

THE EDUCATION UNIVERSITY OF HONG KONG
Classification and Checklist for Free-lance Services Providers

(A) Free-lance Services Providers

1. A person who is an independent contractor or is an employee of a company who will provide the services on behalf of his/her own company to the University continues to be considered as a free-lance services provider.

The following post titles are normally classified as Independent Contractor:

- Assessor
- Consultant
- Draped Model for Drawing Classes
- Exam Invigilator
- Examiner
- Guest Coach
- Guest Musical Tutor
- Mentor
- Module Consultant
- Module Writer
- Nude Model for Drawing Classes
- Oral Assessor
- Translator
- Tutor

Some of the factors to be considered in identifying a free-lance services provider include:

- (a) Control
 - i. Who decides on the recruitment and dismissal of employees?
 - ii. Who pays for the employees' wages and in what ways?
 - iii. Who determines the production process, timing and method of production?
 - iv. Who is responsible for the provision of work?
- (b) Ownership of factors of production
 - i. Who provides the tools and equipment?
 - ii. Who provides the working place and materials?

(c) Economic considerations

- i. Does he carry on business on his own account or carrying on the business for the employers?
- ii. Does he involve in any prospect of profit or is he liable to any risk of loss?
- iii. How are his earnings calculated and profits derived?

Listed above are some general factors. The relevant factors to be considered are determined by the circumstances of each case.

2. **A Free-lance services provider** will not be regarded as an employee of the University and he/she:
 - (a) will only be covered by the third-party liability insurance but not the employee compensation; and
 - (b) will not be eligible for any benefits as stipulated in the Employment Ordinance including making contribution to the Mandatory Provident Fund Schemes.
3. Faculties/departments/project holders are required to issue an invitation letter to the free-lance services provider if the service period is of a continuous nature (more than 2 months). **A letter template** can be downloaded.
4. Faculties/departments/project holders are reminded to take appropriate actions to avoid possible conflicts of interest, e.g. situation which may lead to any criticism with regard to favouritism, nepotism, and the like in acquiring services from the external sources / contractors and to ensure that the services are paid at a market competitive cost. FO will report any payment in addition to the payment for the services authorized by the Head of Department or project holders to Deans/AVPs for record.
5. Faculties/departments/project holders should ensure that the recommended services provider has a valid Hong Kong Permanent Identity Card or a valid employment visa issued by the Hong Kong Immigration Department permitting him/her to provide services in Hong Kong before engaging a contract for services with him/her with the University.
6. Before signing a contract for services with the services provider, faculties/departments/project holders should ask the services provider to provide the following documents to FO for action:

- Personal Particulars Form [for Contract for Service]
 - Declare that he/she has not been engaged in other concurrent contract for services or employment with the University, his/her legitimacy to provide services in Hong Kong,
 - A copy of his/her Hong Kong Permanent Identity Card or valid employment visa.
7. Faculties/departments/project holders are recommended to contact the FO if they have any difficulty in asking the services provider to fill in the Personal Particulars Form [for Contract for Service] or provide a copy of his/her Hong Kong Permanent Identity Card or valid employment visa.
8. For the free-lance services provider representing a company to provide services to the University, faculties/departments/project holders should raise a payment form/invoice payable to the company instead of to the services provider and attach any emails exchanged regarding the invitation for services as supporting documents to the FO to facilitate payment.
9. According to the procedures of the FO, the faculties/departments/project holders have to complete the Payment Form at https://www.eduhk.hk/fo_corner/view.php?sso=y&secid=1059 and send the copy of the invitation letter (if any) and the Personal Particulars Form [for Contract for Service] with a copy of the Hong Kong Permanent Identity Card or valid employment visa of the services provider directly to the FO for processing payment and for tax reporting purpose.
10. For further enquiries on arrangements for free-lance services providers, please contact FO colleagues.

Human Resources Office
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