

INDEPENDENT CONTRACTOR VS EMPLOYEE QUESTIONNAIRE

This questionnaire is for the services of: Individual/company _____

Purpose of this form

The purpose of this questionnaire is to determine if the Individual or Company may be considered an Independent Contractor at SAIC-Frederick. Determining the appropriate federal employment tax status is important to both SAIC and the Individual/Company. If there is a misclassification, SAIC-Frederick may be liable for taxes (state and federal income tax and FICA), interest, and penalties. If the Individual/Company is reclassified on audit as an employee, the IRS (as well as state tax authorities) may disallow deductions taken by the Individual/Company for business and home office expenses, as well as contribution to pension plans and fringe benefit programs, which can result in additional tax liabilities, penalties, and interest. Penalties and interest assessed by the IRS, state and local tax authorities against SAIC-Frederick will be charged to the respective Program Area.

What is an Independent Contractor for SAIC-Frederick purposes?

Independent Contractors typically are persons who render services for specified recompense or a particular result under the control of their principal as to work product only, and not as to the means by which the result is accomplished. Accordingly, to be considered an Independent Contractor at SAIC-Frederick, the Individual or Company, while actually performing the work for which they have been engaged, must control the manner in which and means by which that work is performed. This requires the individual or company to determine for themselves such things as how the work is to be performed (how the result is to be accomplished), how much work or effort needs to be performed, and where the work must be performed (what can be done on SAIC-Frederick's premises and what must be done on the Individual/Company's own business premises). Additionally, to be considered an Independent Contractor for SAIC-Frederick an Individual must not require training by SAIC-Frederick (other than simply being briefed on the task to be accomplished), or retained in a capacity similar to that he/she may have held as a former SAIC-Frederick employee.

Mandatory questions that must be answered affirmatively to be considered an Independent Contractor at SAIC-Frederick

The following questions must be answered "yes" or the individual/company will not be eligible for treatment as an Independent Contractor at SAIC-Frederick. There are no exceptions to this requirement:

1. Does the Individual/company meet the requirements to be an Independent Contractor as discussed above?
2. Is the individual or Company claiming to be an Independent Contractor?
3. Does the individual or company make their professional services available to the general public on a regular basis?
4. Does SAIC-Frederick agree that by the terms of the agreement the Individual/Company may not be terminated at will, but rather such termination is governed strictly by the terms and conditions of the contract?
5. Does SAIC-Frederick agree that it does not exercise control or supervision of the Individual or Company, except as to the result of the work only?

6. Does SAIC-Frederick agree that it does not control the manner in which and the means by which the work of the individual/company is performed?
7. Does SAIC-Frederick certify that the individual or company will not be responsible for the following:
 - Performance of a material portion of SAIC-Frederick's scope of work under the Operations and technical Support contract.
 - The management or supervision of SAIC-Frederick personnel or efforts.
 - The conduct of research and development (although support for the company's research and development efforts, such as **peer review**, can be consulting).

If all the responses to questions 1 through 7 above are “yes” then proceed with the balance of the questionnaire. If any of the responses to questions 1 through 6 is “no”, the individual/company may NOT be considered an Independent Contractor at SAIC-Frederick. There are no exceptions.

Requestor Confirmation

Please print your name, sign and date below confirming that all responses to questions 1 through 7 are “yes”.

Name

Title

Signature

Date

Taxpayer Identification Number considerations

Please provide the Taxpayer Identification Number that will be used to report the payments made from SAIC-Frederick to the Individual/Company _____.

Additional considerations are required if the Taxpayer Identification Number (TIN) is a Social Security Number (SSN). The fact an Individual/Company is using a SSN as a TIN is not conclusive that Individual/Company is ineligible for treatment as an Independent Contractor at SAIC-Frederick; but it is an exposure that must be addressed and mitigated.

The Requestor should be aware that the following statements are included in the General Terms and Provisions of the Consulting Agreement and will have to be agreed upon by the Independent Contractor:

1. I understand the tax rules and tax implications for being designated an Independent Contractor versus an Employee. I certify my role under this contract as being an Independent Contractor for SAIC-Frederick.
2. I have had the opportunity to discuss issues concerning my proper designation as an Independent Contractor with my tax advisor and have concluded that based on the facts and circumstances that I am an Independent Contractor for SAIC-Frederick.

- 3. During the past 3 years, federal and state income tax returns have been timely filed for the provided TIN and future federal and state tax returns will be timely filed with the amounts paid by SAIC-Frederick to be included in those returns.
- 4. Statements 1, 2 and 3 above will cause SAIC-Frederick to conclude that the payments made to the Taxpayer Identification Number (TIN) provided will be treated as being made to an Independent Contractor. This is an important designation for IRS and state tax authority purposes. I agree that if I am subsequently determined to be an employee by the IRS or a state that I will reimburse SAIC-Frederick for any additional federal and/or state employment tax expenditures, including penalties and interest, as a result of that re-determination. I will hold SAIC-Frederick harmless for any additional taxes, penalties and interest that may be assessed on me personally as a result of an improper independent contractor designation.

What happens if these statements are not included in the contract?

If an individual will not sign the contract with the above statements, the individual may not be treated as an independent contractor. The individual may provide services to SAIC-Frederick through a “payrolling agency” (for example, Innovative Employee Solutions or similar type entity), but may not be an independent contractor of SAIC-Frederick.

Documentation must be provided immediately to SAIC-Frederick, Research Contracts if:

Does individual have a TIN which is an SSN? (Yes or No) _____

If **YES**, please answer the following questions:

- 1. Has the individual worked for the U.S. Government, SAIC-Frederick, or other support contractor as an employee during the previous 24 months? _____
- 2. Is the individual contracting to work at SAIC-Frederick as an Independent Contractor for more than 180 days (with the exception of ARRA funded efforts, which may span a maximum of 2 years) in a single calendar year? _____

If any of the above questions are answered affirmatively, SAIC-Frederick Research Contracts will re-evaluate the request to determine and/or verify the best contractual mechanism. SAIC-Frederick Internal Audit may request documentation to support the Independent Contractor designation at any time for verification. SAIC-Frederick will review the documentation to verify all the statements and procedures have been included and performed. SAIC-Frederick intends to provide these documents to the IRS as support for SAIC-Frederick’s determination of Independent Contractor status for audit.

Research Contracts Confirmation

Research Contracts has received and reviewed this request and certifies that the information provided above in conjunction with the associated Statement of Work supports the Independent Contractor designation.

Name

Title

Signature

Date