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**UNIVERSITY OF MASSACHUSETTS
CONSULTANT SERVICES**

**(Delegation of Board of Trustees of Certain
Authority to Certain Officers to Appoint
Professional Non-Employee Personnel of the University)**

I. PURPOSE

The purpose of this policy is to provide guidelines and procedures for the appointment of non-employee personnel.

II. GENERAL

1. This delegation is made under and pursuant to Massachusetts General Laws Chapter 75, Section 3A, as amended, and to the By-Laws of the Board of Trustees.
2. This delegation relates to professional service contracts (other than operational services under Appendix A). Professional services shall be defined as those services provided by persons or groups identified as independent contractors by the Internal Revenue Service (Attachment I). These individuals or groups are not paid through the University's payroll system. Any professional service contract whose annual projected expenditure exceeds \$50,000 annually shall be bid competitively whenever practicable or sole source justification shall be provided.
3. A standard contract form for each contract, where the amount expended annually exceeds \$5,000, shall be used as a binding contract. The standard forms shall be prepared by the Vice President for Management and Fiscal Affairs and approved by the General Counsel.
4. This policy does not apply to any items covered by the *Purchasing Policy* (Appendix A).

III. DELEGATION OF SIGNATURE AUTHORITY

A. There is hereby delegated solely to the President of the University:

1. Authority to contract for professional services to be performed by consultants and other persons engaged other than in an employment status where the amount to be expended for professional services under any such contract shall exceed \$200,000 in any fiscal year and other than for services to be performed for or under the direction of the Board of Trustees. The President shall report to the

Committee on Administration and Finance on all such contracts. Reports shall be made regularly, but no less than annually.

2. Authority to sign and deliver all papers and documents relating to the contracting as aforesaid for services of non-employees.

B. There is hereby delegated to the President of the University, with authority to re-delegate solely to the Chancellors:

1. Authority to contract for professional services to be performed for the particular campus by consultants and other persons engaged other than in an employment status where the amount to be expended for professional services under any such contract shall not exceed \$200,000 in any fiscal year.

2. Authority to sign and deliver all papers and documents relating to the contracting as aforesaid for services of non-employees.

C. There is hereby delegated to the President of the University, with authority to re-delegate to the Chancellors, who may subdelegate such authority as they determine appropriate.

1. Authority to contract for professional services to be performed for the particular campus by consultants and other persons engaged other than in an employment status where the amount to be expended for professional services under any such contract shall not exceed \$50,000 in any fiscal year.

2. Authority to sign and deliver all papers and documents relating to the contracting as aforesaid for services of, or engaging as aforesaid, non-employees.

D. All subdelegations shall be made in writing and forwarded to the office of the Vice President for Management and Fiscal Affairs (with a copy to the General Counsel's office).

E. All contracts for professional services in an amount to exceed \$25,000 in a fiscal year should be reviewed for form and content by the General Counsel's office.

F. The President shall have the authority to exclude from these delegations any categories or types of consultant service or professional service contracts as he deems necessary or appropriate.

G. The President shall issue guidelines to implement this policy. Said guidelines shall include but are not limited to a requirement that campuses provide a quarterly listing of all newly executed consulting or professional service contracts over \$50,000 to the Vice President for Management and Fiscal Affairs and Treasurer. Listings shall include the name of the consultant or firm, contract purpose, total contract amount, and the duration of the contract.

RULES FOR PROPERLY CLASSIFYNG WORKERS

Establishing Control

To determine whether a worker is an employee or independent contractor, you should apply the common law test of control. Under this test, if you have the right to control and direct what a worker does and how he or she does it, a relationship between you and the employee exists. In the absence of such control, a worker may be classified as an independent contractor.

To determine whether control exists in an employer-employee relationship, the IRS uses the following 20 common law factors:

- 1) Required compliance with employer's instructions;
- 2) Training of worker by employer;
- 3) Integration of worker's services into employer's business operations;
- 4) Services required to be rendered personally;
- 5) Hiring, supervising, and paying worker's assistants;
- 6) Continuing relationship;
- 7) Set hours of work;
- 8) Full-time work required;
- 9) Working on the employer's premises;
- 10) Set order or sequence of work;
- 11) Required oral or written reports;
- 12) Payment by hour, week or month;
- 13) Payment of business expenses and/or travel expenses;
- 14) Furnishing of tools and materials;
- 15) Significant investment by the worker;
- 16) Realization of profit or loss;
- 17) Working for more than one firm or company at a time;
- 18) Making services available to the general public;
- 19) Right of employer to discharge;
- 20) Right of worker to terminate.