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CALIFORNIA STATE UNIVERSITY, LOS ANGELES

INDEPENDENT CONTRACTOR HIRING PROCESS TRAINING MANUAL (FOR STATE FUNDS & INDIVIDUALS/SOLE PROPRIETORS ONLY)

1. GENERAL RULES AND GUIDELINES

To protect the University, individuals cannot begin work until completed hiring/engagement package and completed contract have been prepared and approved by Procurement and Contract Services for amounts greater than $500 or the Controller's Office for amounts equal to or less than $500 (ICSUAM 5412.100). In addition, the departments shall review the Background Check Policy (HR 2015-08) to determine whether an individual is subject to a background check. Please contact HRM if you have any questions and concerns about this.

Exceptions:

- For services to be funded by non-state funds, please follow appropriate Auxiliary procedures.
- An IC form is ***not*** required for travel reimbursements, provided that 1) the Accountable Plan rules[1] (IRS Pub 463) are met[i] and 2) the travel reimbursements/payments made are in connection with services to be performed. Please note that the Risk Identification and Evaluation form is still required if the worker does not have a valid business insurance coverage.

2. PAYEE INFORMATION

Complete the Payee Information Section

- Public Contract Code (PCC) and HR 2003-21 impose contracting restrictions on certain current and former employees related to providing services as independent contractors. If the department contracts with an entity, the name(s) of individual(s) who will be providing the service is required. Answers to Question 1 to 4 under Conflict of Interest Assessment section on Page 2 in the Independent Contractor Pre-Hire Worksheet shall relate to the individual(s). This information is pivotal to ensure that the campus is in compliance with these regulations.
- If the payee is a US permanent resident, a copy of the front and back of the green card is required for verification purposes
- If the payee is a foreign national, CO will create a record in Glacier 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 is present.

[1] IRS Accountable Plans Rules (IRS Pub 463):

a) Expenses must have a business connection- that is, the workers must have paid or incurred deductible expenses while performing services
b) Workers must adequately account for these expenses within a reasonable period of time (i.e. receipts or backup records required)
c) Workers must return any excess reimbursement or allowance within a reasonable period of time

3. DETERMINE SCOPE OF WORK

Complete the Scope of Work and provide description of the work to be performed or provided, date(s) of performance, work location, estimated cost, and funding source(s).

In addition, the departments shall review the Background Check Policy (HR 2015-08) to determine whether an individual is subject to a background check. Please contact HRM if you have any questions and concerns about this.

4. DETERMINE THE NATURE OF THE WORK RELATIONSHIP

Review IRS classification factors and complete classification factor questionnaire.

When planning to procure services from an individual or a sole proprietor, the department must first determine the nature of the relationship between the employer and the individual(s) to be hired by completing the Independent Contractor Pre-Hire Worksheet.

Because different policies and laws apply to employees and independent contractors, the department is required to use the following guidelines:

Employee:

The University has the right to control both the result and way tasks are performed by an employee.

Independent Contractor:

The University has the right to control only the result of the service (i.e., the end product), not the manner of performance (i.e., time, place and methods). Generally, an independent contractor performs tasks to execute the work.

- Make determination to hire worker as an employee or independent contractor.
- Provide written justification in support of your decision to hire the worker as an employee or independent contractor.
- Department Administrator signs the Independent Contractor Pre-Hire Worksheet.

5. DETERMINE IF THERE IS A POTENTIAL CONFLICT OF INTEREST

Complete the Conflict of Interest Assessment.

It is University policy to keep separate an employee's University and private interests, and to safeguard the University and its employees from charges of favoritism in the acquisition of goods and services.

If the proposed consultant or contractor is a current or former CSU employee, departments are strongly encouraged to acquire their services through the payroll/human resources method. Public Contract Code imposes contracting restrictions on certain current and former employees related to providing goods or services as independent contractors. You should carefully review HR 2003-21 to ensure compliance with the code restrictions.

If the proposed consultant or contractor is a near relative to a current CSU employee, and the employee had any involvement in the contracting decision, a determination should be made that the goods or services to be acquired are not available commercially or from within the University before proceeding.

HR 2004-18 states, it is the policy of the California State University to seek for its administrators, instructional faculty, and support staff the most qualified candidates through appropriate search procedures preceding each appointment and promotion. There shall be no bars to the appointment of immediate family members in administrative, faculty or staff employment categories, in the same or different units or departments so long as the following standard is met:

- No CSU employee shall vote, make recommendations or in any way participate in decisions about any personnel matter which may directly affect the selection, appointment, evaluation, retention, tenure, compensation, promotion, termination, other employment status or interest of an immediate family member as defined below.

