	THE JOHNS HOPKINS HEALTH SYSTEM CORPORATION AND THE JOHNS HOPKINS HOSPITAL HUMAN RESOURCES POLICY and PROCEDURE MANUAL	<i>Policy Number</i>	HR301
		<i>Effective Date</i>	03/05/2008
	<i>Subject</i>	INDEPENDENT CONTRACTOR	
	<i>Page</i>	1 of 4	
		<i>Supersedes</i>	01/01/2004

## POLICY

An independent contractor is a person or business which provides goods or services to Johns Hopkins Health System Corporation (JHHSC) or The Johns Hopkins Hospital (JHH) under terms specified in a contract. Unlike an employee, an independent contractor does not work regularly for JHHSC/JHH. An individual must have both factual support and documentation in order to be paid and treated as an Independent Contractor. Proper identification and payment of an individual as an independent contractor is required to assure compliance with federal and state tax and employment laws. Under federal tax laws, an individual's status as an independent contractor may be questioned even if JHHSC/JHH exercises little control over the working relationship.

## Application

An independent contractor arrangement should be utilized whenever an individual is retained to perform one or more discrete tasks and is not hired through the JHHSC/JHH hiring process as a regular, temporary or casual employee.

If a person does not pass the independent contractor test, he/she will need to be hired or go through a temporary agency.

Extensions of agreements with independent contractors beyond the term contemplated in the initial agreement must be re-evaluated using the process set forth in this policy.

## Responsibilities


### **Administrators/Managers**

Primarily responsible for accurately completing the Consulting Justification Form and the Tax Review Checklist, which is required for any consultant who is an individual or non-corporate business entity, such as a sole proprietorship, partnership or limited liability company (two employees or less) that has established a name that it uses to carry on business.

### **Human Resources Office of Career Services**

HR will review and determine whether the service can be provided by personnel within Johns Hopkins. HR will forward a copy of the Consulting Form to Finance for review.

HR will sign and return the approved Consulting Justification Form to the department along with a signed agreement from the Legal Department (if required). HR will coordinate with Legal Department if written agreement is required.

	THE JOHNS HOPKINS HEALTH SYSTEM CORPORATION AND THE JOHNS HOPKINS HOSPITAL HUMAN RESOURCES POLICY and PROCEDURE MANUAL	<i>Policy Number</i>	HR301	
		<i>Effective Date</i>	03/05/2008	
	<i>Subject</i>	INDEPENDENT CONTRACTOR	<i>Page</i>	2 of 4
			<i>Supersedes</i>	01/01/2004

**Finance** Will review Consultant Justification Form.

**General Counsel** Reviews questionable proposed independent contractor arrangements.


Draft all consulting agreements for all consultants providing services in excess of \$5,000. Written agreements may be required for services under \$5,000, at the discretion of Legal Department. The Legal Department will retain copies of the signed consulting agreements in accordance with JHHS Finance Policy.

**Senior Management (Vice Presidents and above)** Assist in preparing, review and sign all requests for consulting services in area of responsibility.

**On-Line Payment Request/Check Request**

Purchase orders are not required for the following types of transactions. The Online Payment Request should be used for these transactions.

1. Payment of advertising costs
2. Honoraria payments
3. Pre-payment of seminar, workshop or conference registrations and hotel accommodations
4. Revenue refund payments
5. Payments to government or regulating agencies for licensing and filing
6. Payments to attorneys, CPA and consulting firms
7. Payments for gifts or awards for employee appreciation or recognition
8. Payments for real estate transactions
9. Payments for real estate leases or rentals
10. Payments to insurance or investment firms and other fringe benefit payments
11. Tax payments
12. Payments for institutional or employee reimbursed dues and subscriptions
13. Royalties
14. Utilities-oil, water, gas, steam, electricity, telephone
15. Payments to express shipping and mail
16. Payments for catering other miscellaneous food purchases
17. Debt payments
18. Postage
19. Special events/entertainment
20. Payments for library books, journals, periodicals
21. Temporary employment agencies
22. Payments to study participants
- 23.

	THE JOHNS HOPKINS HEALTH SYSTEM CORPORATION AND THE JOHNS HOPKINS HOSPITAL HUMAN RESOURCES POLICY and PROCEDURE MANUAL	<i>Policy Number</i>	HR301
		<i>Effective Date</i>	03/05/2008
	<i>Subject</i> INDEPENDENT CONTRACTOR	<i>Page</i>	3 of 4
		<i>Supersedes</i>	01/01/2004

**Procedures**

**Administrators/Managers**

1. Establishes that a function or task can not be performed by regular, temporary or casual employees but may be appropriately by an independent contractor.
2. Documents independent contractor relationship by completing attached Tax Review Checklist and Consulting Justification Form.
3. Refers checklist, form and other supporting documents to Sr. Director of Human Resources.

