

CONTRACTORS AND CONSULTANTS (CONTRACTS FOR SERVICES) POLICY

1. Purpose

This policy aims to ensure that AFTRS adopts the most appropriate means of contracting the delivery of services.

2. Scope

This Policy applies to all contractors and consultants providing services to AFTRS on a fee for service basis in their own names or in their capacity as a sole trader.

3. Policy Statement

3.1 AFTRS may engage individuals or organisations as independent contractors or consultants, irrespective of their business structure, if:

- a. the individual or organisation is actively engaged in their own business;
- b. the individual or organisation is to be engaged on a one-off or ad-hoc basis; and
- c. it is determined by applying the principles of the multi-factor test determined by the courts that the relationship between AFTRS and the person or organisation is that of independent contractors (rather than of employer and employee), and further that the engagement is not a Sham Contract.

3.2 However, the following work may **only** be performed by employees:

- a. work that involves the exercise of delegations under *AFTRS Administrative Orders and Financial Delegations*;
- b. formal assessment or the formal marking of students' award course work; and
- c. except in the circumstance described in the next paragraph, work that is considered to be AFTRS' core business, rather than peripheral to it, for example, work involving:
 - i. being a substitute for AFTRS' staff; or
 - ii. lecturing using AFTRS' own course documents.

Despite paragraph 3.2 c., the Divisional Director responsible for work may, on an occasion by occasion basis, determine that it is appropriate for a person to be engaged as contractor rather than an employee *if, and only if*, the engagement is for no more than **a total of five days**, with no more than **eleven** other engagements as a contractor **in the same AFTRS' Division during the last 12 months, OR less than sixty days in total** for a one-off project, unless otherwise reviewed with the Director, Finance & Technology.

3.3 It is best practice, and preferred, for individuals and organisations being contracted to deliver work at AFTRS to have the appropriate insurances e.g. public liability; professional indemnity etc. However, the Divisional Director may waive the suggested amounts following a risk assessment and after consultation with the Head of Financial Services and/or Director, Finance & Technology. Please refer to the procedures for further information.

4. Definitions

Sham Contract When someone engages a worker and deliberately disguises an employment relationship with them as an independent contracting arrangement so they do not have to give employment entitlements, including superannuation and workers' compensation, to the worker.

Authorisation and Distribution

Authorisation	Chief Executive Officer
Date	15 March 2018
Responsible Officer	Director, Finance & Technology
Contact Officer	Head of Financial Services
Effective Date	15 March 2018
Distribution	Intranet and AFTRS website
Review Date	Three Years or earlier 15 March 2021
Current version	Contractors and Consultants (Contracts for Services) Policy v1.3_15 March 2018
Supersedes	Contractors (Contracts for Services) Policy v1.2 January 2016
Associated Documents	Administrative Orders Code of Conduct Fraud Control Policy Contractors (Contracts for Services) Procedure