- In each of the following circumstances, special written provisions must be prepared for review and approval by the head of the organizational unit (e.g. Dean or Director) before an individual may be appointed: (1) If the individual is to be assigned to a position under the supervision or control of an immediate family member who has or may have a direct effect on the individual's progress or performance; or (2) If the individual is to be assigned to work for the same immediate supervisor as another immediate family member.

- The special written provisions shall include a plan to ensure that personnel matters including evaluation, retention, tenure, promotion, wages, hours and other terms and conditions of employment, will not be decided based on the relationship as an immediate family member. The plan should provide that the head of the organizational unit is to review all decisions on personnel matters. In those cases where related employees will be working for the same immediate supervisor, the plan should include steps to be taken to alleviate any pressures toward favoritism that could occur as a result of supervising members of the same immediate family. The head of the organizational unit shall be responsible for investigating concerns about conflicts of interest or favoritism involving members of the same immediate family.

- Regarding financial matters, the California State University is covered by the Financial Integrity and State Manager's Accountability Act (FISMA, Government Code §13400 et seq.), which requires separation of duties for financial transactions. These requirements can be found in the State Administrative Manual (SAM, chapter 8080).

For the purposes of this policy, "immediate family member" is defined as a close relative including: parent, child, grandparent, grandchild, sibling, uncle, aunt, nephew, niece, first cousin, spouse, registered domestic partner, step-parent, step-child, brother-in-law, sister-in-law, father-in-law, mother-in-law, son-in-law, daughter-in-law, and by guardianship and/or adoption or a person residing in the immediate household except live-in household employees or roomers. Relatives of domestic partners shall be treated as relatives of spouses.
Campuses may enact policies that set reasonable restrictions on an individual's capacity to function as a judge or advocate in specific situations involving a member of his/her immediate family. However, consistent with applicable law, any such restriction cannot have the effect of denying any equal employment opportunity.

The Political Reform Act of 1974 requires CSU employees to disqualify themselves from participating in the making of decisions in which they have a financial interest.

The Act further requires every state and local government agency to adopt a unique conflict of interest code. The code lists each position within the agency filled by individuals who make or participate in making governmental decisions that could affect their personal economic interests.

The code requires individuals holding these "designated" positions to periodically file a Statement of Economic Interests - Form 700 disclosing certain personal economic interests as determined by the code's "disclosure categories." These individuals are called "designated employees" or "code filers."

The CSU's Conflict of Interest Code includes Consultants on its Designated Position List; consequently, consultants retained through the procurement process who meet the following criteria must file a Form 700 (HR 2010-01):

A. A consultant authorized and hired to make a CSU decision on behalf of the institution.
B. A consultant hired to influence a CSU decision, whose input is not independently reviewed.
C. A consultant hired to work on an ongoing basis for a year or more, in a position that otherwise would be designated and require a CSU employee to file a Form 700.
D. A consultant who provides investment advice.

6. DETERMINE THE FUNDING TO PAY FOR THE SERVICES

Please note that for services to be funded by non-state funds, please follow appropriate Auxiliary procedures.

Source Selection & Price Reasonableness

Different sources of funding have different requirements for competition. State or other funding sources are subject to the Public Contract Code and policy requirements per ICSUAM 5000-5700. Contracts for independent contractors are subject to the competitive bidding requirements per ICSUAM 5401 and 5402 and 5412.900. :

7. INSURANCE COVERAGE

In accordance with Executive Order 1069, a consultant or contractor must provide a copy of the certificate(s) of insurance prior to performing work, in amounts consistent with policy and the policy endorsed as applicable. For requests for insurance waiver, complete the Risk Identification and Evaluation form and **submit with the approved IC Pre-Hire Worksheet** to Nidavone Niravanh . For more information, please refer to Technical Letter RM 2012-01.

Questions regarding insurance requirements should be directed to: Nidavone Niravanh, Director of Environmental Health and Safety at (323) 343-3527.

8. PREPARE AND SUBMIT PRE-HIRE/ENGAGEMENT PACKAGE

A completed package will include the following:

- Approved Independent Contractor Pre-hire Worksheet,
- Proof of business insurance coverage or approved Risk Identification and Evaluation form;
- Completed Vendor Data Form (Form 204) for new vendors only,
- GLACIER Record (if applicable), and
- Approved After-the-Fact Submission Form if submitting paperwork after services have been rendered.

Contingent upon complete and correct package submission, please allow 10 business days for processing and approval by Administration and Finance.

9. Submit completed engagement package to Procurement and Contracts if amount is greater than $500 or to the Controller's Office if amount is equal to or less than $500. Complete engagement package includes: a) approved Independent Contractor Pre-hire Worksheet; b) proof of insurance coverage or approved exemption request; c) completed Vendor Data Form (Form 204); d) GLACIER Record, if appropriate; and e) After-the-Fact Submission form if submitting paperwork after services have been rendered.