**Sr. Director of Human Resources**


1. Reviews proposed independent contractor documentation to determine whether employment status is more appropriate.
2. Rejects proposed independent contractor arrangements where employment as a casual, temporary or regular would be appropriate status for the individual.
3. Recommends alternative status if applicable.
4. Communicates recommendation or rejection to Administrator/Manager.
5. Refers questionable arrangements to General Counsel for review.
6. Approves appropriate independent contractor arrangements and refers such arrangements to General Counsel for proper documentation in an agreement if over \$5,000.
7. Provides completed documentation to Manager in department.

**Finance**

1. Reviews all Consulting Justification forms sent to them by HR.

**General Counsel**

1. Reviews questionable arrangements.
2. Returns disapproved questionable arrangements to HR with explanation.
3. Reviews or prepares all proposed independent contractor agreements and supporting documentation for contracts over \$5,000.
4. Retains copy in files.

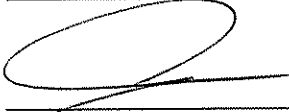
	THE JOHNS HOPKINS HEALTH SYSTEM CORPORATION AND THE JOHNS HOPKINS HOSPITAL HUMAN RESOURCES POLICY and PROCEDURE MANUAL	<i>Policy Number</i>	HR301	
		<i>Effective Date</i>	03/05/2008	
	<i>Subject</i>	INDEPENDENT CONTRACTOR	<i>Page</i>	4 of 4
			<i>Supersedes</i>	01/01/2004

**Administrator/Manager**

1. Attaches signed Consulting Justification Form to the Shopping Cart request for Purchase Order. The Vendor Data Entry Request Form will need to be completed by the department for a new vendor/consultant.

See Finance Policy FIN009 – Signature Authority.

**APPROVAL**



Vice President,  
Human Resources

3/5/08  
Date

**JHHS CONSULTING SERVICES  
JUSTIFICATION**

Requesting Affiliate: \_\_\_\_\_  
Requesting Dept.: \_\_\_\_\_  
Requestor Name: \_\_\_\_\_

Request Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
Requestor Phone: \_\_\_\_\_  
Requestor Title: \_\_\_\_\_

**ATTACH ADDITIONAL PAGES AS REQUIRED.**

**I. REQUESTED SERVICES**

A. DESCRIBE PROJECT OBJECTIVE: \_\_\_\_\_  
\_\_\_\_\_

B. PLANNED START DATE: \_\_\_\_\_ PLANNED END DATE: \_\_\_\_\_

C. ATTACH COST/BENEFIT ANALYSIS (IF APPLICABLE).

**II. INTERNAL RESOURCES AVAILABILITY**

A. DEPARTMENTS/FUNCTIONAL UNITS CONTACTED AND OUTCOME : \_\_\_\_\_  
\_\_\_\_\_

**III. CONSULTANTS SELECTED**

A. CONSULTANT (Legal Name) : \_\_\_\_\_

B. PERSONS ASSIGNED: \_\_\_\_\_

C. REASONS FOR SELECTION: \_\_\_\_\_  
\_\_\_\_\_

**IV. COST INFORMATION**

A. PROJECTED TOTAL COST: \_\_\_\_\_

B. FUNDING SOURCE : \_\_\_\_\_

**DEPARTMENTAL APPROVAL**

\_\_\_\_\_  
Dept. Administrator/Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Area Vice President

\_\_\_\_\_  
Date

**COPIES TO BE ATTACHED TO CONSULTING AGREEMENT AND RETAINED BY AREA VP AND CORPORATE LEGAL DEPARTMENT.**

## Tax Review Checklist

**EMPLOYEE VS. INDEPENDENT CONTRACTOR****20 Common Law Factors (rev. RUL 87-41):**

		Yes	No	N/A	I/C
1	JHHS EMPLOYEE	Are you currently an employee of JHHS or any of its affiliates?			
2	JHHS EMPLOYEE	Have you ever been employed by JHHS or any of its affiliates? If so, when?			
3	INSTRUCTIONS	Is worker required to comply with other persons' instructions about when, where, and how to perform work? (Control is present if the right to instruct exists, whether or not exercised.)			N
4	TRAINING	Is worker required to 1) train with an experienced worker, 2) attend training meetings, or by some other means receive training as to the method or manner in which work is to be done? (Required training would indicate control. Independent contractors ordinarily rely upon their own resources for training.)			N
5	INTEGRATION	Are the worker's services integral to the operation of the business? (The more integrated the services, the more likely the person is subject to direction and control.)			N
6	PERSONAL RENDITION OF SERVICES	Is worker required to perform the services personally? (If the worker has the right to hire a substitute, the employer is probably more interested in the results, rather than the methods.)			N
7	HIRING, SUPERVISING, & PAYMENT OF ASSISTANTS	Does the employer generally control hiring, supervising, and payment of assistants? (Where a worker controls these activities under contract to obtain result only indicates I/C status.)			N
8	CONTINUING RELATIONSHIP	Does worker perform services under a continuing relationship? (Continuing relationship can include services performed at frequently recurring, though somewhat irregular intervals and would indicate employee status.)			N
9	SET HOURS OF WORK	Does the person work set hours established by employer? (Set hours would indicate control, whereas flexibility within certain necessary time constraints would not.)			N
10	FULL TIME REQUIRED	Is worker required to devote substantially full time to the business? (Full time employment impliedly restricts other gainful employment and so would be control over worker's time.)			N
11	EMPLOYER'S PREMISES	Does worker perform services on the employer's premises or other specific place as required by employer? (Working on employer premises implies control.)			N

