

# **POLICY AND PROCEDURES FOR CLASSIFYING AND PAYING INDIVIDUALS WHO PERFORM WORK FOR THE UNIVERSITY**

## **EMPLOYEES and INDEPENDENT CONTRACTORS**

The attached policy and procedures document (**VPHR-2002-01**) is to be used by campus departments to determine whether an individual who performs services for the University should be paid as:

- an employee in a standard classification;
- an employee in the Special Consultant classification; or
- an Independent Contractor through the contracting process.

When engaging individuals to perform services for the University, the determination must be made as to whether or not an employer-employee relationship exists. The most important factor in determining this relationship is the right to exercise control over the manner and means by which the individual performs his or her work (whether exercised or not). The enclosed document explains this process and contains information that will help you to make this determination.

Individuals must be classified and paid correctly for the University to maintain compliance with State and Federal laws and regulations, Collective Bargaining Agreements, and CSU policies. If employees are classified and paid incorrectly, the University will be unable to comply with the tax withholding and other requirements. One CSU system campus has already experienced heavy fines as a result of non-compliance.

Forms have been developed for you to use when hiring Special Consultants and are available on the Human Resources Web site: <http://www.csuchico.edu/pers/formlist-am.shtml>.

The forms are:

- Special Consultant Agreement Form.
- Special Consultant Time Sheet.
- Independent Contractor vs. Employee Worksheet

The worksheet will help you to determine which method to use. If after completing the worksheet, you have questions regarding which process to follow, please contact Sue Hofius in the Human Resources Staff Personnel Programs Office at 898-6771.

To ensure the integrity of the process and to avoid subjecting the University to inappropriate liability, **individuals should not begin work until all appropriate paperwork has been completed, signed, and approved by Human Resources.**

**CALIFORNIA STATE UNIVERSITY, CHICO**

**POLICY AND PROCEDURES FOR CLASSIFYING AND PAYING  
INDIVIDUALS WHO PERFORM WORK FOR THE UNIVERSITY**

**EMPLOYEES VS INDEPENDENT CONTRACTORS**

**PURPOSE:**

This policy and procedures document is to assist appointing authorities in determining how to classify and pay individuals while ensuring compliance with State and Federal laws, CSU policies, and Collective Bargaining Agreements. The three processes for paying individuals who perform services for the University are:

- as an employee through the normal hiring process;
- as an employee through the Special Consultant process; and
- as an Independent Contractor through the contracting process.

**SCOPE:**

This policy and procedures document applies to all individuals who are paid to provide personal services for the University. This includes individuals from off-campus as well as current staff, faculty, administrators, and students.

**RESPONSIBILITY:**

Procedures for hiring and paying individuals as employees in standard classifications or as Special Consultants are established and administered through the Human Resources Office.

Procedures for paying individuals as Independent Contractors are established and administered through Procurement Services (Contracting Division).

## **I. EMPLOYEE**

- A. An Employee is defined as an individual who performs work for the University and whose work is subject to the will and control of the University (including temporary assignments).
- B. Employees:
- must be appointed to the classification which most accurately describes the work being performed;
  - must be hired through the Human Resources Staff Personnel Programs Office's normal recruitment and hiring process;
  - are subject to related Collective Bargaining Agreements; and
  - may be subject to time and one-half pay for hours worked over 40 in a work week, if their primary appointment is to a non-exempt (hourly) classification.
- C. For documentation required for employees, contact the Human Resources Staff Personnel Programs Office at 898-6771.

## **II. SPECIAL CONSULTANT**

- A. The Special Consultant classification (class code 4660) may be used only for short-term, exempt work assignments when no other classification describes the work being performed.
- B. Special Consultants:
- are considered employees;
  - are covered by the University's Workers' Compensation Program;
  - are subject to tax withholding, and in some cases, retirement, Social Security, and Medicare deductions;
  - are subject to Direct Deposit if currently enrolled in the program;
  - do not participate directly or indirectly in University benefit programs; and
  - are not represented by collective bargaining.
- C. Current CSU System employees, who accept additional employment within the CSU System are subject to the Additional Employment Policy (HR 2002-05) and applicable Collective Bargaining Agreements, all of which limit total employment within the CSU to a maximum of 125% of full-time. Academic year faculty may be employed on any day in which classes are not scheduled (i.e. intersession, week-ends, and any days falling between the last academic workday of an academic year and the first academic workday of the next year).

In addition, the following applies:

1. If the employee's current classification is non-exempt and the time-base is full-time, a daily-rate equivalent process must be used to calculate the overtime rate for hours worked in excess of 40 in a work week, to maintain compliance with the Fair Labor Standards Act and the applicable Collective Bargaining Agreement.
2. CSU system employees are normally paid for additional assignments on our campus as employees through the payroll system by appointment to an appropriate classification.
3. The Payroll Office is required to notify the employee's home campus of additional appointments at CSU, Chico.
4. The payroll system requires that Special Consultants be paid on a daily rate rather than an hourly rate regardless of the number of hours worked in a given day (refer to CSU Salary Schedule E-99 rates <http://www.calstate.edu/hrpims/Salary.htm>).

