Independent Contractor Guidelines & Procedures

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1.0 Independent Contractor Guidelines & Procedures

This guideline governs the use of Independent Contractors to provide professional, technical, administrative, or unique services generally performed by individuals and sole proprietors for all Cal State LA and its Auxiliary Business Units. All Business Units must comply with State/Federal laws and CSU policies regarding the proper classification of employees and Independent Contractors. Misclassification of a worker as an independent contractor can result in serious wage and benefit obligations, financial penalties, tax consequences, and other liabilities. An independent contractor shall not be used to direct a University program or retained on an indefinite basis to perform tasks that would normally be assigned to an employee. As a rule, individuals should be classified as Independent Contractors on an exception basis only.

There are two methods for procuring independent contractor services:

1. Independent Contractor - Simple Service
2. Independent Contractor - Complex Service

1.1 Independent Contractor vs. Employee

A worker is presumed to be an employee unless the CSU establishes each of the following requirements:

1. The worker is free from the employer's control and direction. This means that the hiring entity must not be able to control or direct what the worker does, either by contract or in actual practice; and
2. The worker performs a service that is either outside the usual course of the business for which such service is performed or that such service is performed outside of all the places of business of the enterprise for which such service is performed. For example, a campus cannot hire a faculty in counseling to work as an independent contractor for the purposes of conflict resolution or hire instructors to teach a certificate program as independent contractors. Nor can a campus hire an independent contractor to perform IT services that are already being performed by campus staff; and
3. The worker customarily engages in an independently established trade, occupation, profession, or business. Factors relevant to this determination include whether the business is incorporated or licensed, whether the services are advertised, and whether the contractor also offers services to the public or other potential customers.

Misclassification of Workers – Violations and Penalties

It is important to determine the correct classification of workers as employees, independent contractors, or Honorarium. This distinction is significant because an incorrect determination could result in the following:

- Wage liability, including overtime
- Benefit liability, including retirement
- Loss of reimbursement under Federal contract and grant funds
- Penalties for violation of State and Federal tax withholding laws
- Penalties for violation of Federal laws pertaining to the employment of nonresident aliens (Form I-9)

In addition, the following employment-related requirements may be violated:

- State Political Reform Act financial conflict of interest rules
- Workers' compensation and unemployment insurance coverage requirements

Check Residency Status for Employment and Tax/Reporting Purposes

For all services performed in the U.S. by an "alien" (not a U.S. citizen or U.S. national), the individual must submit valid work authorization. To process payment, the contractor must have an Individual Taxpayer Identification Number (ITIN) or Social Security Number. To calculate the proper rate of withholding, determine whether the contractor is a nonresident or resident alien and country of origin. Foreigners without residency may pay the same

rates of US citizens, or 30% depending on type of income. A reduced rate or exemption may apply if there is a tax treaty. Note and track any restrictions on the length and frequency of work for these contractors.

Foreign National Residency Status – for Employment and Tax Purposes

Cal State LA and its Auxiliaries must determine residency status and/or Visa status prior to retaining an individual as an independent contractor. Failure to do so may result in the university being unable to legally procure services and pay the independent contractor.

Payment For Services

Payment for services may not be authorized unless the following conditions have been met:

- If the Honorarium does not have an active Payee Data Record Form on file, one must be completed before work commences and before payment can be issued. This form is mandatory for all suppliers paid by the campus.
- All required forms and/or documents have been received and approved.

Reportable Payments

The Accounts Payable office will issue Form 1099, as required by law, to any Honorarium receiving payment(s) from the campus totaling $600.00 or more within a calendar year.

Payments of California source income to nonresidents of California, with certain limited exceptions, require seven (7) percent state income tax withholding on all payments that exceed $1,500 in a calendar year. (See Revenue and Taxation Code Section 18662)

- California nonresident payees must complete Form 588, 589 or 587 to verify the proper withholding requirements.
- California resident payees must complete Form 590, Withholding Exemption Certificate, to verify California resident status. No state tax withholding is required with a valid withholding exemption certificate.
- Non-resident alien (NRA) Honorariums are handled on a case-by-case basis, as visa status and specific country treaties must be considered to determine tax withholding percentages.

2.0 Independent Contractor – Simple Service

Below provides the criteria you need to know if the prospective individual qualifies as a **Simple Service** Independent Contractor. If prospective individual does not meet established criteria, see guidelines for Independent Contractor – Complex Service for processing.

2.1 Criteria

The answer to ALL the following criteria must be "Yes". If not, see the Independent Contractor Complex service.

1. The service performed is a lecturer or speaker either in-person or via Zoom/virtual (*not high risk) (i.e., solo musician, guest model, guest judge, etc.).
2. The individual is not a current CSU employee, State of California employee, or a retired annuitant.
3. The individual is eligible to work in the United States.
4. The payment is less than $2,500 per service and less than $2,500 per fiscal year (July 1 - June 30).
5. A single engagement is less than five (5) days, and cumulatively across all campus departments less than five (5) days per fiscal year.
6. The individual will not work directly with minors.
7. The individual is not a food supplier/vendor.
8. The individual does not require the execution of their own contract.
9. The individual is not doing any type of repair work on or off campus facilities.
10. Does not meet the Honorarium Criteria.

- NOTE: *High-risk speaking events - If the lecturer/speaker has a history of audience violence/protests/riots, or the expected audience will be more than 500 attendees, it is considered “high risk” and the Independent Contractor - Complex Service Process must be used.

