

Independent Contractor Classification (IC) – PI/Researcher Guide

Per Massachusetts and federal law¹, the University is required to meet a number of obligations when classifying an individual providing services to Harvard. Under MA law, the *presumption is that an individual is an **employee*** unless the individual meets the three-part IC test, which is based on the completion of the [Independent Contractor Questionnaire \(ICQ\)](#) and review and classification by your local Human Resources Office. **Individual schools and units may have more restrictive policies or internal processes or may be participating in a [Managed Service Program](#); contact your tub human resources or finance office for more information.**

- Misclassifying a worker as an IC instead of an employee can result in a significant liability. The local department or unit is responsible for any liability resulting from a misclassification decision, including fines, penalties, and attorney’s fees.
- A worker’s or department’s preference is not relevant to the classification; classification is based on state and federal criteria and regulations.
- The IC review and approval process must be completed PRIOR to a contract being signed or the work being performed. PIs/Researchers should work with their department administrator to complete the required IC review process.
- The Policy applies if you require services that will be completed by an individual OR a single-employee LLC, Company or Partnership OR a third-party marketplace not considered a managed service provider (i.e., marketplace does not go through a formal classification process, but acts as a freelancer marketplace such as freelancer.com).
- Some schools or units may offer an expedited review (exception process) for one-time guest speakers/performers or one-time payments for short-term, low dollar agreements. Contact your HR Office for guidance and refer to the [IC Policy Process Flowchart](#).
- If the IC Policy does not apply, a written contract is still required. Follow local school processes and policies regarding contracts.

Work Within the United States	Work Outside of the U.S.
<i>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.</i>	<i>Harvard must follow the rules and regulations based on the country in which the work is taking place.</i>
<ol style="list-style-type: none"> 1. Unless individual qualifies as an exception allowed by your local school or unit, complete an ICQ. Information required includes: <ol style="list-style-type: none"> a. Name of Worker/Service Provider b. Confirm a foreign individual is legally authorized to work in the U.S. See Most Commonly Seen Visa Types c. Scope of Work/Overview of Work d. Start/End Date of Work e. Estimated total cost f. Are services related or similar to services an employee is doing? 2. If an individual is classified as an IC, follow local school or unit requirements around contracts and the contract review process. See The Office of the General Counsel for model contract templates and required language. 3. If an individual is classified as an employee, see the Payment Categories and Hiring Methods for Individuals Classified as an Employee. 	<ol style="list-style-type: none"> 1. These provisions may be different from MA law and are occasionally more stringent (Europe) or entail tax withholdings on payments to contractors. The local school’s or unit’s HR office should work with Global Support Services (GSS) to determine international IC status. 2. The information required in the completed ICQ can help determine next steps. 3. If an individual is classified as an IC, follow local school or unit requirements around contracts and the contract review process. See The Office of the General Counsel or contact Global Support Services for model contract templates and required language. 4. If an individual is classified as an employee, see the Payment Categories and Hiring Methods for Individuals Classified as an Employee.

¹ Mass. Gen. Laws Ch. 149, sec. 148B