## Tax Review Checklist

## EMPLOYEE VS. INDEPENDENT CONTRACTOR

12	ORDER OR SEQUENCE SET	Is worker required to perform services in the order or sequence set by the employer? (The right to do so may indicate control, even if not exercised.)	_____	_____	_____	N
12	REPORTS REQUIRED	Is worker required to submit regular oral or written reports? (Reports requiring accountability for actions indicates a degree of control.)	_____	_____	_____	N
13	PAYMENT BY HOUR, WEEK OR MONTH	Is worker paid by the hour, week or month? (This usually indicates employee status, whereas payment on a commission or by the job indicates I/C.)	_____	_____	_____	N
14	EXPENSE ACCOUNT	Does the employer pay the worker's business and/or travel expenses? (This would indicate some degree of control over expenses.)	_____	_____	_____	N
15	TOOLS/MATLS SUPPLIED	Does worker use tools, materials or equipment furnished by the employer? (This would indicate control over the worker.)	_____	_____	_____	N
16	FACILITIES FURNISHED	Are all necessary facilities for the worker furnished by the employer? (A significant investment in facilities by the worker tends to show I/C status.)	_____	_____	_____	N
17	RISK OF LOSS	Is the worker in a position to realize a profit or suffer a loss as a result of services performed? (If so, they are generally I/Cs.)	_____	_____	_____	Y
18	NUMBERS OF EMPLOYERS	Does person work for a number of persons or firms at the same time? (If so, it usually indicates I/C status.)	_____	_____	_____	Y
19	AVAILABILITY TO GENERAL PUBLIC	Are the worker's services available to the general public? (Where worker's services are available to general public on a regular and consistent basis indicates I/C status.)	_____	_____	_____	Y
20	RIGHT TO DISCHARGE	Does the employer have the right to discharge the worker? (An employer can exercise control through the threat of dismissal, whereas I/Cs cannot be fired so long as the contract specifications are met.)	_____	_____	_____	N
21	RIGHT TO TERMINATE	Does worker have the right to end the employment relationship at any time without incurring liability? (Employees do, whereas I/Cs usually contract to complete a specific job.)	_____	_____	_____	N

**Tax Review Checklist**  
**EMPLOYEE VS. INDEPENDENT CONTRACTOR**

**Physician – Specific Factors (from IRS Audit Guidelines):**

	Yes	No	N/A	I/C
Does the physician have a private practice?	_____	_____	_____	<u>Y</u>
Does the hospital pay straight wage to physicians?	_____	_____	_____	<u>N</u>
Does the hospital provide supplies and professional support staff?	_____	_____	_____	<u>N</u>
Does the hospital bill for physician services?	_____	_____	_____	<u>N</u>
Do the hospital and physician divide the physician fees on a % basis?	_____	_____	_____	<u>N</u>
Does the hospital regulate or have the right to control the physician?	_____	_____	_____	<u>N</u>
Is the physician required to be on duty during specified hours?	_____	_____	_____	<u>N</u>
Does the physician's uniform bear the hospitals name or insignia?	_____	_____	_____	<u>N</u>
Does the hospital pay for the physician's malpractice insurance? (If yes, there may be a private inurement.)	_____	_____	_____	<u>N</u>
Is treatment of worker as employee or I/C inconsistent as far as payment of compensation and benefits (e.g. physician may be treated as an employee for some benefits, such as the 403 (b) tax sheltered annuity, but as an I/C for compensation)?	_____	_____	_____	<u>N</u>

Test Criteria

CONTROL  
 COMPENSATION  
 EXPENSES  
 INTENTION OF PARTIES  
 EMPLOYEE BENEFITS  
 MALPRACTICE INSURANCE  
 TRAINING SKILL  
 ABILITY TO HIRE/FIRE

Safe Haven Exception

RELIEF AVAILABLE ONLY IF:

- Consistent treatment of worker and other comparable workers is used by taxpayer since December 31, 1977.
- Taxpayer filed tax forms
- Taxpayer has a reasonable basis for treating worker as an I/C.