

# UC Davis Policy and Procedure Manual

## Chapter 380, Personnel--General

### Section 71, Independent Contractor Agreements

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Supersedes: New

Responsible Department: Materiel Management

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

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#### I. Purpose

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. UCDMC departments refer to Hospital Policies and Procedures Section 2901 for procedures regarding independent contractors at the Medical Center. This section does not apply to design professionals, facility planners, or engineers governed under the UC Facilities Manual, whose services are secured by the Office of Architects & Engineers on the Davis campus and by Facilities Design & Construction at UCDMC. 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 the right) 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. General requirements
  - 1. 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.
  - 2. In general, the determination regarding employee versus independent contractor status is made by the Director--Materiel Management or his/her designee, as described in Business and Finance Bulletin BUS-77.
    - a. In cases where it is difficult to determine the correct status of the individual, the department shall consult with Human Resources to determine whether an employer-employee relationship exists.
    - b. Determination that no employer-employee relationship must be established before the proposed agreement can be executed.
    - c. If an employer-employee relationship would be established, the department shall follow the normal employment process.
- B. Conflict of interest
  - 1. University employees shall 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.

C. Privacy of and access to information

If the independent contractor services will involve collection of information about individuals, the department proposing to engage the contractor and the resulting agreement shall abide by Section 320-20.

**IV. Procedures**

A. Selection of the independent contractor

1. If the amount of payment by the University to an independent contractor is expected to be \$50,000 or more in any 12-month period, proposals shall be solicited from three or more qualified independent contractors or firms. Exceptions must be justified and submitted on sole source justification and individual disclosure forms by the department and approved by the Director--Materiel Management or his/her designee.
2. Fees charged by the independent contractor shall be reasonable for the services to be performed, as determined through evaluation of competitive proposals, established by market test, price or cost analysis, or the experience and judgment of the Director--Materiel Management or his/her designee.

B. Agreement covering services

The engagement of an independent contractor is generally covered by the University's standard independent contractor agreement terms, in accordance with the procedures described in BUS-43, Materiel Management, Part 3.

1. The department

- a. Inquires informally with the independent contractor to determine the following:
  - 1) Nature of work.
  - 2) Where and when work will be performed.
  - 3) University resources that may be required, if any.
  - 4) Additional specifications, terms, or conditions requested by the independent contractor to be considered for the final agreement.
- b. Completes the Independent Contractor (Individual) Pre-Hire Information worksheet ([http://purchasing.ucdavis.edu/forms/BC\\_IndContractor.doc](http://purchasing.ucdavis.edu/forms/BC_IndContractor.doc)) and obtains department head approval.
- c. 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 Business Contracts prior to work starting.

2. Business Contracts:

- a. Reviews the Independent Contractor Determination Pre-hire Worksheet.
- b. Assigns Buyer to project.
- c. If required, solicits three or more proposals from qualified contractors or firms, evaluates the proposals and recommends contract award.
- d. Drafts an agreement format with necessary terms and conditions.
- e. Negotiates legal and policy matters with the independent contractor as necessary.
- f. Secures required approvals from campus and Office of the President officials,

including General Counsel when necessary.

- g. Forwards the purchase order to the independent contractor.
- h. Sends copies of the completed agreement to the initiating department and any other departments involved in performing terms of the agreement or processing invoices.

C. Payment for services

1. The independent contractor shall submit an invoice setting forth the appropriate charges and indicating the agreement number and the independent contractor's taxpayer identification number.
  - a. Payment shall not be made for services rendered prior to the execution of a written agreement.
  - b. Payment shall be made in accordance with the schedule set forth in the agreement.
  - c. Except as expressly approved by the Director--Materiel Management or his/her designee, payment for services will not be made until such services are completed and accepted by the University.
  - d. Payment shall not be made for services rendered after the expiration of the agreement.
2. In case of termination prior to completion of the work to be performed under the agreement, the project manager and department head shall determine an equitable compensation to be paid for the work completed based on its value to the University, provided that such compensation shall in no event exceed the total agreement price.
3. Final payment will be withheld until confirmation by department project manager that the terms of the agreement have been completed.

V. Further Information

- A. For information on specific agreements or processes, call the campus Business Contracts Office, (530) 747-3875. Information on Business Contracts and other forms are available at <http://businesscontracts.ucdavis.edu/>.
- B. Information on the request process for UCDHS Business Contracts is available at <http://intranet.ucdmc.ucdavis.edu/contracts>; (916) 734-3820.

VI. 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://www.ucop.edu/ucophome/coordrev/ucpolicies/>):
  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 300-10, Travel Policy Overview.

2. Section 320-20, Privacy of and Access to Information.
2. Section 330-05, Administrative Business Agreements.
3. Section 350-90, Employee-Vendor Transactions.
4. Section 380-16, Conflict of Interest.
5. Section 380-70, Consultant Agreements.