

## INDEPENDENT CONTRACTOR PROCEDURES

**PROCEDURE NUMBER:** POF110418000

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POF050317000 *(updated 23/03/10 via modification)*  
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POF040922000 *(updated 19/11/04)*

**PROCEDURE NAME:** Independent Contractors

**DATE APPROVED:** 13 April 2011

**PROCEDURE TYPE AND CATEGORY:** General (Resourcing and Finance)

**RESPONSIBLE OFFICER:** Director Finance Systems & Processing

**FIRST EFFECTIVE FROM:** 5 October 2004

### 1.0 PURPOSE

The purpose of this procedure is to:

- Establish a framework within which independent contractors may be engaged on a consistent basis across the University.
- Establish procedures that will allow staff to clearly distinguish between circumstances where it is appropriate and allowable to engage an independent contractor to perform a task rather than appoint an employee to perform that task.

### 2.0 BACKGROUND

The procedure is required to ensure that the University fulfils its obligations under taxation and employment law in respect of the engagement of independent contractors and employees.

### 3.0 DEFINITIONS

- **ABN** – Australian Business Number
- **ACN** – Australian Company Number
- **Bona Fide** describes a true and genuine organisation that can provide a valid ABN or ACN, is registered for GST and trades in good faith.

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- **Companies** are entities that have been incorporated pursuant to the *Corporations Act 2001* (Cth), have an ACN and ABN and are registered for GST with the Australian Taxation Office.
- **Contractor Officer (CO)** is a senior financial or administrative officer appointed by each organisational unit to implement this procedure within that organisational unit.
- **Control** refers to the right of the University to direct the way in which the work is to be performed and includes the exercising of judgment as to how, when and where to perform the specific task or tasks.
- **Core business service providers** are employees of the University and not independent contractors.

These staff deliver the core business services that allows the University to fulfil its mission, with the University exercising control over these staff to ensure that the services are delivered in an appropriate manner.

Core business service providers include, but are not limited to:

- Lecturers
- Researchers
- Teachers
- Editors
- Tutors
- Curriculum developers

These services are usually provided by those organisational units in the University responsible for the delivery and/or support of teaching and learning programs.

- **Employees** are persons engaged by the University to provide personal services for reward. Employees are paid through the payroll system.
- **Independent contractors** are referred to in this procedure to include both consultants and contractors.

Independent contractors are not employees of the University.

Consultants are individuals or organisations engaged to provide expert analysis and advice which facilitates decision-making; to perform a specific one-off task or set of tasks and to perform a task involving skills or perspectives which would not normally be expected to reside within the University.

Contractors are individuals or organisations engaged to provide services which implement a decision; to perform all or part of a new or existing ongoing function to assist an organisational unit in undertaking its defined activities operational functions and information systems and processes to perform a function involving skills or perspectives which would not normally be expected to reside within the organisational unit and which the organisational unit has therefore determined to outsource.

- **Independent contractor number (ICN)** is the number allocated by the General Manager – Financial Operations to an individual or entity where it has been determined that person or entity is an independent contractor.
- **Material Interest** is an interest that if taken into consideration, would potentially alter or influence the decision making of that party.
- **Non core business service providers** are, other than employees, independent contractors who are providing services other than those listed above as normally considered to be provided as part of the University's core business.

As a general, but not exclusive, rule, non core business service providers provide services to organisational units of the University whose primary purpose is to provide administrative, technical and professional support to the educational and teaching units of the University.

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- **Non service provider** is an individual, partnership or company that supplies the University with goods only, or goods and services where the value for the goods is more than 80% of the total contract value
- **Organisational Unit** includes, but is not limited to, faculties, schools, departments and branches
- **Partnership** is an arrangement between two or more individuals to carry on a business jointly. A partnership is not a company.
- **Past Employee** is a former Victoria University employee whom was terminated or resigned less than 3 months prior to the proposed engagement as an independent contractor.
- **Remuneration** is the provision of reward for personal services. It includes, but is not limited to, salaries, wages, allowances stipends, honorariums and bursaries.

Remuneration is paid through the University's payroll system and is subject to tax and other statutory employment on costs.

- **Service Provider** is an individual, partnership or company that supplies to the University services only (non-tangible goods) or goods and services where the value of the services is more than 20% of the total contract value.

**Superannuation Guarantee Charge (SGC)** is a levy imposed by the Australian Taxation Office on employers as a contribution to the provision of future Superannuation benefits for employees.