2.2 Examples of Simple Service

- DJs, musicians, singers, instrumentalists
- lecturer
- Referee (no minors involved)
- Speakers – live or online platform

2.3 Processes/Routing

- **Step 1:** Review Independent Contractor – Simple Service criteria to ensure individual meets qualifications.
- **Step 2:** Complete and route the Independent Contractor – Simple Service Agreement form.
- **Step 3:** Independent Contractor accepts and signs the Independent Contractor – Simple Service Agreement.
- **Step 4:** Log in to the CSUBUY Procure-to-Pay (P2P) site.
- **Step 5:** Is the Independent Contractor new?
    - Yes: Submit a Request New Supplier in CSUBUY.
    - Wait until the supplier is fully added and active in the system before creating a Direct Pay Request.
    - Refer to the Supplier Guides on the How to Purchase and Pay site for assistance, if needed.
- **Step 6:** Once the supplier is active, go to the Shopping Home Page, select General > Miscellaneous, and create a Direct Pay Request.
- **Step 7:** Complete all required Direct Pay Request questions. Upload all supporting documentation, then submit for DOA approval.
- **Step 8:** Upon DOA approval, the request is forwarded to Accounts Payable for review and processing.
- **Step 9:** Once processing is complete, the requester will receive a notification from CSUBUY.

2.4 PO Category Codes and GL Account Code

When selecting **Direct Pay - Other**, you MUST override the account # in the chartfield otherwise the expense will map incorrectly to 660090 - Other expenses and your Direct Pay request will be rejected. See the correct account numbers below.

Chartfield Account Override	Description	GL Account	GL Description
No	Direct Pay Official/Referee Payment	613001	Contractual Services
Yes	Direct Pay Other – Independent Contractor, Simple Service	613805	Lectures and Guest Artists
Yes	Direct Pay Other – Independent Contractor, Simple Service	613001	Contractual Services
Yes	Direct Pay Other – Independent Contractor, Simple Service	613936	Professional Services/Fees

2.5 Forms

- Independent Contractor – Simple Service form through Adobe Sign Power Form
- Campus direct payment requests for suppliers are processed through CSUBUY Direct Payment Request (DPR). Adobe Sign Power Forms are no longer used. UAS Check Request Forms are not impacted and remain in use.

3.0 Independent Contractor – Complex Service

Independent Contractor – Complex Service requests are completed in CSUBUY through the requisition workflow and reviewed by Human Resources and Procurement & Contracts.

3.1 Criteria:

The answer to ALL the following criteria must be "Yes".

- The individual is not a current CSU employee, State of California employee, or retired annuitant.
- DOES NOT meet the Independent Contractor – Simple Service Criteria.
- DOES NOT meet the Honorarium Criteria.

3.2 Examples of Complex Service

- Dance Groups
- Musical Theatre Performances or Plays
- Performances/Services involving aerial works, acrobatic works, special equipment, electrical and/or mechanical devices, fire, and/or water
- Grant writers, editors, internet website writers, and curriculum program consultants
- Coaching (athletics)
- Referee/Coaching/Teaching with minors
- Any involvement with minors
- Decorator for an event; balloonist
- Food Vendors, catering companies/trucks
- Carnaval rides, including mechanical rides, zip-lines
- Hearing officers, background investigators, compliance officers, auditors, and accountants
- Electricians, plumbers, elevator operators, artwork installers, piano tuners, and vendors that provide general equipment repairs
- IT professionals, doctors, nurses, psychologists, lawyers, counselors, blood banks, massage therapists, physical therapists, athletics trainers, contractors, compliance (general contractors for construction or environmental consultants), consultants

*Eligibility for Independent Contractors – Complex Service processing is not limited to the examples above; processing is determined upon departmental review.

3.3 Procedure / Process

Because several offices are involved in the review and approval of a contract for independent services, the steps described below must be taken before an agreement will be approved by the University.

- **Step 1:** Submit a RMEHS Service Request if you are requesting a waiver on insurance requirements for the Independent Contractor (IC).
- **Step 2:** Log in to the CSUBUY Procure-to-Pay (P2P) site.
- **Step 3:** Is the Independent Contractor new?
  - Yes: Submit a Request New Supplier in CSUBUY.
  - Wait until the supplier is fully added and active in the system before creating a requisition.
  - Refer to the Supplier Guides on the How to Purchase and Pay site for assistance, if needed.
- **Step 4:** Once the supplier is active, go to the Shopping Home Page, select General > Independent Contractor, and create requisition.
- **Step 5:** Complete all required Independent Contractor questions and requisition fields. Upload all supporting documentation, including the approved Risk Management (RMEHS) Service Request (if applicable), then submit for DOA approval.
- **Step 6:** After DOA approval, the requisition routes to HR Compliance for review. Upon compliance approval, it is automatically routed to Procurement for processing.

- **Step 7:** Once processing is complete, the requester will receive a notification from CSUBUY.

3.4 PO Category Codes and GL Accounts

Commodity Code (CC)	Description	GL Account	GL Description
150008	Official Guest	613805	Lectures and Guest Artists
150009	Official Guest Travel	613805	Lectures and Guest Artists
160001	General Services	613001	Contractual Services
160008	Professional Services	613936	Professional Services / Fees

3.5 Forms

1. Independent Contractor – Complex Service
   This process is embedded in CSUBUY and completed during the requisition workflow. Adobe Sign is no longer used.
   CSUBUY Business Process Guides