

Worker/Affiliate Classification Guide

Berkeley Lab is a U.S. Department of Energy (DOE) national laboratory, managed by the University of California (UC). As a preeminent scientific research organization we employ approximately 4,000 scientists, engineers, support staff and students. Additionally, Berkeley Lab hosts a large volume of non-employees from around the world including approximately 4,000 affiliates comprised of scientific collaborators, research scholars/students, independent contractors, subcontractors, and research facility users.

The purpose of this document is to provide guidance and assist in the decision making process for determining the appropriate designation for these various individuals to ensure that Berkeley Lab remains compliant with applicable state and federal labor and tax regulations.

Among the primary considerations for how an individual should be classified (i.e. employee or non-employee) are: a) the nature of their work, contribution, or activities, b) level of control over what and how will be done, c) impact of worker/affiliate's activities, d) similarities or differences in the nature of activities compared to work performed by others. Please utilize the following questions in conjunction with the matrix below to determine the appropriate classification:

- What will the individual be doing?
- How much control will Berkeley Lab have over their methods, approach, and outcomes?
- Who primarily benefits from the activities performed?
- What is the level of impact on Berkeley Lab's business or contractual obligations?
- At the conclusion of the appointment/assignment, will the individual need to be replaced?

For assistance with this information and additional guidance on selecting the appropriate worker or non-employee designation, please consult with your Division HR Center contact (<https://www.lbl.gov/Workplace/HumanResources/html/Staff-Information/center-contacts.html>).

Type	Work / Activity Considerations and General Criteria	LBNL Designation	Payment Mechanism	Appointment Length
Employee	<ul style="list-style-type: none"> • Performs services that primarily benefit Berkeley Lab • Duties/tasks are assigned and directed • Berkeley Lab defines outcomes and controls methods for performing duties • Duties are similar to work performed by other employees and/or were previously performed by a former employee • Work related training is provided in order to perform key duties • Tools are provided by Berkeley Lab (equipment, supplies, etc.) • Individual can quit or be discharged at any time • Contributions are consistent with advancing core business 	Employee: <ul style="list-style-type: none"> • Career • Term • Limited • Student Assistant • GSRA • Etc 	Payroll	Varies by employment classification
Contract Labor	<ul style="list-style-type: none"> • Employed by a temporary staffing or supplemental labor agency • May be hired to fill a temporary need such as a special project or to cover a regular position during recruitment • Work duties are defined and individual is selected based on capabilities • Assignment has a specified start and end date • Individual does not receive benefits or opportunities provided to Berkeley Lab employees • Training is typically limited to site/facility specific required safety training 	Contractor	Paid by contract labor agency	Up to 12 months in a rolling 36 month period
Subcontractor/ Independent Contractor	<ul style="list-style-type: none"> • Individual has a separately established business • Work is self-directed and individual independently makes decisions on work output • Individual is solely responsible for tools (equipment, supplies, etc). • Work is performed in accordance with established agreement of contract • Berkeley Lab has control over only final results • Services are procured based on specialized knowledge or expertise • Engagement has a specified start and end date • Performed activities are distinct from those performed by Berkeley Lab employees • Training is limited to site/facility specific required safety training 	Affiliate	Submits invoice in accordance with established procurement agreement	Per negotiated agreement



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Consultant	<ul style="list-style-type: none"> Individual is an expert that provides advisory services on a short-term or intermittent basis Consultants provide technical, scientific, engineering, and/or administrative expertise not otherwise available to the Laboratory Consultants may provide information, advice, opinions, alternatives, conclusions, recommendations, or consultation in the form of studies, analyses, and evaluations Consultant services may be provided under a consultant agreement or a personal services agreement 	Affiliate	Submits Invoice in accordance with established Personal Services Agreement	Per negotiated agreement
Nonemployee Fellowship	<ul style="list-style-type: none"> Individual is pursuing their own studies, research, or skill development May receive mentorship from a Berkeley Lab host, but projects are determined by individual's studies, research, or skill development Activities primarily benefit the individual or their sponsoring institution Activities are not directly related to the fulfillment of Berkeley Lab's contractual obligations Activities are not controlled in terms of required schedules and timelines Performed activities are distinct from those performed by Berkeley Lab employees Individual is sponsored by a home or funding institution (e.g. school for students, non-Berkeley Lab employer) Training is typically limited to site/facility specific required safety training 	Affiliate	Fellowship payment* (Optional) <ul style="list-style-type: none"> Student Fellowship LBNL Fellowship Program Note: Payments must meet criteria of the Payments to Nonemployees financial policy (link below)	Up to 12 months / reviewed annually
Guest Speaker / Lecturer	<ul style="list-style-type: none"> Non UC employees invited to give a talk or lecture Talk/lecture is a one-time or brief engagement 	N/A	Honoraria	One-time or brief engagement

Note: Affiliates may qualify for travel reimbursement in accordance with the Travel Expense Policy (link below)

Resources:

Policies & Processes	Nonemployee Payments policy: (link) Travel Expense Reimbursement Policy: (link) Affiliate Process webpage: http://www.lbl.gov/HR/html/Guests/Affiliates/index.html
Points of Contact	HR Center Contacts: https://www.lbl.gov/Workplace/HumanResources/html/Staff-Information/center-contacts.html Controller's Office: (nonemployeepayments@lbl.gov)

*** Fellowship Payment Definitions:**

- Student Fellowship** – Awarded by LBNL to support an individual's independent research or studies. The award can cover the following non-qualified fellowship expenses; room & board, travel, research, clerical help or equipment. Students must remain enrolled and under the general direction of an advisor at their home educational institution. A student fellowship is not to be paid in lieu of a salary for past, present or future research or other services.
- LBNL Fellowship Program** – Documented fellowship program endorsed by division management and approved by the LBNL Worker Classification/Payment Review (WCPR) Council. Programs enable students and other individuals to acquire hands-on scientific experience and develop professional maturity to support independent research. This fellowship program is not to be paid in lieu of a salary for past, present or future research or other services to LBNL.