## 4.0 KEY WORDS

- Consultants
- Contractors
- Core business
- Employees
- Payroll Tax
- Remuneration
- Service Providers
- Superannuation
- WorkCover

## 5.0 PROCEDURAL STATEMENT

Organisational units are prohibited from engaging independent contractors as core business service providers, unless the service provider meets the criteria set out under paragraph 6.3.2 of this procedure.

Organisational units may engage independent contractors as non-core business service providers in accordance with the procedures set out in this procedure.

## 6.0 PROCEDURES

### 6.1 EXEMPTION FOR CERTAIN INDEPENDENT CONTRACTORS

The following providers of goods and services are exempted from the application of this procedure. This means that providers that fall into the categories listed below may be engaged as independent contractors without further action.

6.1.1 Non-service providers.

6.1.2 Providers of trades and services, where the people performing the work are not under the control of the University and who are providing non core business services (e.g. plumbers, electricians, cleaners, maintenance providers, WorkCover or medical related providers etc).

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- 6.1.3 Service providers that operate in industries and professions where standard results contracts are regularly used and who are providing non core business services to the university (e.g. engineers, architects, auditors, lawyers and quantity surveyors).
- 6.1.4 Non-residents of Australia who are engaged as service providers who are providing services offshore. Non-residents of Australia are required to complete the Australian Taxation Office's "Statement by a Supplier" form to comply with GST legislation.
- 6.1.5 Non-residents of Australia who are engaged as service providers who are providing services in Australia to the value of less than \$450 in a calendar month. Non-residents of Australia are required to complete the "Statement by a Supplier" form.

## **6.2 CORE BUSINESS SERVICE PROVIDERS ARE EMPLOYEES**

Individuals involved in delivering core business services are employees. They are not independent contractors unless the service provider meets the criteria set out under paragraph 6.3.2 of this procedure. The University will make payments to these persons through its payroll system.

### **6.2.1 Service Providers Who Are Employees**

The following service providers, who are core business service providers, are specifically identified as employees or are required by law to be treated on the same basis as employees and not independent contractors:

- Individuals currently employed as employees of the University (i.e. an individual cannot be an employee and an independent contractor at the same time).
- Individuals that are engaged to deliver core business services, unless the service provider meets the criteria set out under paragraph 6.3.2 of this procedure
- Past employees. The status of past employees who seek to be re-engaged by the University after three months of their termination from the University will be determined by the application of procedures established in this procedure.
- Service providers that are determined through the application of the procedures in this procedure as being employees and not independent contractors.
- Visiting international academics or professionals who are providing core business services. However, as these persons may have a number of elements to their total remuneration package, specific early advice is to be obtained to the remuneration arrangements for such appointments from the Manager – Remuneration Services in Human Resources prior to an offer of appointment being made.
- Individuals appointed to 'visiting' or part time senior academic or administrative positions in the University. However, as these persons may have a number of elements to their total remuneration package, specific early advice is to be obtained to the remuneration arrangements for such appointments from the Manager – Remuneration Services in Human Resources prior to an offer of appointment being made.
- Individuals receiving honorariums or stipends. Note that such payments are remuneration, taxable in the hands of the recipients and subject to all the normal employment on-costs.
- Students who receive bursaries or other educational allowances which are taxable in the hands of the recipients.

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- Members of the University Council who receive remuneration in respect of their membership of Council.

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### **6.3 SERVICE PROVIDERS THAT MAY BE ENGAGED AS INDEPENDENT CONTRACTORS**

The following service providers may be accepted as independent contractors and be paid through the University's Accounts Payable system:

- 6.3.1 Service providers engaged to provide non core business services, provided that they meet the 'Badges of Business' test set out in [Appendix 1](#) by demonstrating that they:
- Conduct genuine businesses and have been determined to be independent contractors in accordance with this procedure
  - Genuinely provide to the public at large similar services to those they provide to the University
  - Are able to demonstrate that the University is one of a number of clients to whom they provide the services which they are providing to the University
  - Are not under the direct control of the University and have not been integrated into the business of the University
  - Have a valid ABN, and ACN if a company, and if required, are registered for Goods and Services Tax (GST) with the Australian Taxation Office.
- 6.3.2 Guest speakers, presenters, developers of curriculum, facilitators, or sessional teachers required to perform a function involving skills, qualifications or industry experience that would not normally reside within the organisational unit and which the organisational unit has therefore determined to outsource, even if engaged for core business services, provided the University does not exercise control over such professionals and that the engagement is on a project specific, one-off or on a short term basis to provide services in their field of expertise, and that they fulfill the following criteria:
- They are not engaged to deliver services on more than ninety (90) days in any one calendar year
  - They are not merely acting as substitutes for lecturers, teachers or tutors in the delivery of core business
  - They are able to meet the 'Badges of Business' test set out in [Appendix 1](#), and summarised above in paragraph 6.3.1
  - Have a valid ABN, and ACN if a company, and if required, are registered for Goods and Services Tax (GST) with the Australian Taxation Office
- 6.3.3 Payments to other Australian education institutions for services provided by one or more of their employees

