INDEPENDENT CONTRACTOR HIRING PROCESS FLOW CHART

Detailed instructions and related informational resources are contained in the “Independent Contractor Hiring Process Training Manual” accompanying this flowchart. The Independent Contractor Pre-Hire Worksheet will need to be completed and approved before work can commence.

**COMPLETE PRE-HIRE WORKSHEET TO DETERMINE WORK RELATIONSHIP**

- Determine if individual can legally accept payment from Cal State L.A. based on visa type.
- Determine Potential Conflict of Interest. (Review HR 2003-21 and HR 2004-18 to ensure compliance with code restrictions.)
- Submit completed form to: bstaxcompliance@calstatela.edu.

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**INSURANCE COVERAGE**

Confirm appropriate insurance coverage and obtain copy of documentation. For requests for insurance exemption, complete the Risk Identification and Evaluation form referenced below on page 6 and submit with the approved Independent Contractor Pre-Hire Worksheet to Dan Thomas and Kevin Brady. Executive Order 1069 and Technical Letter RM 2012-01.

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**SUBMIT COMPLETED ENGAGEMENT PACKAGE TO PROCUREMENT AND CONTRACT SERVICES**

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); and d) GLACIER Record.

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**ISSUES A PURCHASE ORDER AND/OR A WRITTEN AGREEMENT**

Procurement and Contract Services Issues a purchase order and/or a written agreement upon review and approval of completed documents. If estimated cost is less than or equal to $250, then the transaction will be processed via direct pay (no PO required).
INDEPENDENT CONTRACTOR HIRING PROCESS TRAINING MANUAL

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 Business Financial Services and Procurement and Contract Services (ICSUAM 5412.100)

2. Once Procurement and Contract Services receives all required documents and validates that funds are available and depending on whether competition is required or terms and conditions negotiated, a purchase order can be issued and/or an agreement established.

3. **PAYEE INFORMATION**
   - Complete the Payee Information Section.

4. **DETERMINE SCOPE OF WORK**
   (Period of performance, location and estimated cost).
   Complete the Scope of Work and provide description of the work to be performed or provided, period of performance, work location, estimated cost and funding source(s).

5. **DETERMINE IF INDIVIDUAL CAN LEGALLY ACCEPT PAYMENT FROM CAL STATE L.A.**
   - If yes, then determine the type of visa the individual possesses.

6. **DETERMINE THE NATURE OF THE WORK RELATIONSHIP**
   - Review IRS classification factors and complete classification factor questionnaire.

   When planning to procure services from an individual, a sole proprietor, or a corporation, 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.
7. **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 (PCC) 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.

8. DETERMINE THE FUNDING TO PAY FOR THE SERVICES

Source Selection & Price Reasonableness

Different sources of funding have different requirements for competition. The federal government requires maximum competition down to the micro-purchase level, currently $2,500. 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. Contracts for independent consultants
are subject to the requirement for competing proposals. Depending on the circumstances, the hiring department or the Procurement department must competitively bid the purchase by soliciting competing proposals when it is anticipated payment will exceed the following limits:

- $2,500 if funded by the federal government (contract or grant).
- $50,000 if funded by the state or other sources.
- For federally funded contracts (not grants or cooperative agreements) over $100,000, the federal government requires records be maintained whether small business concerns of various types were solicited, what outreach efforts were utilized and if a small business was not selected, the rationale. The hiring department must complete a Small Business Solicitation Form.

In certain situations, sole sourcing may be required and a sole source exception form will need to be completed and approved by the Procurement director.

9. **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. Questions regarding insurance requirements should be directed to: Dan Thomas, Risk Management Analyst, Environmental Health and Safety at (323) 343-3534 or Kevin Brady, Director Risk Management Analyst, Environmental Health and Safety at (323) 343-3527.

10. **PREPARE AND SUBMIT PRE-HIRE/ENGAGEMENT PACKAGE**
   A completed package will include the following:
   - Approved Independent Contractor Pre-hire Worksheet.
   - Proof of Insurance Coverage.
   - Completed Vendor Data Form (Form 204).
   - GLACIER Record (For Foreign Nationals Only).

Upon receipt of completed pre-hire worksheet, Business Financial Services will have five (5) working days to review and inform department administrator of final determination.

Questions regarding the Independent Contractor Pre-Hire Worksheet should be directed to:
Vanessa Wang, Tax and Reporting Coordinator
Business Financial Services Phone: (323) 343-3560

Questions regarding insurance requirements should be directed to:
Dan Thomas, Risk Management Analyst, Environmental Health and Safety at (323) 343-3534
or Kevin Brady, Director of Risk Management, and Environmental Health and Safety

Questions regarding Procurement and Contract Services policies should be directed to:
Tom Johnson, Director of Procurement and Contract Services Phone: (323) 343-3480
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:

<table>
<thead>
<tr>
<th>Document</th>
<th>Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td>Independent Contractor Pre-Hire Worksheet</td>
<td>Determines the type of working relationship between the employer and the individual. <a href="http://web.calstatela.edu/univ/finserv/docs/ind_contract_prehire_worksheet.pdf">http://web.calstatela.edu/univ/finserv/docs/ind_contract_prehire_worksheet.pdf</a></td>
</tr>
<tr>
<td>Sole-Source Requirement</td>
<td><strong>Policy Number:</strong> 5206.0 Sole Source <a href="http://www.calstate.edu/icsuam/sections/5000/5206-0.shtml">http://www.calstate.edu/icsuam/sections/5000/5206-0.shtml</a></td>
</tr>
<tr>
<td>General Liability Insurance Requirement</td>
<td>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.”</td>
</tr>
<tr>
<td>Risk Identification and Evaluation form</td>
<td>Form required for all requests for exemption of insurance requirements. (<a href="http://web.calstatela.edu/univ/finserv/docs/risk_ident_evaluation.pdf">http://web.calstatela.edu/univ/finserv/docs/risk_ident_evaluation.pdf</a>)</td>
</tr>
<tr>
<td>Vendor Data Record Form – Form 204</td>
<td>Information contained in this form will be used by state agencies to prepare information Returns (Form 1099) and for witholding on payments to nonresident vendors. <a href="http://web.calstatela.edu/univ/finserv/docs/Vendor-Data-Form-204.pdf">http://web.calstatela.edu/univ/finserv/docs/Vendor-Data-Form-204.pdf</a></td>
</tr>
<tr>
<td>GLACIER Non-Resident Alien Questionnaire Assessment</td>
<td>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.</td>
</tr>
<tr>
<td>Visa Type</td>
<td>Listing of various visa types. Use with caution. Provided for reference only. <a href="http://web.calstatela.edu/univ/finserv/docs/Visa-Table.docx">http://web.calstatela.edu/univ/finserv/docs/Visa-Table.docx</a></td>
</tr>
<tr>
<td>DirectPay Request form</td>
<td>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. <a href="http://web.calstatela.edu/univ/finserv/docs/direct_pay_request.docx">http://web.calstatela.edu/univ/finserv/docs/direct_pay_request.docx</a></td>
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