

Complete Policy Title: Engagement of Independent Contractors	Policy Number:
Approved by: Vice-President (Administration)	Date of Most Recent Approval: November 8, 2013
Date of Original Approval:	Supersedes/Amends Policy dated: Payments to Individuals (Independent Contractors) versus Employees [most recent approval: October 18, 2008]
Responsible Executive: Vice-President (Administration)	Enquiries: Financial Affairs, Human Resources, or Legal Services
<i>DISCLAIMER: If there is a discrepancy between this electronic policy and the written copy held by the policy owner, the written copy prevails.</i>	

Introduction

Different legislative and contractual obligations arise when the University engages an independent contractor to provide services as compared to an employee. Of note, the tax treatment of payments to independent contractors versus employees varies pursuant to the Income Tax Act. Accurate characterization of the service provider as an independent contractor versus an employee is important as it may impact the application of employment-related legislation and/or collective bargaining agreements. The Engagement of Independent Contractors policy (this “Policy”) serves to mitigate the potential liability to the University that would arise due to an inaccurate characterization.

Purpose

The purpose of this policy is to:

- (1) Outline the process that must be followed prior to engaging an Independent Contractor (as defined herein); and
- (2) Set out the required contractual terms of engagement with an Independent Contractor, including the appropriate methods of payment.

Scope

This policy applies to any individual who has the actual or delegated authority to engage an independent Contractor on behalf of the University.

Definitions

- Independent Contractor: any Service Provider (as defined herein) who does not have an employment relationship with the University.

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- Independent Contractor Questionnaire or ICQ: the questionnaire developed by the University that gathers information with respect to a Service Provider necessary to determine the nature of the Service Provider's relationship with the University as either an Independent Contractor or an employee. When completed, the questionnaire automatically generates one of two conclusions: that the Service Provider does, or does not, qualify as an Independent Contractor. The questionnaire can be found at http://www.mcmaster.ca/bms/BMS_Policies_Procedures.htm
 - Service Provider: any person or entity, including a corporation, sole proprietor, partnership and an unincorporated business, who is not an employee of the University at the relevant time, engaged to provide services to the University.
 - Services: is broadly defined to include, but not limited to, legal services, accounting services, architect services, consultative services, research services, or other service, whether determined by the completion of a defined task, period of time, or some other metric, and whether the outcome or product of the services is tangible or not.

Policy

Prior to engaging a Service Provider:

- (1) An ICQ must be completed and executed per the instructions on the ICQ and must yield the conclusion that the Service Provider qualifies as an Independent Contractor. **A new ICQ must be completed if the nature of the service to be provided changes.** Where the total amount to be paid to the Service Provider is \$10,000 CDN or more, the ICQ must be completed and sent to the ICQ Administrator for approval and issuance of an HR approval number. To download the Independent Contractor Questionnaire in Microsoft Excel format please visit:

http://www.mcmaster.ca/bms/policy/finance/icq08/icq08_app_e_individual_cont_question.XLT

- (2) Except in circumstances described by (3) below, the standard University contract for services must be executed by the Independent Contractor and the University, the template for which can be found at: http://www.mcmaster.ca/bms/BMS_Policies_Procedures.htm. Any modifications to the template, except those modifications contemplated by the template itself, require the review and approval of the Director, Employee/Labour Relations (Legal); and
- (3) If the Independent Contractor will be engaged as a subcontractor to provide research services to a third party on behalf of the University, as permitted by a contractual agreement between the third party and the University, the standard University supplemental contract for research services must be executed by the Independent Contractor and the University, the template for which can be found at: http://www.mcmaster.ca/bms/BMS_Policies_Procedures.htm. Any modifications to the template, except those modifications contemplated by the template itself, require the review and approval of the Director, Employee/Labour Relations (Legal).