Services providers accepted as independent contractors through the operation of paragraphs 6.3.1 and 6.3.2, will be required to enter into an Independent Contractor Agreement ([Appendix 3](#)).

### **6.4 COMPLIANCE WITH UNIVERSITY PURCHASING POLICY**

All appointments of independent contractors must comply with University Purchasing Policy and Procedures.

In particular, the requirements of clause 9.3 in relation to obtaining quotations and submissions of purchases to Tender Board.

## **6.5 PROCEDURE**

### **6.5.1 Contractor Officers**

To implement this procedure each organisational unit is required to appoint a Contractor Officer (CO).

The CO will liaise with the Finance Department to determine the status of a service provider.

A CO cannot make a determination, but will make a recommendation to the Finance Department for determination by the Taxation Accountant - Finance.

### **6.5.2 Determination of Whether a Service Provider is to be Engaged as an Independent Contractor**

Prior to any undertaking being made to a service provider the responsible organization unit will examine each situation to determine if the service provider is to be engaged as an employee or independent contractor.

The procedures set out in paragraphs 6.2 and 6.3 above will facilitate this determination.

Before engaging the services of a service provider, COs must complete the questionnaire set out in [Appendix 1](#) and assess the provider as either an employee or independent contractor in accordance with the decision pathway shown in [Appendix 2](#).

COs are to forward the following documentation to the General Manager –Financial Operations to facilitate a determination on whether a service provider can be engaged as an independent contractor:

- Completed "Badges of Business" Test ([Appendix 1](#))
- Independent Contractor Certification ([Form 1](#))
- Documentation substantiating that the insurance cover required by paragraph 6.5.9 is in place and will be current for the duration of the Agreement.

### **6.5.3 Determination of Status**

The Taxation Accountant - Finance will make a determination based on the above information.

The Taxation Accountant - Finance will make a determination within two clear business days after receipt of all information required. The Taxation Accountant - Finance will allocate an Independent Contractor Number (ICN) if it is determined that the service provider is an independent contractor.

If the Taxation Accountant - Finance determines that a service provider is an employee and not an independent contractor this advice will be given to the CO, with reasons supporting the determination.

### **6.5.4 Determination Made Once Only**

A determination as to whether a service provider can be engaged as an independent contractor need only be made once. A determination does not have to be made each time an engagement is proposed unless the contractor's circumstances change. It is the CO's responsibility to remain aware of each independent contractor's circumstances in regard to the operation of this procedure.

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#### 6.5.5 Review of Determination

Should an organisational unit wish to have a determination reviewed an application may be made to the Manager, Compliance and Financial Transactions providing additional information supporting the request for review. The Manager, Compliance and Financial Transactions is able to amend any previous determination.

A determination made by the Manager, Compliance and Financial Transactions is final.

#### 6.5.6 Independent Contractor Register

The Taxation Accountant will maintain an Independent Contractor Register, which will hold the information outlined above.  
The Taxation Accountant - Finance will retain all correspondence for each determination.

#### 6.5.7 Independent Contractor Agreement

The engagement of all independent contractors is to be formalised through the completion of the standard Independent Contractor Agreement. A copy of the standard Independent Contractor Agreement can be obtained from the Victoria University [Legal Services](#) webpage.

Payments will not be made to the independent contractor until the Taxation Accountant - Finance, receives a copy of the Agreement.

Following receipt of a determination that an individual or entity is an Independent Contractor the relevant CO will arrange for the completion of the standard Independent Contractor Agreement .

The ICN is to be inserted in the standard Agreement.

If the engagement or a particular independent contractor appears to vary from those of standard engagements then advice must be sought from the University Legal Services and an amended Agreement developed prior to the signing of an Agreement.

A copy of the completed Independent Contractor Agreement is to be forwarded to the Taxation Accountant - Finance.