10. Once Procurement and Contract Services receives all required documents via the online requisition and validates that funds are available, depending on whether competition is required or terms and conditions negotiated, a purchase order can be issued and/or an agreement established. The Controller's Office will process payment for all completed engagement packages equal to or less than $500 via the DirectPay form.

    Questions regarding the Independent Contractor Pre-Hire Worksheet should be directed to:
    Carlos Beltran, Financial Reporting & Tax Manager
    Controller's Office
    Phone: (323) 343-3560
    Questions regarding insurance requirements should be directed to:
    Nidavone Niravanh, Director of Risk Management
    Environmental Health and Safety
    Phone: (323) 343-3527
    Questions regarding Procurement and Contract Services policies should be directed to:
    Tom Johnson
    Director of Procurement and Contract Services
    Phone: (323) 343-3480.
    Questions related to Controller's Office DirectPay process should be directed to the Controller's Office at (323) 343-3550.

FORMS AND REFERENCE MATERIAL INDEX

To comply with the laws, policies and procedures noted above, Procurement and Contract Services can only issue a purchase order (P.O.) and/or agreement to a consultant or contractor when the following documents are received in a complete package:

Document	Purpose
Independent Contractor Pre-Hire Worksheet	Determines the type of working relationship between the employer and the individual. http://www.calstatela.edu/sites/default/files/groups/Business%20Financial%20Services/Forms/ind_contract_prehire_worksheet.pdf

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Independent Contractor Pre-Hire Worksheet	Determines the type of working relationship between the employer and the individual. http://www.calstatela.edu/sites/default/files/groups/Business%20Financial%20Services/Forms/ind_contract_prehire_worksheet.pdf
Sole-Source Requirement	**Policy Number:** 5206.0 Sole Source http://www.calstate.edu/icsuam/sections/5000/5206-0.shtml
General Liability Insurance Requirement	Insurance requirements Executive Order 1069: A Certificate of Insurance is required for the above referenced contract prior to commencement of work stating that there is liability insurance presently in effect with a combined single limit (CSL) of not less than $1,000,000 per occurrence, and $2,000,000 aggregate; and that vehicle insurance (where applicable) is in effect with minimum coverage of $1,000,000 per occurrence. The Certificate of Insurance must provide that: (A) should any of the above described policies be cancelled before the expiration thereof, notice will be delivered in accordance with the policy provisions (B) that the State of California, the Trustees of the California State University, the University, and the employees, officers, and agents of each of them, are included as additional insured, but only insofar as the operations under this contract are concerned and (C) that the State, the Trustees, and the University, and the employees, officers and agents of each will not be responsible for any premiums of assessments on the policy (D) proof of Workers' Compensation also is required. "Carriers no longer provide notice of cancellation to certificate holders. Carriers will only provide notice per the policy terms, which is to the Named Insured."
Risk Identification and Evaluation form	Form required for all requests for exemption of insurance requirements. (Please note this form is used for all exemption requests, including special events and larger scale activities. As such, many of the questions do not apply to independent contractors. As noted on the form, you will indicate N/A for those questions not applicable.) http://www.calstatela.edu/sites/default/files/groups/Business%20Financial%20Services/Forms/risk_ident_evaluation.pdf
Vendor Data Record Form – Form 204	Information contained in this form will be used by state agencies to prepare information Returns (Form 1099) and for withholding on payments to nonresident vendors. http://www.calstatela.edu/sites/default/files/groups/Business%20Financial%20Services/Forms/vendor_data_record_std204.pdf
GLACIER Non-Resident Alien Questionnaire Assessment	A secure, web-based nonresident alien tax-compliance system for immigration and tax data. To be completed by the individual before work is rendered. Upon completion of the questionnaire, the GLACIER system will provide an assessment of eligibility and tax status.

Document	Purpose
Independent Contractor Pre-Hire Worksheet	Determines the type of working relationship between the employer and the individual. http://www.calstatela.edu/sites/default/files/groups/Business%20Financial%20Services/Forms/ind_contract_prehire_worksheet.pdf
DirectPay Request form	Used for the purpose of making payments to vendors for purchases/services not qualified under the Procurement and Contract Services guidelines. Please refer to the DirectPay Request instruction guidelines for further information. http://www.calstatela.edu/sites/default/files/groups/Business%20Financial%20Services/Forms/direct_pay_request.docx
After-the-Fact Submission form	Unauthorized financial commitments require that any requisition or invoice submitted "after-the-fact" must be accompanied by this form signed by the appropriate authorized administrators justifying the reason for the deviation from CSU policy. http://www.calstatela.edu/sites/default/files/groups/Procurement%20Contracts%20and%20Support%20Services/afterthefactform.pdf