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CALIFORNIA STATE UNIVERSITY, LOS ANGELES

INDEPENDENT CONTRACTOR (IC) COMPLEX FORM

(FOR STATE FUNDS & INDIVIDUALS/SOLE PROPRIETORS ONLY)

This Independent Contractor (IC) Form will need to be completed and approved before work can commence.

STEP 1: COMPLETE IC FORM TO DETERMINE WORK RELATIONSHIP

- Determine Potential Conflict of Interest (Review HR 2019-16 and HR 2004-18 to ensure compliance with code restrictions.)
- Review Background Check Policy HR 2017-17 applicability. Contact HRM for questions and concerns. Confirm appropriate business insurance coverage and obtain a copy of the **Certificate of Insurance**. For requests of an insurance waiver, complete the Risk Identification and Evaluation form. For more information, please refer to Executive Order 1069 and Technical Letter RM 2012-01.

STEP 2: SUBMIT ON-LINE REQUISITION FOR IC COMPLEX TRANSACTIONS (REQUISITION GUIDE)

Attach the required forms to the requisition:

- Approved IC form
- Certificate of insurance **OR**
- Risk Identification and Evaluation Form (if requesting insurance waiver)

STEP 3: ONE-STOP NOTIFICATION (NOTIFICATION GUIDE)

By utilizing the requisition notification option, ONE-STOP will be notified when the department requestor has completed and approved the request.

STEP 4: REVIEW PROCESS

The One-Stop reviews IC form packages that have been received for accuracy and completeness. If clarification is required, the departments will be contacted by the One-Stop. One-Stop will notify the Controller's Office and Risk Management for approval of IC forms, which will take five (5) business days to complete and issue a purchase order. Nonresident alien applications may require additional processing time.

STEP 5: ISSUANCE AND PAYMENT

Procurement and Contract Services will issue a purchase order upon receiving the on-line requisition and complete IC package. The Controller's Office will issue payments upon review and approval of the invoice.

Complete IC Package Includes:

- ✓ **Approved Independent Contractor Form**
- ✓ **Proof of business insurance coverage or approved Risk Identification and Evaluation form**
- ✓ Completed Payee Data Form for new vendors only
- ✓ FNIS Record (if applicable)

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REQ. Tracking Number:

PAYEE INFORMATION

Individual Name: _____

Residency Status: ☐ US Citizen ☐ US Permanent Resident* ☐ Foreign National**

If Foreign National, Country: _____ Visa Type**: _____

Email: _____ Phone: _____

HIRING DEPARTMENT INFORMATION:

Name & Extension: _____ Department ID: _____

Department: _____ College/Division: _____

SCOPE OF WORK:

a. Detailed description of work to be performed/provided
b. Service Date(s) – should be a future date
c. Work Location
d. Estimated Cost – include hourly rate and number of hours for each task/requirement

a. Detailed Description of Work:

b. Service Date(s) (mm/dd/yy)

c. Work Location:

d. Estimated Costs:

* A copy of the front and back of the green card is required.
CO will create a record in FNIS for foreign national payees. Payees will be notified via email to fill out a questionnaire to ***assist* CO in verifying the payee's Visa type and tax withholding rate. In general, there is a 30% federal withholding and 7% CA withholding unless a tax treaty or waiver.

(HR 2019-16 AND HR 2004-18)

1. Is this individual a current CSU employee? Yes☐ No☐

   1a. If yes, then the individual does not qualify as independent contractor. Please contact Workforce Planning at (323) 343-3668 for assistance.

   1b. If no to #1a, is it expected that the University will hire this individual as an employee following the termination of this service? If yes to 1b, please contact Workforce Planning at (323) 343-3668 for assistance. Yes☐ No☐

2. Was the individual a CSU employee any time during the last two years, and did he or she provide the same or similar services while an employee? Yes☐ No☐

   2a. If yes, please contact Workforce Planning at (323) 343-3668 for assistance.

3. Is the individual a CalPers retiree? Yes☐ No☐

   3a. If yes, please contact Workforce Planning at (323) 343-3668 for assistance.

4. Is the individual a near relative of a current CSU employee? Yes☐ No☐

   Near Relative: The spouse, domestic partner, parent, child, or sibling, an in-law or step-relative, or aunt or uncle, in one of these relationships. Near relative also may be a relative of a domestic partner in one of these relationships or a person residing in the same household as the employee.

   4a. If yes, does the CSU employee have any role in the decision-making process related to the contract? Yes☐ No☐

CALIFORNIA CLASSIFICATION FACTORS

The three main areas that the state of California concluded are the primary categories of evidence to draw a distinction between an employee or an independent contractor are:

- Control
- Services performed are outside the normal course of business
- Worker customarily engages in an independently established trade or business

It is critical that you, the employer, correctly determine whether the worker providing services is an employee or independent contractor. In situations where violations of employment tax rules and regulations are detected, California will assess taxes and, in some cases, levy penalties and interest, and can expose the university to additional legal issues. Before a worker is hired as an independent contractor, the following checklist must be completed to help determine whether an employer/employee relationship exists.

1. **CONTROL.** Is the worker free from the employer's control and direction? Yes☐ No☐

   (This means Cal State L.A. must not be able to control or direct what the worker does, either by contract or in actual practice. Even if no instructions are given, the control factor is present if the employer has the right to control how the work results are achieved.)