#### 6.5.8 Signing of Independent Contractor Agreements

Independent contractor agreements may be signed on behalf of the University by officers who hold a financial delegation as required by University Financial Delegations Schedule, to commit the University to that level of expenditure.

#### 6.5.9 Insurance Cover

Independent contractors are to have the following insurance cover in place and provide documentary evidence of this cover to the CO completing the Independent Contractor Agreement:

- Public and Product Liability provides a level of protection to the University from claims arising from injury to third parties or damage to property caused by the actions of the service provider whilst undertaking work for the University.
- Professional Indemnity provides a level of protection to the University from claims for financial loss, discrimination, defamation, breach of copyrights, etc. arising from the negligent action of the service provider whilst undertaking work for the University.
- WorkCover provides a level of protection to the University from claims for work injury. Independent contractors are required to carry Workers Compensation Insurance for an amount required by the relevant state or territory legislation.



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#### 6.5.10 Compliance with Occupational Health and Safety

Independent Contractors are required to comply with relevant Occupational Health and Safety policies and procedures. All contractors engaged through the Facilities Management Department must meet the University's Contractor Control standards, which are available from the Facilities Management department.

### 6.6 SUPERANNUATION GUARANTEE, PAYROLL TAX AND WORKCOVER

In circumstances when the independent contractor reserves the right and is completely free to engage others to perform the work under the standard Independent Contractor Agreement then the University is generally exempt from the Superannuation Guarantee Charge, Payroll Tax and WorkCover in respect of that engagement.

To ensure compliance with these requirements the University is not to enter into arrangements with persons or entities which may create a liability in respect of the Superannuation Guarantee Charge, Payroll Tax or WorkCover.

Accordingly, in any arrangements where an individual or entity is to be engaged as an independent contractor and that contractor is required personally to perform the duties required and/or is not free to delegate tasks to other persons, then it must be determined that person or entity be engaged as an employee and not an independent contractor.

Advice and assistance in these matters is available from the Taxation Accountant - Finance.

Refer Appendix 3 for guidance in determining liability to Payroll Tax and WorkCover and Appendix 4 for guidance in determining liability to Superannuation Guarantee Charge.

### 6.7 PROHITED ENGAGEMENTS

Organisational units are prohibited from engaging independent contractors in the following circumstances:

- 6.7.1 Where the independent contractor does not have, or does not quote their ABN and/or ACN. In this circumstance the person should be engaged as an employee.
- 6.7.2 Where the service provider is currently an employee of the University (i.e. an individual cannot be an employee and an independent contractor at the same time).
- 6.7.3 Where an employee has a material interest in the service provider.
- 6.7.4 Where the services to be provided are for core business services, except where the criteria under paragraph 6.3.2 is met.
- 6.7.5 Where the proposed independent contractor was, within the three months prior to the provision of services, an employee of Victoria University or is a former employee of Victoria University whose re-engagement after three months of termination falls outside the guidelines for a former employee to become an Independent Contractor referred to in paragraph 6.2.1 of this Procedure and/or is an associate of a past or current employee.
- 6.7.6 An engagement with an entity that is not bona fide. The paragraph 6.8, 'Identification of ABNs and ACNs', will provide appropriate avenues to verify bona fide entities.
- 6.7.7 An engagement with an entity that does not genuinely provide to the public the services that they provide to the University and service a range of clients.
- 6.7.8 An engagement that is not contracted under a standard Independent Contractor Agreement approved by the University General Counsel.
- 6.7.9 Engagements with persons or entities that will create a liability in respect of the Superannuation Guarantee Charge, Payroll Tax or WorkCover.

## **6.8 IDENTIFICATION OF ABNs AND ACNs**

### **6.8.1 Identifying Companies and Service Providers - Australian Business Number (ABN)**

Entities carrying on a business in Australia are required to quote their Australian Business Number (ABN) on invoices to avoid tax being withheld.

All entities carrying on a business in Australia will have an ABN, with which they can be identified. An entity can be:

- an individual
- a company
- a partnership
- a trust; or
- a body politic.

The entity's ABN, the type of entity and the legal name can be verified through the Australian Business Registry website [http://www.abr.gov.au/ABR\\_BC/](http://www.abr.gov.au/ABR_BC/).

CO's are to verify the ABN of a service provider that is being recommended as an independent contractor prior to making that recommendation to the Taxation Accountant - Finance.