Payments to Independent Contractor ("IC") Versus Employees – Process

1. APPROVAL PROCESS

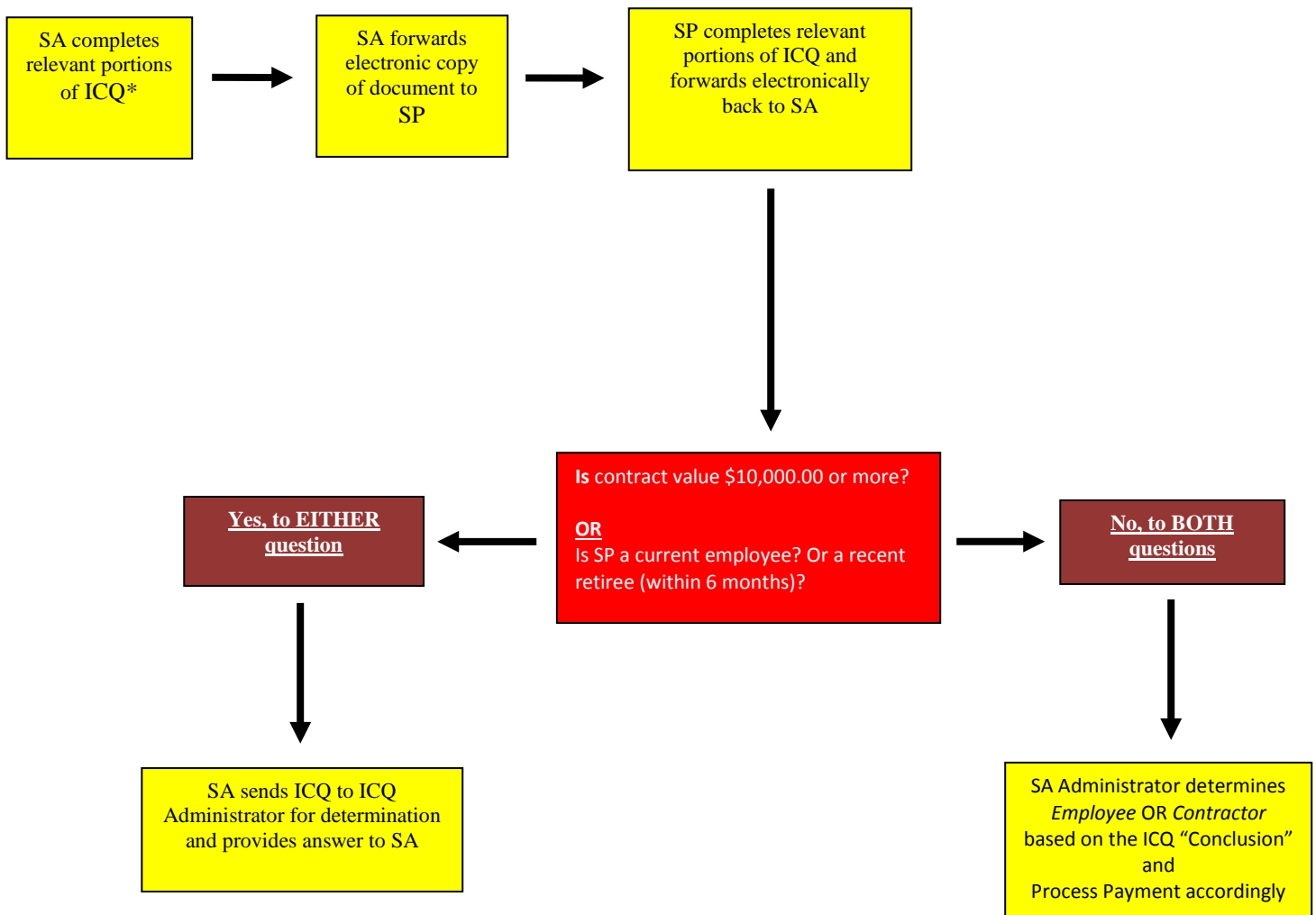
Terms

"SP" = Service Provider

"SA" = Signing Authority

"ICQ" = Independent Contractor Questionnaire

"Manager" = Senior Administrator of Unit (e.g. Faculty Manager, FHS Department Manager, Director)



