

INDEPENDENT CONTRACTOR REQUEST

The information provided below will assist Foundation Programs and departments utilizing Foundation funds in determining whether an individual performing services/task/activity described below will be classified as an employee of the Foundation or as an Independent Contractor (IC) for Federal, State and local tax purposes. An IC is an individual (or non-corporate business entity) that provides personal services to the entity in such a manner as to be free from entity control over performance.

*****ALL REQUESTS MUST BE APPROVED BY HR AND PROCUREMENT PRIOR TO WORK BEING PERFORMED *****

1. PROPOSED INDEPENDENT CONTRACTOR INFORMATION

Name: _____

(If applicable) Business Name: _____

Street Address: _____ City & State: _____

Contact Information (Phone/Email): _____

Is the Independent Contractor Licensed? Yes No If Yes, list license type: _____

Will the Independent Contractor have direct contact with minors? Yes No If Yes, explain: _____

2. DEPARTMENT REQUEST DETAILS

Department: _____ Account Number/Object Code: _____

Requested By (Name/Title): _____

Date Range: _____ Payment Amount Requested: _____

3. DESCRIPTION OF SERVICES/JUSTIFICATION

Please provide details outlining the proposed services or attach Scope of Work:

4. DYNAMEX OPERATIONS WEST v. CA SUPERIOR COURT DECISION (ABC TEST CRITERIA)

On April 30, 2018, the California Supreme Court issued a unanimous 82-page opinion in ***Dynamex Operations West, Inc. v. Superior Court***. The ruling creates a new standard for California that presumes workers are employees instead of IC's. Thus, both the State of California and Federal criteria must be followed. As part of their decision, the Court adopted a new ABC Test that will determine—for wage order purposes—whether the hiring entity has engaged an employee or a contractor. The B qualification of the new test requires that the contractor performs work that is outside the usual course of the hiring entity's business. **ALL THREE ABC TEST CRITERIA MUST BE MET TO BE PAID AS AN IC.** If NO, then individual is hired as an employee per the State of California Supreme Court *Dynamex Operations West* decision, even though the IRS 20 Factors met, and must paid wages via payroll.

A.	They're free from the control and direction of the hirer in connection with the performance of the work, both under the contract for the performance of the work and in fact.	<input type="checkbox"/> Yes <input type="checkbox"/> No
B.	They perform work that's outside the usual course of the hiring entity's business.	<input type="checkbox"/> Yes <input type="checkbox"/> No
C.	They are customarily engaged in an independently established trade, occupation, or business of the same nature as that which the hiring entity performs.	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> - If the answer is "NO" to ANY of the questions above, the individual should be classified as an employee and paid wages via payroll and Foundation HR must be contacted to proceed. - If the answer is "YES" to all questions above, proceed to Section 5. 		

5. RELATIONSHIP WITH THE FOUNDATION		
1.	Does the worker currently work for the Foundation, University, CSU, or any other State of California agency as an employee?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2.	Has the Foundation, University, CSU, or State of California extended the worker an offer of employment (regular or temporary appointment)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3.	Has the worker worked as an employee of the Foundation, University, CSU, or the State of California within the last 24 months prior to the date of this contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> - If the answer is "Yes" to ANY of the questions above, the individual should be classified as an employee and paid wages via payroll and Foundation HR must be contacted to proceed. - If the answer is "No" to all questions above, proceed to Section 6. 		