### **6.8.2 Identifying Companies – Australian Company Number (ACN)**

Every incorporated company in Australia will have a legal name and will be issued with a company identification number known as ACN by the Australian Securities and Investments Commission (ASIC). The company can be a proprietary or a public company. If it is a proprietary company the company's name will end with PTY LTD, whereas a public company's name will end with LTD, without the PTY. A company's details can be accessed through the ASIC's website with it's name or ACN by clicking on to the following link:<http://www.search.asic.gov.au/gns001.html>

In addition all trading names will have to be registered under Business Names Act and details of the entity can also be verified with the trading name through the Australian Business Registry.

## **7.0 CONGRUENCE WITH LEGISLATION AND RELATED POLICIES**

Employment Law  
Income Tax Legislation  
Payroll Tax Legislation  
Superannuation Legislation  
WorkCover Legislation  
Purchasing Policy  
Financial Delegations

## **8.0 ACKNOWLEDGEMENT**

Australian Taxation Office (ATO) Website.

## **9.0 CONSULTATION**

The draft policy and procedure was initially presented to VCAC for circulation amongst University staff. A consultation process then followed with staff providing their comments and feedback and amendments were made where appropriate to the policy and procedure.

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## 10.0 REVIEW

This procedure will be reviewed no later than 31 December 2015.

## 11.0 ACCOUNTABILITIES

### 11.1 RESPONSIBILITY

Officers as listed are responsible for ensuring the implementation of, and on going compliance, with this procedure:

OFFICER	RESPONSIBILITY
Senior Taxation Accountant Manager Financial Compliance	Staff training (if required) Monitoring compliance and initiating corrective action if required
Executive Officers	To ensure that this procedure is implemented within their portfolios
Deans, Deputy Deans, Directors, Executive Director, Associate Directors, Heads of Schools and similar.	Ensure staff are made aware of the procedure, that it is implemented and complied with in their organisational unit. Awareness may occur, for example, through discussion at staff meetings
University General Counsel and Secretary to Council	To advise Executive Officers and receive signed agreements for storage in the Chancellery Registry
Staff	To be aware of, understand and comply with the procedure

### 11.2 COMPLIANCE

Compliance testing and review will occur on a regular basis. Non-compliance will be escalated for review and follow up action if required.

## 12. FORMS

### Form 1

**VICTORIA UNIVERSITY**

### **INDEPENDENT CONTRACTOR CERTIFICATION**

**Name of Contractor Officer** \_\_\_\_\_

**Organisational Unit** \_\_\_\_\_

#### **Independent Contractor Details:**

**Name:** \_\_\_\_\_ **ABN/ACN:** \_\_\_\_\_

**Address:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

#### **Brief Description of services to be provided:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### **Certification:**

I hereby certify that the above mentioned individual or entity:

- Is not providing core business services to the University, except if paragraph 6.3.2 applies in relation to core business service providers.
- Has satisfied the 'Badges of Business Test' set out in [Appendix 1](#), which is attached, and is therefore an independent Contractor.
- Will be engaged using a standard Independent Contractor Agreement.
- That the Independent Contractor Number allocated will be shown on all invoices passed for payment in respect of this contractor.

#### **Checklist:**

Please forward this completed form and the following documents to the Taxation Accountant:

