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CALIFORNIA STATE UNIVERSITY, LOS ANGELES

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

Detailed instructions and related informational resources are contained in the "Independent Contractor Hiring Process Training Manual." The Independent Contractor (IC) Pre-Hire Worksheet will need to be completed and approved before work can commence per ICSUAM 5412.0, Section 100.

STEP 1: COMPLETE IC PRE-HIRE WORKSHEET 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.
- Email completed form to: bfstaxcompliance@calstatela.edu

STEP 2: VERIFY BUSINESS INSURANCE COVERAGE

Upon receipt of approved IC Pre-hire Worksheet, 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 and **submit with the APPROVED IC Pre-Hire Worksheet** to Nidavone Niravanh. For more information, please refer to Executive Order 1069 and Technical Letter RM 2012-01.

STEP 3A: FOR TRANSACTIONS GREATER THAN $500, SUBMIT ON-LINE REQUISITION ALONG WITH THE COMPLETE ENGAGEMENT PACKAGE TO PROCUREMENT AND CONTRACT SERVICES.

OR

STEP 3B: FOR TRANSACTIONS EQUAL TO OR LESS THAN $500, SUBMIT DIRECTPAY FORM ALONG WITH THE COMPLETE ENGAGEMENT PACKAGE TO THE CONTROLLER'S OFFICE.

Procurement and Contract Services will issue a purchase order and/or a written agreement upon review and approval of the on-line requisition and complete engagement package. The Controller's Office will issue payments upon review and approval of the DirectPay Form and complete engagement package.

EXCEPTIONS

An IC form is ***not*** required for travel reimbursements, provided that 1) the IRS Accountable Plan (IRS Pub 463) rules are met[1] and 2) the travel reimbursements 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 valid business insurance coverage.

Complete Engagement Package Includes:
- ✓ **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
- ✓ FNIS Record (if applicable)
- ✓ Approved After-the-Fact Submission Form if submitting paperwork after services have been rendered

Note: ***Contingent upon complete and correct package submission, please allow 10 business days for processing and approval by Administration and Finance. Additionally, for individuals with a Foreign Status please allow additional time for processing.***

[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

CALIFORNIA STATE UNIVERSITY, LOS ANGELES
INDEPENDENT CONTRACTOR PRE-HIRE WORKSHEET
(FOR STATE FUNDS & INDIVIDUALS/SOLE PROPRIETORS ONLY)

CO Tracking Number:

PAYEE INFORMATION

Individual Name: _____

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

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

Email: _____ Phone: _____

Clear Payee

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: Clear Description

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 sate 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. Submit completed form along with the APPROVED IC Pre-Hire Worksheet to Nidavone Niravanh

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. **DETERMINATION**

Hire worker as an employee ☐

Hire worker as an independent contractor ☐

12. **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.

SUBMITTED BY:

_____ _____
Department Administrator (Print Name) Department Administrator Title

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

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

Email completed pre-hire worksheet to: bfstaxcompliance@calstatela.edu
Upon receipt of completed pre-hire worksheet, the Controller's Office Tax Compliance will have five (5) working days to review and inform department administrator of final determination. Verification of business insurance, nonresident alien processing, and issuance of PO will require additional processing time.

FOR CONTROLLER'S OFFICE USE ONLY

☐ **Approved**
- ☐ FNIS documentation or copy of green card received
- ☐ After-the-fact submission required

☐ 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