

UC Davis Policy and Procedure Manual

Chapter 380, Personnel—General

Section 71, Independent Contractor Agreements

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Responsible Department: Materiel Management

Source Document: Business and Finance Bulletin BUS-77, Independent Contractor Guidelines

I. Purpose

- A. This section outlines policy and procedures for securing the services of independent contractors. Procedures apply to contracts requested by campus departments, including the School of Medicine, through Materiel Management, Business Contracts. UCDCM departments refer to Hospital Policies and Procedures Section 2901 for procedures regarding independent contractors at the Medical Center.
- B. This section does not apply to design professionals, facility planners, or engineers governed under the UC Facilities Manual, whose services are secured by Design and Construction Services on the Davis campus and by Facilities Design & Construction at UCDCM.
- C. Information regarding Independent Consultants is available in Section 380-70.

II. Definitions

- A. Employer-employee relationship--a relationship in which the University has the right (whether or not it exercises it) to supervise and control the manner of performance, as well as the result of service.
- B. Independent contractor--an individual not employed by the University performing generally infrequent, technical, or unique functions where the University has the right to control only the result of service, not the manner of performance.

III. Policy

- A. Arrangements to secure the services of an independent contractor may be entered into only when the services are so unique, specialized, or highly technical that they cannot be performed economically or satisfactorily by existing University staff.
 - 1. Contracts anticipated to exceed \$100,000 must be competitively bid as described in Business and Finance Bulletin (BFB) [BUS-43](#), Part 3.
 - 2. The Purchasing Department will determine when competition or negotiation for contracts under \$100,000 is in the best interests of the University.
- B. The determination regarding employee versus independent contractor status is made by the Director--Materiel Management (or designee), as described in BFB [BUS-77](#).
 - 1. Determination that no employer-employee relationship must be established before the proposed agreement can be executed.
 - 2. If an employer-employee relationship would be established, the department shall follow the normal employment process.
- C. Conflict of interest
 - 1. University employees must disqualify themselves from participating in a University decision that may result in material financial gain to them, including decisions relating to contracting for the services of an independent contractor (see Section [380-16](#)).

2. California Public Contract Code Sections 10515 through 10524 restrict the way UC does business with consultants, employees, former employees and independent contractors (see Section [330-05](#)).
 3. Information regarding employee vendors is available in Section [350-90](#).
- D. Independent contractors involved in collection of information about individuals must abide by Section 320-20.

IV. Procedures

- A. The department
1. Inquires informally with the independent contractor to determine the following:
 - a. Nature of work.
 - b. Where and when work will be performed.
 - c. University resources that may be required, if any.
 - d. Additional specifications, terms, or conditions requested by the independent contractor to be considered for the final agreement.
 2. Completes the Independent Contractor (Individual) Pre-Hire Information worksheet (http://purchasing.ucdavis.edu/forms/BC_IndContractor.doc) and obtains department head approval.
 3. The department initiates a Requisition (PR) document in DaFIS, completes the [Cover Sheet for Requisition Attachments](#) form, and forwards all applicable materials (e.g., scope of work, budget, copies of grants or proposals, specifications, Pre-hire Worksheet, Conflict of Interest form) to Contracting Services prior to work starting.
- B. Contracting Services:
1. Reviews the Independent Contractor Determination Pre-hire Worksheet.
 2. Assigns Buyer to project.
 3. If required, solicits three or more proposals from qualified contractors or firms, evaluates the proposals and recommends contract award.
 4. Drafts an agreement format with necessary terms and conditions.
 5. Negotiates legal and policy matters with the independent contractor as necessary.
 6. Secures required approvals from campus and Office of the President officials, including General Counsel when necessary.
 7. Forwards the purchase order to the independent contractor.
 8. Sends copies of the completed agreement to the initiating department and any other departments involved in performing terms of the agreement or processing invoices.

V. Responsibilities

- A. Department heads:
1. Ensures that independent contractor does not start work prior to approval by Business Contracts and issuance of the PO.

2. Verifies that the independent contractor's final product satisfactorily completes the terms of the agreement prior to approving and submitting the invoice for payment.
 3. Obtains prior approval for extension of the termination date, expansions of the scope of services, or modification of payment amounts; and initiates a Change Purchase Order/Business Agreement in DaFIS, as appropriate.
 4. Determines equitable compensation, not exceeding the total agreement price, if the agreement is terminated prior to completion.
- B. Contracting Services:
- Reviews independent contractors' evidence of adequate insurance coverage, and confirms that The Regents of the University of California is named as an additional insured on general liability and automobile insurance.
- C. Director—Materiel Management:
- Determines compliance prior to contracting with student employees or with employees with teaching or research responsibilities (see BFB [BUS-43](#), Part 7).
- D. Accounting and Financial Services/Shared Service Center:
1. Makes payments to independent contractors in accordance with the schedule set forth in the agreement.
 - a. Ensures that payments are not made prior to issuance of PO, unless approved in writing by the Associate Director—Materiel Management, Contracting Services.
 - b. Ensures that payments are not made for services rendered after expiration of the agreement.
 2. Withholds final payment until department confirms that the terms of the PO have been completed.
 3. Complies with the procedures for federal income tax withholding and reporting (see BFB [BUS-77](#)).

VI. Further Information

- A. Additional information is available from Contracting Services; (530)752-0370; <http://purchasing.ucdavis.edu/contracts>.
- B. Information on the request process for UCDHS Business Contracts is available at <http://intranet.ucdmc.ucdavis.edu/contracts>; (916) 734-3820.

VII. References and Related Policies

- A. California Public Contract Code Sections 10515-10518 and 10520-10524 (<http://www.leginfo.ca.gov/calaw.html>).
- B. UC Office of the President (<http://policy.ucop.edu/>):
 1. Business & Finance Bulletin BUS-43, Materiel Management.
 2. Business & Finance Bulletin BUS-63, Insurance Requirements/Certificates of Insurance.
 3. Business & Finance Bulletin BUS-77, Independent Contractor Guidelines.
 4. Business & Finance Bulletin BUS-78, A Guide to the Political Reform Act of 1974.

5. Business & Finance Bulletin G-39, Conflict of Interest Policy and Compendium of Specialized University Policies Guidelines, and Regulations Related to Conflict of Interest.
- C. UCD Policy & Procedure Manual (<http://manuals.ucdavis.edu/PPM/about.htm>):
1. Section 320-20, Privacy of and Access to Information.
 2. Section 320-35, Privacy of Health Information.
 3. Section 350-90, Employee-Vendor Transactions.
 4. Section 380-16, Conflict of Interest.
 5. Section 380-70, Consultant Agreements.