1. Badges of Business Test
2. Insurance documentation as required by paragraph 6.5.9.

**Signed:** \_\_\_\_\_

**Date:** ..... / ..... / .....

## 13.0 APPENDICES

### Appendix 1

#### VICTORIA UNIVERSITY

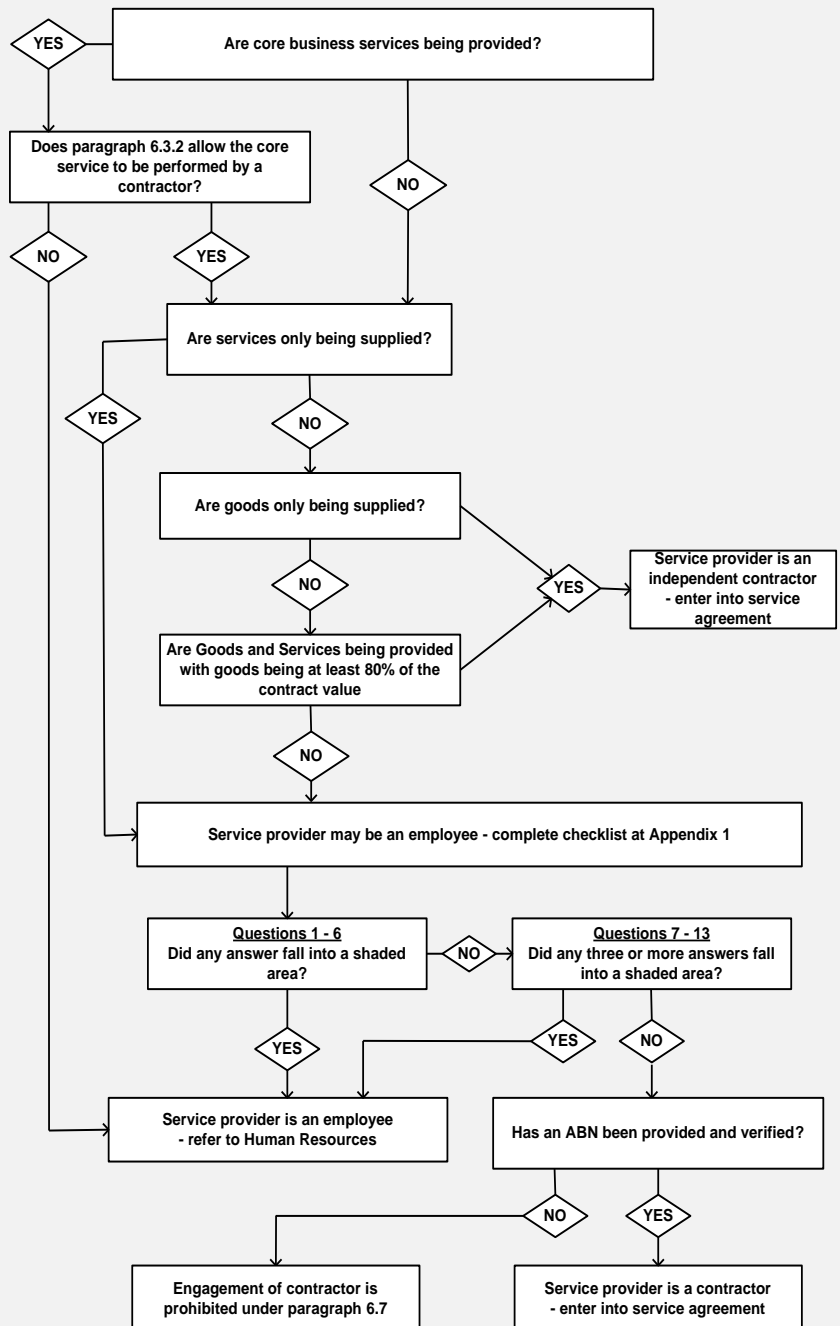
#### BADGES OF BUSINESS TEST – Is an individual or organisation an employee or contractor?

No	Questions/Statements	Yes	No	Comment
1	Is the proposed contractor providing core business services? (Answer 'No Para 6.3.2 applies' if exclusions in Para 6.3.2 apply)			If <b>YES</b> will definitely be an employee
2	Is the proposed contractor presently employed by the University? (This includes past employees)			If <b>YES</b> will definitely be an employee
3	Is the proposed contractor able to demonstrate they are a genuine business that offers similar services to those provided to VU to a number of clients or to the public at large			If <b>NO</b> will definitely be an employee
4	Is the proposed contractor integrated into the business and under the control of the University (i.e. having a permanent office, telephone, email account, motor vehicle works at a time and place directed by the University, and has rights to work entitlements as outlined under the EA) and works as part of a team with other University employees?			If <b>YES</b> will definitely be an employee
5	Does the proposed contractor have a valid ABN, and ACN if a company, and if required, is registered for GST?(Answer "Yes" for overseas thesis markers)			If <b>NO</b> will definitely be an employee
6	Does the engagement of the proposed contractor create a liability in respect of the Superannuation Guarantee Charge, Payroll Tax or WorkCover? (Refer paragraph 6.6 and appendices 4 and 5)			If <b>YES</b> will definitely be an employee
7	Apart from the terms specified in the contractor agreement, is the proposed contractor free to exercise their own discretion in the manner they perform their work?			If <b>YES</b> may possibly be a contractor
8	Is the proposed contractor only to perform work as specified in the contractor agreement, and only provide additional services by further agreement?			If <b>YES</b> may possibly be a contractor
9	Is payment dependent on the performance of the contract and not based on period of time worked?			If <b>YES</b> may possibly be a contractor
10	Is the proposed contractor going to bear the legal risk in respect of the work they perform, and must they remedy any defective work at their own expense?			If <b>YES</b> may possibly be a contractor
11	Can the proposed contractor, subcontract or delegate the work?			If <b>YES</b> may possibly be a contractor
12	Does the proposed contractor use their own equipment in providing their services?			If <b>YES</b> may possibly be a contractor
13	Is the contract for a period exceeding 90 days of the year, in any one calendar year?			If <b>YES</b> may possibly be an employee



