

## 3.225 RCUH Employee–Independent Contractor Review

### I. Policy

It is the policy of the RCUH to properly classify individuals providing services as “employees,” “independent contractors,” or “non-employees.” This classification process follows applicable regulations relating to employment tax withholdings, applicable Internal Revenue Code, and other State/federal employment-related regulations.

The RCUH Director of Human Resources or designee will review a Principal Investigator’s request and issue an Employee, Non-Employee or Independent Contractor EIC determination. Individuals designated as an “Employee” will be processed through the applicable RCUH Human Resources employment-related policies. Individuals designated as an “Independent Contractor” or “Non-Employee” will be processed in applicable RCUH Procurement policies.

### II. Responsibilities

#### A. Principal Investigator or Designee

1. Submit EIC proposal(s) following the established format to the RCUH Director of Human Resources, no later than seven (7) business/working days prior to the commencement of the activity.
2. Upon receiving the EIC determination from the RCUH, take the appropriate follow-up action steps (as described in the “Procedures” section below) according to the classification provided. **(UH projects must check with their Fiscal Administrators to ensure compliance with UH administrative and fiscal policies and requirements.)**
3. Ensure compliance with specifications detailed in this and related policies.

### III. Applications

This policy applies to all RCUH and UH project Principal Investigators/staff who utilize the services of an Independent Contractor and/or Non-Employee.

### IV. Details of Policy

#### A. Overview of Employee–Independent Contractor Review Policy

1. The RCUH provides the following system to properly classify **an individual** (e.g. Sole Proprietor, LLC or individual) who is intended to provide services to the RCUH or RCUH project/program. **This policy does not apply to corporations.**
2. This classification process will identify whether an individual’s relationship with the RCUH is
  - a. *Employee* relationship;
  - b. *Independent contractor* relationship; or

c. *Non-employee* relationship.

The proper classification of individuals will minimize adverse legal liabilities associated with employment laws, tax, and other consequences.

### B. Definitions Relating to the Employee–Independent Contractor Review Policy

1. **Employee:** The RCUH or Principal Investigator controls and/or supervises the activities of the individual in achieving a specified result, product, or service. (Fails to qualify as an Independent Contractor or Non-Employee.) Employment in this category is contingent upon compliance with applicable Federal/State laws.
2. **Independent Contractor:** Individual is qualified as an Independent Contractor under the IRS and DOL regulations and where the project is interested in the “end product” and not the “means to achieve this product.” Individual is not a current RCUH employee. Action is compliant with Chapter 84, Hawai‘i Revised Statutes, 2 CFR 200, §200.459 Professional Services Costs.
3. **Non-Employee:** Individual is not supervised or controlled by the RCUH or Principal Investigator. Individual does not receive any wage/salary compensation (i.e., fee-for-service), but may receive a “non-wage payment” (e.g., honorarium or other perquisite) and/or travel/per diem. Individual is not a current RCUH employee. Action is compliant with Chapter 84, Hawai‘i Revised Statutes, 2 CFR 200, §200.459 Professional Services Costs.
4. **Employee/Independent Contractor (EIC) Review:** The RCUH policy/procedure which is used to classify an individual as either an EMPLOYEE, INDEPENDENT CONTRACTOR, or NON-EMPLOYEE.
5. **Honorarium/Perquisite:** Modest/Token payment (not wages or fee-for-service) provided to a NON-EMPLOYEE which is intended to confer distinction on or to demonstrate respect, esteem or admiration for the recipient. Honorarium is not subject to federal income tax withholding or FICA. UH Principal Investigators are advised to review University of Hawai‘i policies and sponsoring agency restrictions relating to honorariums and RCUH Procurement policies regarding potential reportable income tax issues relating to reimbursed expenses.

### C. **No Retroactive EIC Requests Will Be Accepted** – No retroactive EIC proposals or actions will be accepted. Retroactive EIC proposals may not be serviced, as this would constitute a violation of this policy.

### D. **Master Proposals and Determinations** – Projects may have situations where several individuals will be used for the same purpose or used on a periodic basis. This process will not require a submission of an EIC proposal for each case; rather it will require one Master EIC Proposal.

1. The Master EIC Determination will apply in situations where identical EIC specifications are applicable for multiple individuals. Master determinations may also be issued for repetitive actions of an individual or multiple individuals. Once a determination has been rendered (i.e., designation as an employee, independent contractor, or non-employee), this Master EIC Determination will eliminate the need for the project to submit an EIC for each subsequent application.

Pre-determined Master EIC Templates are also available for certain non-employee actions including non-compensated project support, research study participant, and certain off/special-duty police officers. Templates are accessible from the “Procedures” section below.

### V. Procedures

#### **A. Submit All EIC Requests for Determination to the RCUH Human Resources**

1. Principal Investigators and/or designees must submit EIC proposals using applicable RCUH EIC Templates for Independent Contractor or Non-Employee to the RCUH Director of Human Resources, who will render a determination of the appropriate classification of the individual.
2. All EIC proposals must be received at least seven (7) business/working days prior to commencing any activity with the individual.

#### **B. What to Include in Requests for EIC Determination** – An EIC memo describing the working relationship between the project and the individual must be provided to the RCUH Human Resources Office and should follow the applicable RCUH EIC Memo Template.

#### **C. EIC Memo Requirements and Memo Templates** – Templates are available for project’s use and convenience.

1. [Independent Contractor Memo Template](#)
2. [Guest Speaker Memo Template](#)

#### **D. Classification and Processing of Action** – The project may expect a written determination within 2–3 working days of submitting their EIC request. Notification will be via emailed from the Director of Human Resources to the Principal Investigator. Upon receiving the determination, the Principal Investigator/designee should initiate one of the following:

##### 1. Employee Classification

Initiate a request for a non-recruited temporary hire via the [Human Resources Portal](#). See Policy [3.210 Hiring Options through RCUH](#).

##### 2. Independent Contractor or Non-Employee Classification

Attach a copy of the EIC Determination to the RCUH procurement documents (go to the RCUH Home Page > Policies & Procedures > 2.000 Procurement & Disbursing) for procedures relating to the procurement of services and/or payment of services. It is recommended that you contact the RCUH Procurement Office for further guidance to ensure all requirements have been addressed especially for Independent Contractors or foreign service providers.

#### **E. Master EIC Templates:** The project may use the following Master EIC Templates (if applicable). Provided the projects' needs match the criteria described in the Master Determination, projects need not submit a memo for EIC determination, but can download and print these Master Determinations which can be attached to the

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respective payment document. This will eliminate repetitious paperwork and expedite the clearance and processing of the project's program.

1. [Master EIC Determination - Non-Employee Non-Compensated Project](#): This Master EIC Determination can be used for all non-compensated project support such as travel reimbursement and other related support for Non-Employees.
2. [Master EIC Determination - Non-Employee Off-Duty/Special Duty Police](#)
3. [Master EIC Determination - Non-Employee Research Study Participant](#)

### **VI. Contact**

RCUH Human Resources Administration: (808) 956-7055

rcuh\_admin@rcuh.com

### **VII. Relevant Documents**

[Independent Contractor Memo Template](#)

[Independent Contractor Memo - Instructions](#)

[Guest Speaker Memo Template](#)

[Guest Speaker Memo - Instructions](#)

[Master EIC Determination - Non-Employee Non-Compensated Project Support](#)

[Master EIC Determination - Non-Employee Off-Duty/Special Duty Police](#)

[Master EIC Determination - Non-Employee Research Study Participant](#)

[Policy 3.210 Hiring Options Through RCUH](#)

[Policy 2.204 Services Agreements](#)

[IRS Publication 15A](#)

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