

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 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 through the applicable RCUH Procurement policies.

II. Responsibilities

A. Principal Investigator or Designee

1. Identify need for specialized services not currently being provided by current staff. If the specialized services are coming from an individual, an Employee/Independent Contractor Review must be completed by either the project or RCUH Human Resources to ensure the individual is properly classified as an Employee or Non-Employee following IRS, Department of Labor, and other State/Federal employment-related regulations.
2. If RCUH Human Resources review is required, submit Employee/Independent Contractor review requests 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.
3. Upon determination, take the appropriate follow-up action steps appropriate to the classification provided. **(UH projects must check with their Fiscal Administrators to ensure compliance with UH administrative and fiscal policies and requirements.)**
4. Ensure compliance with specifications detailed in this and related policies.

- B. RCUH Human Resources:** Provide Employee, Independent Contractor, or Non-Employee designation to properly classify individuals providing services upon request.

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 one of the following:
 - 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, taxes, 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. 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. Non-Employee Designations: as defined for use of Attestation of Exception to EIC Review (No RCUH HR Review needed) – Form ICQ-01

a. Guest Speaker:

1. Services Provided: Individual will be speaking (only) at an educational event, conference, or similar function. Individual selected through invitation due to their recognized expertise and/or abilities that is unavailable within the project or program.
2. Duration: One-time (non-recurring) event
3. Employment: Speaker(s) may **NOT** be a current employee of RCUH, UH. Speaker may NOT be a current employee of a State Agency unless their participation is outside of their work scope and schedule and not considered part of their duties.
4. Compensation: None. They may receive up to \$1,000 honorarium (NOT considered a fee for services. Travel reimbursements and daily per diem consistent with applicable Federal Guidelines may be provided.

b. Non-Compensated Project Support (NCPS):

1. Services Provided: Individual provides short-term support services that complements and/or augments a Project's objectives. Individual invited to provide support to project's objective or mission due to their recognized expertise and/or abilities that are unavailable within the project or program. Individual is not evaluated nor are they supervised/monitored as they are self-directed or part of the scheduled program.
2. Duration: Up to 30 calendar days
3. Employment: May be an employee of RCUH, UH or State Agency. Participation has been approved (via memo or other program support documentation) by individual's supervisor (i.e. Dean, Director, or Principal Investigator). There is no conflict with provisions of Chapter 84 since the individual is not receiving any compensation for their services or time.
4. Compensation: No compensation is provided but travel reimbursements and daily per diem consistent with applicable Federal Guidelines may be provided.

c. Confidential Research Study Participant:

1. Services Provided: Short-term/day-to-day use of participants for research projects involving confidential human surveys. Participant's identities must be kept confidential and do not perform any work for the project. The Principal Investigator will furnish the identity of the participants and/or subjects, as needed consistent to government regulations or grant requirements. Principal Investigators must secure necessary authorizations pursuant to University of Hawaii policies and any applicable insurance for the activities involving these participants.

2. Duration: N/A
3. Employment: N/A
4. Compensation: Projects may authorize token payment up to \$100.00.

d. Special Duty Police Officer:

1. Services Provided: Short-term/day-to-day (off-duty) use of Special Duty Police Officers for applicable work assignments (e.g. traffic control, escort duty, etc.).
2. Duration: N/A
3. Employment: Special Duty Police Officers are employees of their respective County Police Departments (Hawaii County Police Department, Maui County Police Department, Kauai County Police Department, and the Honolulu Police Department).
4. Compensation: The Police Department will charge your project with the applicable hourly rate, for any expenses and administrative fees. Payment must be paid to the applicable County Police Department or individual. Each County may differ on its procedure and cost; therefore, we recommend you contact the Police Department or view their websites for up-to-date information. Refer to the RCUH Policy [2.005](#) and [2.007](#) relating to handling payments.

e. Non-Employee Independent Contractor: One-Time, Short-Term Engagement

1. Services Provided: One-time, short-term engagement of an individual providing specialized services and deliverables to the project.
2. Duration: One-time, short-term engagement of 90 calendar days or less.
3. Employment: Individual may **NOT** be a current or recent former employee of RCUH, UH or State Agency. Individual must be free from RCUH project control and direction in connection with the performance of service, both under a contract for the performance of the service, and in fact. The service performed by the individual is outside of services provided by UH or RCUH employees. The individual must be set up as a legitimate business – engaged in an independently established trade, occupation, profession, or business of the same type as the services being performed for the project. If work is physically completed in Hawaii at any time, an active Hawaii GET ([General Excise Tax](#)) license is required.
4. Compensation: Total payments to the individual not to exceed \$3,000.

D. 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.

V. Procedures

A. Non-Employee Designations:

Provided the project needs match the criteria described in the Non-Employee Designations, projects need not submit a request for RCUH review. With Principal Investigator approval, attach the [Attestation of Exception to EIC Review \(Form ICQ-01\)](#) to the applicable purchase order or payment document.

B. Request for RCUH HR Review

If none of the Non-Employee Designations are appropriate for your engagement, complete the [RCUH EIC Questionnaire \(Form ICQ-02\)](#) and submit at least 7 business days prior to commencing activity with the individual.

C. RCUH HR will provide a final determination as follows:

- i. **Employee** – proceed to hiring individual as a non-recruited hire per Policy 3.210
- ii. **Independent Contractor**
- iii. **Other/Non-Employee**

Attach Independent Contractor or other Non-Employee Determination from RCUH HR to purchase order or payment document. It is recommended that you contact the RCUH Procurement Office or your Fiscal Administrator for further guidance to ensure all requirements have been addressed especially for Independent Contractors or foreign service providers. All payments may be considered taxable.

VI. Contact

RCUH Human Resources Administration: (808) 956-7055

Email: rcuh_admin@rcuh.com

VII. Relevant Documents

[RCUH Attestation of Exception to Review \(no RCUH HR Review needed\) – Form ICQ-01](#)

[Independent Contractor Questionnaire: Request for RCUH HR Review – Form ICQ-02](#)

[Frequently Asked Questions](#)

[Policy 3.210 Hiring Options Through RCUH](#)

[Policy 2.204 Services Agreements](#)

[IRS Publication 15A](#)

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