**Appendix 2**

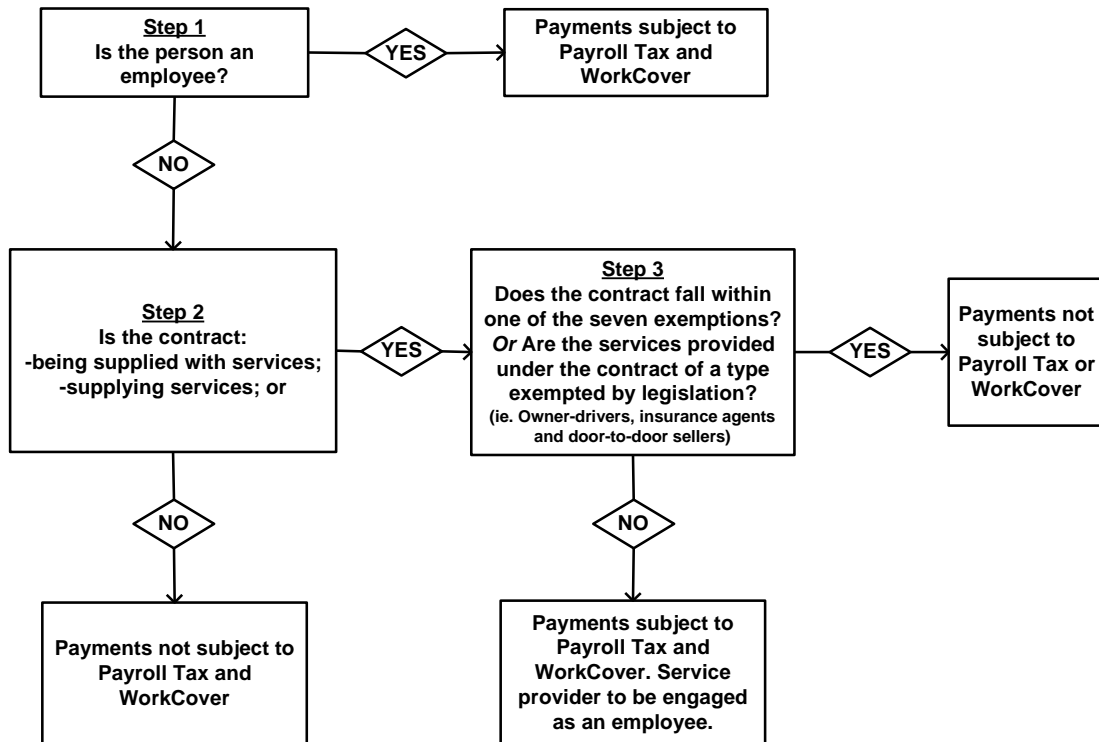
**DECISION PATHWAY TO DETERMINE IF A SERVICE PROVIDER IS AN EMPLOYEE OR INDEPENDENT CONTRACTOR**



**GUIDANCE FOR DETERMINING LIABILITY TO PAYROLL TAX AND WORKCOVER**

The University is required to determine its Victorian Payroll Tax and WorkCover obligations in respect of each consultancy Agreement that is principally for the provision of personal services.

As such the University must obtain some understanding of the Independent Contractors operations to discharge these obligations. These obligations can be understood more clearly by reviewing the diagram below.



The Victorian Payroll Tax Act (PRTA) and WorkCover deems a contract for the provision of services to be a "relevant contract" and subject to payroll tax, unless one of the following seven exemptions applies: -

1. The services provided by the Independent Contractor are of a type typically required by the University for less than 180 days in a financial year.
2. The Independent Contractor provides services to the University on no more than 90 days in a financial year.
3. The Independent Contractor ordinarily renders services of the type under the Agreement to the public generally.
4. The Independent Contractor engages others to do all or part of the work pursuant to the Agreement, (subject to certain conditions being met.)
5. The services provided under the Agreement are of a type not ordinarily required by the University and the Independent Contractor usually provides those services to a range of clients.
6. The provision of labour is secondary to the supply of materials and/or equipment by the Independent Contractor.
- 7.