D. Documentation required for Special Consultant appointments:

The Human Resources Office must receive the following items (with all appropriate signatures) at least five (5) working days prior to the effective date of the appointment:

1. Special Consultant Agreement form.
2. Application and/or Resume (if new to CSU Chico).
3. Special Consultant vs. Independent Contractor worksheet completed and signed by appropriate Dean or Department Manager.
4. Current CSU System non-exempt employees who accept additional employment as Special Consultants during their normal work hours need to submit one of the following:
  - An approved "Absence and Additional Time Worked" form (#634) showing the use of vacation credit or personal holiday credit to cover the time worked as a Special Consultant during their regular work hours. OR
  - A memo from the current supervisor indicating an adjustment to the employee's regular work schedule will be made so that the Special Consultant assignment will not conflict with the regular assignment.
5. Special Consultants who are new to the CSU system, or are returning following a break

in service of six months or more, will be required to complete the following documents in the Human Resources Office, within three (3) days of the effective date of their appointment or on the first day of employment if appointment is for less than three (3) days.

- Employee Data Form;
- Employee Action Request Form (W-4);
- Employment Eligibility Verification (Form I-9);
- Payroll Deduction for Retirement and/or Social Security; and
- Oath of Allegiance and Declaration of Permission to Work.

Pay checks cannot be processed until all documents are completed. If your Consultant is coming from out of town, be sure they bring documents appropriate for completing Form I-9 with them and come to Human Resources (Kendall 220) and complete the documentation process. A list of acceptable documentations can be found at <http://www.ins.usdoj.gov/graphics/formsfee/forms/files/i-9.pdf>.

E. Documentation required for Special Consultant payment:

The full legal name and correct social security number must be typed on all documents related to the appointment to ensure payment to the correct individual. The following documents are required for payment to be made:

1. The Special Consultant Agreement Form, which must be approved by Human Resources before the individual begins work and before payment can be made.
2. Special Consultant Time Sheet, which must contain appropriate signatures, and be submitted to the Payroll Office upon completion of the assignment.
  - If the compensation is to be distributed over several months, separate monthly time sheets will be required for each pay period.
  - If one payment is desired, submit one time sheet at the end of the project.
3. All documents listed in D-5.

F. In the event that the assignment described on the face of the Special Consultant Agreement form is not completed or is not completed in a satisfactory manner, the University reserves the right to cancel the appointment (and all payment) or to reduce the total number of days for which payment will be made.

G. Once a Special Consultant Agreement form has been approved, any of the following will require completion of a new Special Consultant Agreement form:

- substantial changes in the assignment;
- any changes in the daily salary rate; or
- changes in the total number of authorized days.

### **III. INDEPENDENT CONTRACTOR:**

- A. If the work or services to be performed by an individual is subject to the control and direction of the University only as to the result to be accomplished, and not the means and/or methods for accomplishing the result, and payment is based upon completion of specific work rather than time worked, the individual may be hired and paid as an Independent Contractor.

An Independent Contractor is a person who is engaged in a distinct occupation, profession, business, or independent trade in which these same services are offered to the general public. The individual will be required to provide a Business License Number, a Taxpayer I.D. Number, and/or a Company Name.

- B. Independent Contractors:
- are not considered employees for tax withholding purposes;
  - are not covered by the University's Worker's Compensation Program;
  - do not participate directly or indirectly in University benefit programs; and
  - are not eligible for the Direct Deposit Program.
- C. Guest lecturers (who are not current CSU employees), performing artists, language examiners, and visiting scholars may be included in the Independent Contractor category.

- D. Requirements to classify as an Independent Contractor:

For an individual to be classified as an Independent Contractor, an employer-employee relationship must not exist. The following criteria must apply to the individual:

- is engaged in a distinct occupation, profession, business, or independent trade in which these same services are offered to the general public. The individual will be required to provide a Business License Number, a Taxpayer I.D. Number, and/or a Company Name;
- agrees to do a specific piece of work for an agreed upon fee;
- furnishes own supplies, tools, personal liability insurance, etc.;
- is able to set own hours; and
- requires no training or supervision.

In addition, the services to be performed are not available within the CSU; cannot be performed by CSU employees; are not regularly part of University business; or are of such a specialized or technical nature that the knowledge, experience, and/or ability is not available through the normal staffing process.

- E. Documentation required for Independent Contractor contract:

A Purchase/Service Requisition must be submitted to Procurement Services (Contracting Division), Campus Zip 245. The requisition must provide a detailed description of the work to be performed. The form is available at [http://www.csuchico.edu/fin/CMS\\_Financials/Forms/forms.html](http://www.csuchico.edu/fin/CMS_Financials/Forms/forms.html)

F. Documentation required for payment of Independent Contractor:

1. The Independent Contractor must submit an invoice for services performed to the accountable University manager. The manager signs and approves the invoice certifying that the contract services have been satisfactorily completed, and forwards the invoice to the Accounts Payable Office.
2. Payee Data Record Form, if not already on file; and
3. The University is required to file Form 1099 with the Internal Revenue Service and other reports on Independent Contractors and other non-employee compensation.

The Accounts Payable Office must be in receipt of the above documents before payment can be made to the contractor.