Payments to Individuals (Independent Contractors) Vs. Employees

2. DOCUMENTATION PROCESS

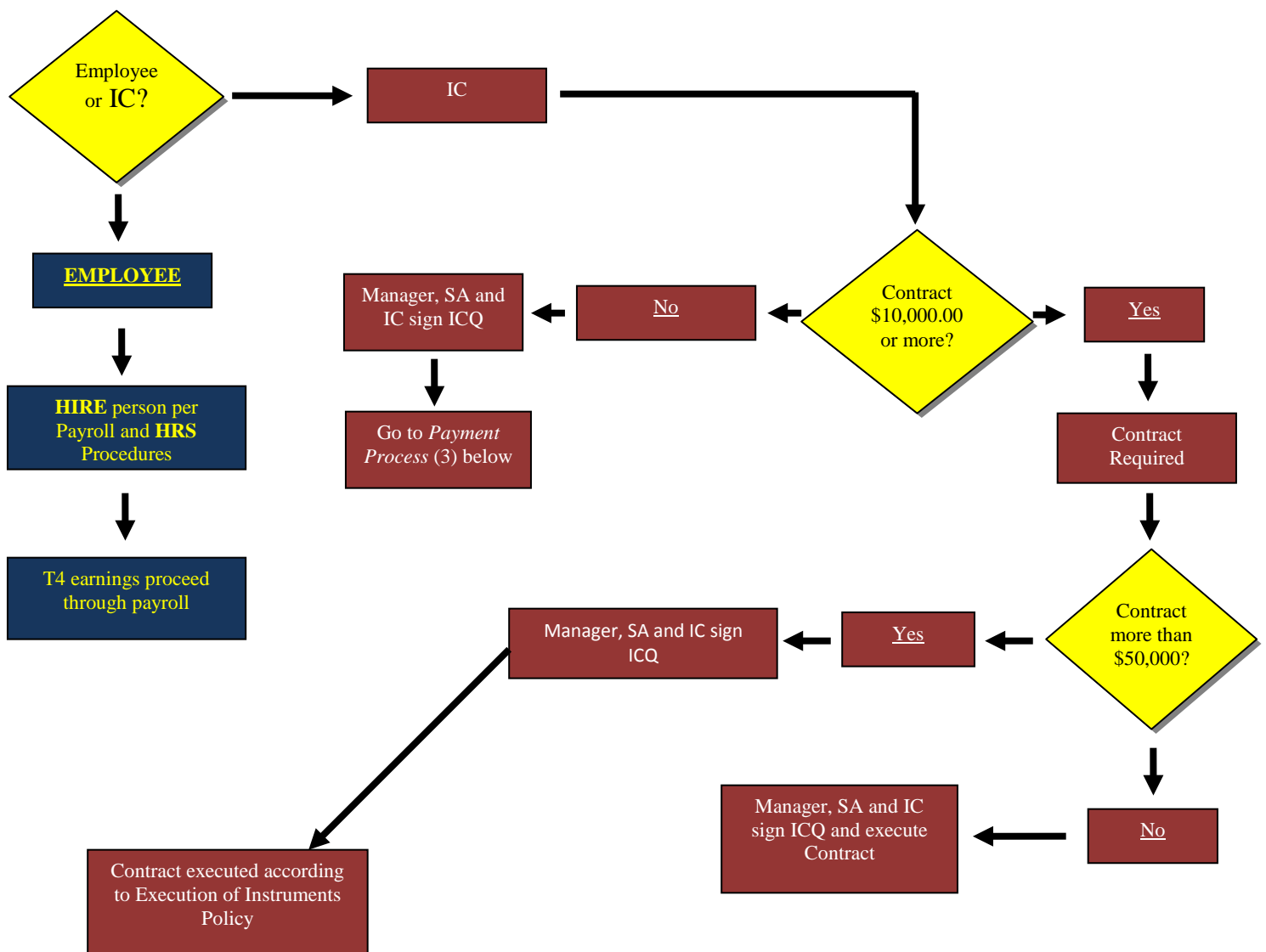
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Payment to Individuals (Independent Contractors) Vs. Employees

