INDEPENDENT CONTRACTORS

POLICY AND GUIDELINES

Departments often require services of individuals who are not employees of the University, including consultants, guest lecturers, guest speakers, entertainers, art models and others. When contracting with individuals as consultants/independent contractors, the designation of independent contractor status is governed by the Internal Revenue Service (IRS) tax code and common law. It is important to correctly classify independent contractors vs. employees to ensure appropriate compensation and compliance with all tax obligations.

Significant tax penalties exist for incorrect classification of an employee as an independent contractor. In addition, incorrectly contracting with independent contractors may expose the University to significant risk. This policy is established to help define independent contractors and set forth the required procedures to identify and correctly compensate such individuals regardless of the source of funding.

The following guidelines are provided to assist in the distinction between employer/employee vs. independent contractor relationships. These guidelines are based upon criteria used by the Internal Revenue Service, the State Employment Development Division, and other public service agencies.

1. An independent contractor generally is engaged in a distinct occupation or profession, e.g., in the business of providing consulting or other services related to the job being contracted.
2. Independent contractors perform independently; whereas, under an employer/employee relationship the employer retains the right to direct and control the work being performed, as well as control over the details or techniques of the work to be performed.
3. The working area, supplies, and/or equipment generally is not furnished to independent contractors.
4. Compensation for independent contractors is reflective of the specific work accomplished; whereas, employment relationships are generally compensated by payment of a set sum by the hour, week or month based on set hours of work.
5. The work being performed must not be of a type that is integrated into routine or ongoing employer operations.
6. The employer must not make direct payments for business, per diem, or travel expenses incurred by the independent contractor.
7. An employment relationship exists when the worker can quit or be terminated at any time; whereas, an independent contractor is legally obligated for failure to complete the job unless the agreement is terminated.

PROCEDURES

- Complete the Independent Contractor Checklist for all requests for services performed by external individuals
- Attach the service provider’s scope of work or proposal outlining the services, timelines, and costs
- Obtain Department Head or Director's signature on the checklist
- Attach checklist and proposal to an online requisition (enter UOM as “LOT”) via CFS

Upon review and approval by Procurement Staff and receipt of appropriate insurance (if applicable), a service order or agreement will be generated to the Service Provider with a copy to the requesting department.

Independent Contractors are subject to the same CSU policies for services in general in that work shall not commence until Service Provider has received an executed service order/agreement from PCLASS. Payment shall be made in arrears, upon receipt of approved invoice by the University Accounts Payable Office, within 30 calendar days of satisfactory completion of services.