical College  
Independent Contractor Review Checklist**

In recent years, additional clarification of the proper characterization of workers as independent contractors or employees has been provided as a result of the increased scrutiny by the Internal Revenue Service and other governmental agencies (both state and federal) with respect to whether individuals or entities are properly characterized as independent contractors or employees. This checklist is one aspect of MATC's response to such clarification as it strives to make proper internal characterizations of an individual or firm as an independent contractor or employee. Your completion of this checklist will help keep MATC in compliance with tax and employment laws, rules, and regulations.

**Name of Proposed Independent Contractor** \_\_\_\_\_

**Proposed Task:** \_\_\_\_\_ **Initiating Dept.:** \_\_\_\_\_

**Initiator Completing by:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Budget Manager:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Result:** Independent Contractor  Further Review Required  Employee

**Counsel:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Special Circumstances**

If the proposed independent contractor is a current MATC **employee** or an MATC **student**, or if the proposed project would involve **bargaining unit work**, the Supervisor should consider the proposed independent contractor an employee regardless of the total above.

**Extent of Control Over Independent Contractor**

One of the most important factors in determining whether an individual or entity is an employee or an independent contractor is whether the hiring party has a significant degree of control over that individual or entity. The greater the degree of control, the more likely that employee classification is appropriate.

1. Will the proposed independent contractor be supervised in the day-to-day performance of its tasks?  Yes  No
2. Will the proposed independent contractor be trained by MATC?  Yes  No
3. Will MATC mandate that the subject tasks (or a portion thereof) be performed by a particular individual?  Yes  No

4. Will MATC require the proposed independent contractor to complete certain components of the contemplated task before others?  Yes  No
5. Will MATC require the proposed independent contractor to make or file periodic progress reports?  Yes  No

### Time Required of Independent Contractor

Generally speaking, the greater demand MATC places on an individual's or an entity's time, the greater the likelihood that employee classification is appropriate.

1. Will the project require over one-third (1/3) of the proposed independent contractor's time?  Yes  No
2. Will the project require over two-thirds (2/3) of the proposed independent contractor's time?  Yes  No
3. Is MATC expected to retain the proposed independent contractor for more than two (2) weeks?  Yes  No
4. Is MATC expected to retain the proposed independent contractor for more than three (3) months?  Yes  No
5. Will the proposed independent contractor be paid by the hour, day, week or month?  Yes  No
6. Will proposed independent contractor be working only for MATC during the contemplated project?  Yes  No

### Established Independent Contractor

The propriety of a classification as independent contractor may often turn on whether or not the individual or firm has an established business. For this reason, not only are your answers to the following questions important, but so too is the follow-up related to "building the file" with advertisements, business cards, and other evidence of the established nature of the individual or firm's business.

1. Does the proposed independent contractor maintain its own place of business? (For purposes of this question, please disregard an "office" maintained at the proposed independent contractor's personal residence)  Yes  No

2. Does the proposed independent contractor make its services available to the general public?  Yes  No  
(e.g., Yellow Pages ad, business cards, newspaper ads, etc.)
3. If the proposed independent contractor will employ its own workers on the project, will the proposed independent contractor obtain worker's compensation insurance and pay employment taxes for such workers?  Yes  No

### Independence of Independent Contractor

The greater the extent to which an individual or firm will rely on MATC in the performance of its tasks, the greater the likelihood that employee classification is appropriate.

1. Will MATC supervise any of the proposed independent contractor's assistants?  Yes  No
2. Will MATC provide or hire assistants for the proposed independent contractor?  Yes  No
3. Will MATC be responsible for any of the proposed independent contractor's business expenses?  Yes  No
4. Will MATC be responsible for any of the proposed independent contractor's traveling expenses?  Yes  No
5. Will MATC be responsible for providing the proposed independent contractor with any of the tools and materials that the project requires?  Yes  No
6. Will MATC be responsible for the maintenance of any such tools or materials?  Yes  No
7. Has the proposed independent contractor made relatively little or no investment in its business?  Yes  No

### Nature of Agreement With Independent Contractor

The language of an independent contractor agreement can have a significant impact on the proper characterization of the proposed independent contractor. If a nonstandard agreement is to be used, it must be approved by MATC General Counsel.

1. Will the proposed independent contractor enter into an  Yes  No approved written independent contractor agreement with MATC?

**Risk Assumed by Independent Contractor**

Independent contractors characteristically face some degree of risk -- their profits will depend on their efficiency or they may bear the burden of the failure of a certain contingency to occur. The absence of any such risks is indicative of employee status.

1. Will the proposed independent contractor be guaranteed a  Yes  No certain level of profit on the contemplated project?
2. Will both MATC and the proposed independent contractor  Yes  No be free from any restrictions on, or penalties related to, their ability to terminate the agreement?

**Scoring**

**Section**

Extent of Control Over Independent Contractor	No. of "yes" answers _____
Time Required of Independent Contractor	No. of "yes" answers _____
Established Independent Contractor	No. of "yes" answers _____
Independence of Independent Contractor	No. of "yes" answers _____
Nature of Agreement with Independent Contractor	No. of "yes" answers _____
Risk Assumed by Independent Contractor	No. of "yes" answers _____
	TOTAL _____

**RESULT**

- 0 – 6 Supervisor may forward Independent Contractor packet (Checklist, Contract, W9 form, other) to Procurement for approval
- 7 - 15 Further review is required by MATC General Counsel before supervisor may forward Independent Contractor packet to Procurement for approval (**NOTE: IF THE PROPOSED VENDOR/CONTRACTOR IS A FULL- OR PART-TIME MATC EMPLOYEE, S/HE SHOULD BE TREATED AS AN EMPLOYEE. THEREFORE, NO MATC GENERAL COUNSEL REVIEW IS REQUIRED.**)
- 16+ Because evaluation points to an employment relationship, supervisor should enter proposed independent contractor into employment process in Human Resources or complete a new checklist for a different vendor/contractor.