   If no, explain: _____

   _____

2. **SERVICE PERFORMED**. Are the services to be performed within the usual course of business at Cal State L.A.? Yes☐ No☐

(Services performed should be outside the usual course business or be performed outside of all the places of business of Cal State L.A.)

If yes, explain: _____

_____

BUSINESS: Worker customarily engages in an independently established business.

3. **SIGNIFICANT INVESTMENT**. Will the worker use his or her own facilities/equipment and/or supplies/materials required to perform services? *(A worker who provides his or her own equipment, supplies, and etc. is typically an independent contractor.)* Yes☐ No☐

4. **BUSINESS INSURANCE.** Does the worker carry business insurance? Yes☐ No☐
(An independent contractor ordinarily carries business insurance, such as general liability, business automobile liability, and workers' compensation (medical insurance is not a form of business insurance.)

4a. If no, please complete the Risk Identification and Evaluation form located in page six (6).

5. **PAYMENT OF EXPENSES.** Will the University pay the worker's business or travel expenses? Yes☐ No☐
(Employers typically reimburse employees for business expenses. An individual who is paid a fee for services without being reimbursed for business expenses is typically an independent contractor.)

6. **SERVICES AVAILABLE**. Does the worker make his or her services available to others? Yes☐ No☐
(An individual paid by other employers for the same type of service provided to Cal State L.A is likely an independent contractor.

7. **PAYMENT BY HOUR, WEEK OR MONTH**. Will the University pay the worker by the hour, week, or month, rather than by commission or by the job? *(Payment by the hour, week, month, etc. generally indicates an employer/employee relationship.)* Yes☐ No☐

8. **REALIZATION OF PROFIT OR LOSS.** Will the worker bear the risk of making a profit or loss under the arrangement? *(A contingent fee or commission arrangement indicates an independent contractor relationship. Employees are typically paid by salary.)* Yes☐ No☐

RELATIONSHIP OF THE PARTIES: Intent of parties concerning status and control of worker.

9. **RIGHT TO TERMINATE.** Could the University terminate the worker at any time without incurring liability? *(An at-will relationship is evidence supporting an employer/employee relationship.)* Yes☐ No☐

10. **REGULAR BUSINESS ACTIVITY.** Is the work to be performed part of the regular business of the University, such as teaching or research? *(A lecturer teaching a course for credit or a worker performing IT services already being performed by staff is likely to be an employee)* Yes☐ No☐

11. **JUSTIFICATION OF CLASSIFICATION FACTORS**

If you have determined that the worker is an independent contractor, please provide the justification for your conclusion based upon your responses above.

nbfsmfaklbf

SUBMITTED BY:

Department Administrator (Print Name) _____ Department Administrator Title _____

Signature _____ Date ___/___/___ Department Phone Extension _____

Fiscal Resource Manager (Print Name) _____ Signature _____ Date ___/___/___

FOR CONTROLLER'S OFFICE USE ONLY

☐ **Approved**

☐ FNIS documentation or copy of green card received

☐ Denied: Information does not support the Independent Contractor classification.

☐ **Returned:**

Not enough information has been provided to support the Independent Contractor Classification by Department Administrator. This request is being returned for additional information noted below.

Explanation: _____

_____

Reviewed by CO Administrator (Print Name) _____ Signature _____ Date ___/___/___

☐ Copy Fiscal Officer

Risk Identification and Evaluation

Department: _____ **College/Division:** _____

Contact Information:

Name/Title: _____ **Telephone/Ext.:** _____

Email Address: _____

The campus must determine if the activity or risk is one that may warrant departure from the regular insurance requirements. The following information must be provided:

Event/Activity/Contract:

_____

Date(s): _____ **Start/End Time:** _____

Location: _____

Contract/Agreement Amount: _____

Description of Event/Activity/Contract:

_____

_____

_____

Please answer all of the following questions (indicate N/A for those not applicable).

1. **What activities will take place?**

   _____

   _____

2. **How many attendees are expected?**

   _____

3. **Who could be harmed? Will the public be involved? Will minors be present?**

   _____

   _____

4. **What property could be damaged and to what degree?**

   _____

   _____

5. **Are crowds or bystanders/passersby likely to be involved?**

   No: ☐

   Yes/Possibly, please explain: _____

   _____

6. **Will inherently dangerous activities be involved?**

   No: ☐

   Yes, please explain: _____

   _____

7. **Will alcohol be served?**

   Yes ☐ **No** ☐

8. **Is there a possible pollution (air, soil, water) exposure?**

   No: ☐

   Yes/Possibly, please explain: _____

   _____

9. **How likely is it that the University will be a defendant in the event of a loss?**

   _____

   _____

10. **Is there a reputational risk to the University?**

    No: ☐

    Yes, please explain: _____

    _____

11. **Is this a recurring (annual) special event? If "yes" what is the safety/loss history of the event?**

    No: ☐

    Yes: _____

    _____

Department Administrator Comments:

_____

_____

_____ _____

Name/Title **Signature/Date**

Evaluator Comments:

What is the maximum likely loss for this activity?

Name/Title **Signature/Date**

Director, Risk Management/Environmental Health and Safety Comments:

Name/Title **Signature/Date**

***Vice President for Administration and Finance and CFO, or designee, Comments:**

Name/Title **Signature/Date**

*** Certain cases may require approval by the Vice President for Administration and CFO, or designee, (to be determined on a case-by-case basis).**