3. PROCUREMENT and PAYMENT PROCESS

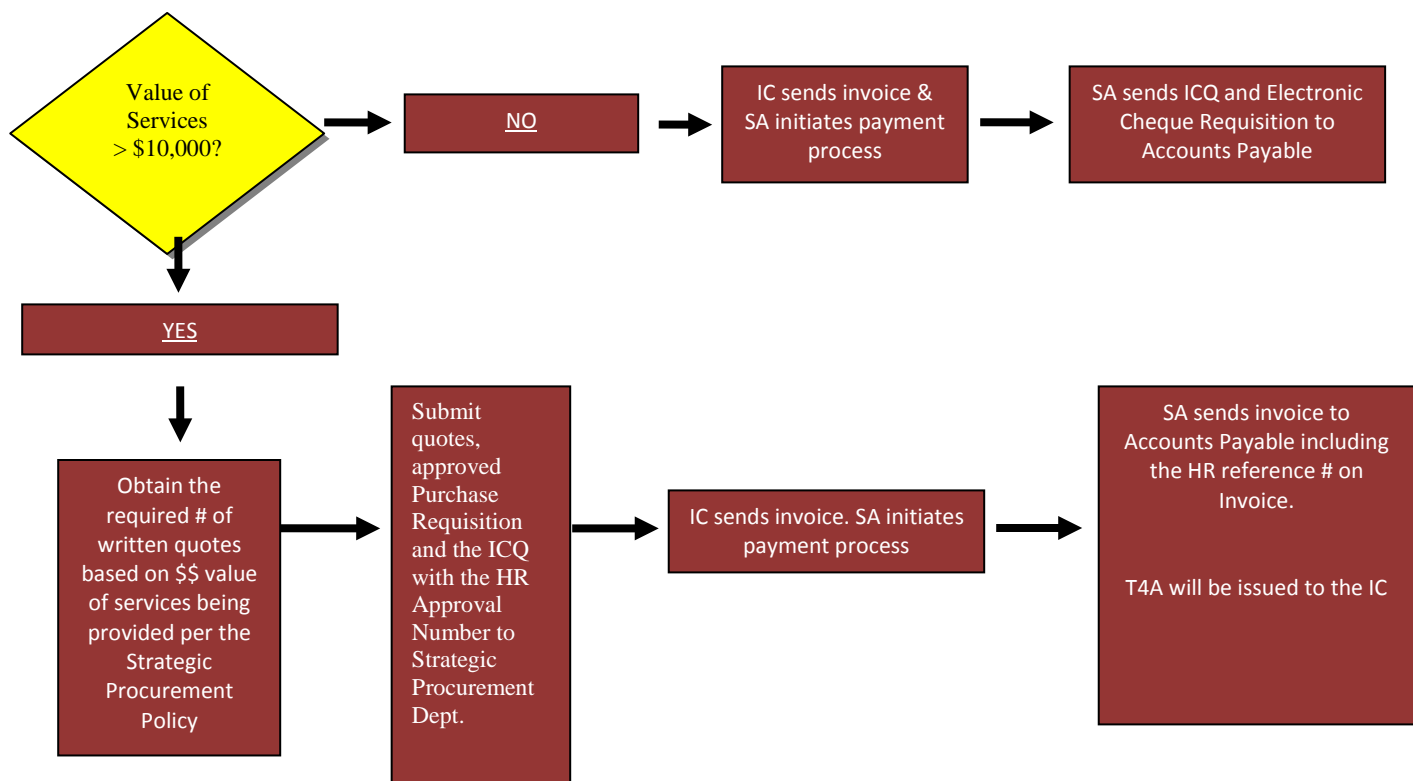
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Related Procedures or Documents

- The Strategic Procurement Policy:
<http://www.mcmaster.ca/bms/policy/purchase/SP-01.pdf>
- The policy on Reimbursement to Individuals for University business:
http://www.mcmaster.ca/bms/policy/accounts_payable/ap01-rem_univ_bus.pdf
- Guidelines for Payments to Research Study Participants:
http://www.mcmaster.ca/bms/policy/accounts_payable/researchsubjects2012.pdf
- Guidelines for Treatment of External Payments for Existing Employees
<http://www.mcmaster.ca/bms/policy/> *link to be updated when the new ICQ policy is posted*
- A template for the standard University contract for services:
http://www.mcmaster.ca/bms/BMS_Policies_Procedures.htm
- A template for the standard University supplemental contract for research services:
http://www.mcmaster.ca/bms/BMS_Policies_Procedures.htm
- The Independent Contractor Questionnaire (ICQ):
http://www.mcmaster.ca/bms/policy/finance/icq08/icq08_app_e_individual_cont_question.XLT
- A template for the standard University supplemental contract for research services:
http://www.mcmaster.ca/bms/BMS_Policies_Procedures.htm