**If none of these exemptions apply then the entity is to be engaged as an employee and not as an independent contractor.**

Further advice and guidance is available from the Taxation Accountant - Finance.



## Appendix 4

### GUIDANCE FOR DETERMINING LIABILITY TO SUPERANNUATION GUARANTEE

The University is required to determine Superannuation Guarantee obligations in respect of each consultancy Agreement that is principally for the provision of personal services.

As such the University must obtain some understanding of the Independent Contractors operations to discharge these obligations.

Under the superannuation guarantee, an employee includes a person engaged under a contract that is wholly or principally for labour. This means that a contractor can be considered to be an employee under the superannuation guarantee.

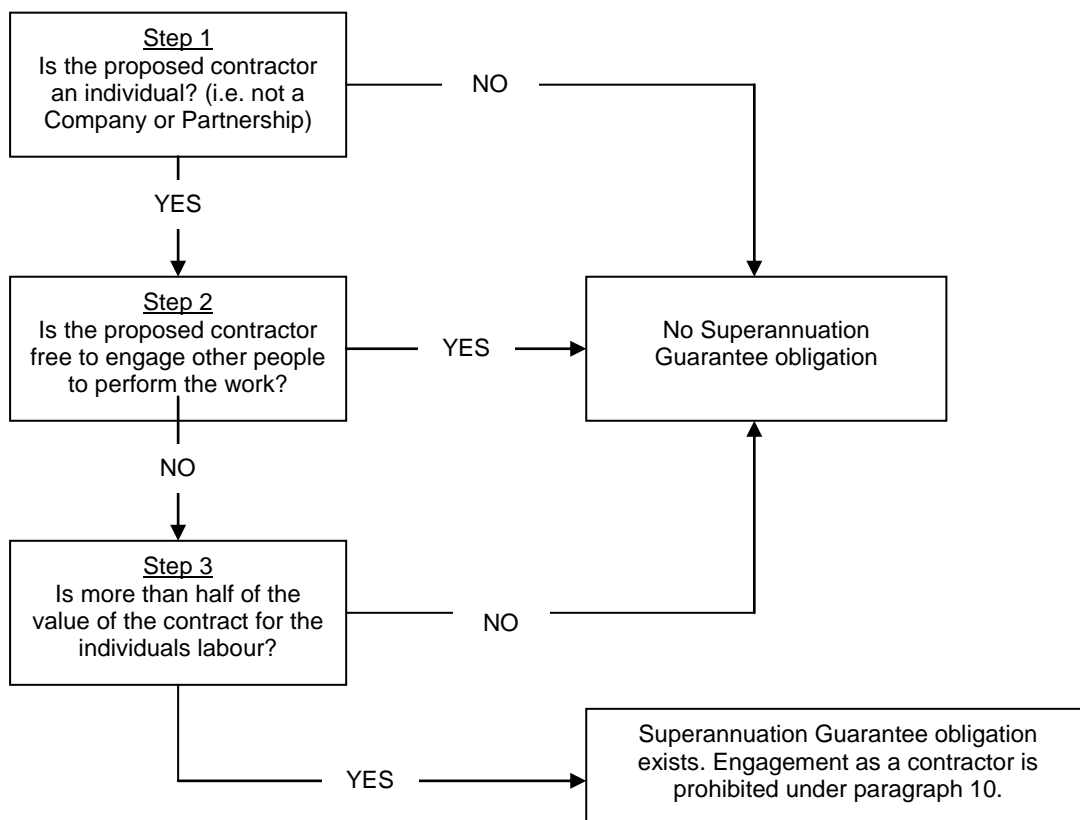
A contract is principally for labour if more than half of the value of the contract is for the persons labour. Even if the contractor quotes an ABN, they may be considered an employee for the purposes of the superannuation guarantee.

The superannuation guarantee does not apply when a contract is made with someone other than the person who will provide labour. For example, there are no obligations under the superannuation guarantee if the contract is with a company or partnership.

There are no superannuation guarantee obligations if the person you have contracted is free to engage other people to perform the work. In this situation, the contract is not for the labour of the individual.

These obligations can be summarised more clearly by reviewing the diagram below.

These obligations can be summarised more clearly by reviewing the diagram below.



**If a superannuation obligation exists then the individual is to be engaged as an employee, not an independent contractor.**

Further advice and guidance is available from the Taxation Accountant - Finance.