6. CLASSIFICATION GUIDELINES (COMPLETE ONLY ONE SECTION – A, B or C)		
A. Lecturer/ Instructor/Advisor /Guest Speaker /Teacher		
1.	Will you be the primary instructor or program advisor of a course being offered for academic credit toward a University degree/certificate, continuing education credit, or noncredit (length of time irrelevant)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2.	Will the Foundation provide you course materials and tools or reimburse you for course-related expenses?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> - If the answer to questions 1 and 2 is "Yes" the individual should be classified as an employee and paid wages via payroll and Foundation HR must be contacted to proceed. - If the answer to either is "No" proceed to the next question. 		
3.	Have you been invited as a "guest speaker," e.g., an individual who lectures at only one or two class sessions?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.	Have you been engaged by the Foundation fewer than five times in the past 12 months?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> - If the answer to questions 3 and 4 are "Yes" treat the individual as an IC and proceed to Section 6. - If the answer to either question is "No" proceed to question 5. 		
5.	Have you provided the same or similar services to other unrelated entities in the last 12 months?	<input type="checkbox"/> Yes <input type="checkbox"/> No
6.	Will the department provide specific instructions regarding the performance of the required work rather than relying on your expertise	<input type="checkbox"/> Yes <input type="checkbox"/> No
Regardless of whether question 5 is answered "Yes" or "No", if the answer to question 6 is "Yes" then treat as an employee and contact Foundation HR to proceed.		
B. Researcher – Initially generally presumed to be employees of the University		
1.	Will you perform research under the supervision of a University professor or University employee, or Foundation employee?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If the answer to question 1 is "Yes" treat the individual as an employee and contact Foundation HR to proceed. Otherwise, proceed to question 2.		
2.	Will you serve in an advisory or consulting capacity with a University Professor or University employee, or Foundation employee?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3.	Have you provided the same or similar services to other unrelated entities in the last 12 months?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.	Will your period of service be completed within a finite time frame?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If the answer to questions 2,3, and 4 is "Yes" treat the individual as an IC. Otherwise, treat as an employee and contact Foundation HR to proceed.		
C. Individual not covered under A and B – Individual Consultant/Entertainer/Art Model		
1.	Have you provided the same or similar services to other unrelated entities or the general public as part of a continuing trade or business with the opportunity for profit or loss within the last 12 months?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2.	Will your period of service be performed within a finite time frame?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3.	Will the department provide specific instructions regarding the performance of the required work rather than relying on your expertise?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.	Will the Foundation set the number of hours and days of the work week that you are required to work, as opposed to you setting your work schedule?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If the answer to questions 1 and 2 are "Yes" AND questions 3 and 4 are "No," treat the individual as an IC. Otherwise, treat the individual as an employee and contact Foundation HR to proceed.		

7. ADMINISTRATOR REVIEW & AUTHORIZATION (Must be signed by Authorized Account Signer)

I hereby declare that the information provided in this document is true and correct and that I have sufficient knowledge of, authority, and responsibility for the work to be performed under this contract to effectively make this certification.

Requestor Name: _____ Signature: _____ Date: _____

Authorized Account Signer Name/Title _____

Please submit this form, along with the Independent Contractor Standard Agreement, Scope of Work, PO, Vendor Data Form, and Proof of Insurance, if applicable to CF@csudh.edu. Do not submit to Foundation HR, it will be routed on your behalf.

Post Award/Human Resources/Procurement Use Only

Post Award Approval (For grants only)

Is the use of an independent contractor an allowable expense on the grant? Yes No

Has the proposed contractor been disbarred? Yes No

Post Award Analyst Initials: _____

Human Resources Approval

Is the proposed worker an existing employee of the Foundation, CSU or State Agency? Yes No

Are the proposed duties consistent with a Foundation job classification? Yes No

IC Request: Approved Not Approved

HR Reviewer Name Signature Date

Procurement Processing

- Signed Independent Contractor Standard Agreement
- Scope of Work and Fee Schedule attached as Exhibit A
- Proof of Insurance if contract is over \$10,000 (including Certificate of Insurance with Additional Insured Endorsement)
- Proof of Background Check or LiveScan (If required, when working with minors in person)

For Payments:

- Purchase Order/Purchase Justification (if over \$10,000 for Grants and Non Grants)
- Vendor Data Record Form

Comments/Note:

Procurement Reviewer Name Signature Date