

INDEPENDENT CONTRACTORS

The District may authorize the use of independent contractors in limited circumstances. The District requires the use of an independent contractor agreement when the District seeks to hire an individual/sole proprietorship (as opposed to a company or partnership) to perform a service (rather than provide a tangible product) for the District. In general, an independent contractor is an individual with a specific skill or technical knowledge hired by means of a written agreement to perform a particular job for a designated period of time. Independent contractors are in business for themselves and are responsible for their own tax reporting to the IRS. An independent contractor is required to provide his or her Social Security Number for tax identification purposes.¹ The District may within its discretion and for any reason reject an individual's request to serve as an independent contractor.

INDEPENDENT CONTRACTOR AGREEMENT INSTRUCTIONS

1. USER RESPONSIBILITIES

Contract development and execution between two parties could take a minimum of 30-60 days. Independent Contractor (IC) Agreement requesters are required to complete and submit a completed IC contract package at least 30 days before services are scheduled to begin. Advance planning is strongly recommended.

A. BEFORE THE PROJECT BEGINS: Contract Originator verifies if an Independent Contractor Agreement can be completed:

1. Complete the [Independent Contractor Checklist](#) The purpose of this checklist is to assist in the determination of an employee or independent contractor status. [Federal and State law](#) places the burden of proof on the employer (District) to show that an independent contractor relationship exists. Services to be performed must be different from those performed by District employees and from those described in advertised District positions.
2. Contract originator will request College Business Office to verify if proposed Independent Contractor is a current or former District Employee, or Retired Annuitant. The College Business Office will utilize Banner menu PEAEMPL for this verification. If a PERS/STRS individual or current/former employee, consult with District Payroll Office before proceeding to the next step.

Note: If the District cannot hire the individual as an IC, consult with Human Resources. The individual may possibly be hired as a different type of employee (professional expert/short-term temporary employee). Refer to section 4 for information on current worker classifications not eligible to be hired as an IC.

B. Contract Originator completes an IC Agreement. Complete the following documents:

1. Electronically complete the [Independent Contractor \(IC\) Agreement](#)
 - a. If verified as PERS/STRS, make sure to check off appropriate box on page 1 of IC Agreement.
 - b. "Exhibit A" Scope of Services (attached to the IC Agreement) – Complete each section.
 - i. List the project description, scope of work/service(s) to be performed, along with the corresponding completion date(s).
 - ii. Specify the contract period, point of contact and the rate and method of payment.
 - iii. Payable amounts need to reflect actual value of each type of service being performed.
 - c. "Appendix 1 and 2" (attached to the IC Agreement) – these appendices are applicable **if** the IC will be providing photography, videography or will use a drone. DO NOT include these appendices if they are not applicable.

Note: Handwritten, incomplete or older versions of these forms **will not be accepted**.

¹ State law determines if a worker is an independent contractor, not written agreements. Workers can be considered employees unless the hiring firm can prove otherwise.

C. Contract Originator obtains the required documentation from contractor. Contract Originator must obtain the following documentation:

1. Completed W-9 form. The independent contractor must complete a “W-9: Request for Taxpayers Identification Number and Certification” form with their legal name, Social Security number and signature. **EVERY contractor must have a new W-9 on file annually (on a calendar year basis).**
2. *FOR CURRENT IC AGREEMENTS ONLY:* Addendum to Independent Contractor Agreement. Please complete the addendum if you are seeking to change or extend the IC Agreement. If the account number needs to be changed, please complete the Account # Change Request Form.

Note: The I-9 employment eligibility verification form is not required for an independent contractor. An IC Agreement cannot be changed or extended if has expired.

D. Contract Originator collects signatures/approvals and compiles documentation. Obtain the necessary signatures and assemble all required documentation and forward ICA contract documents to the College Business Office for review and approval.²

1. Electronically completed and signed Independent Contractor (IC) Agreement
2. Completed and signed W-9 Form
3. Complete and signed Questionnaire for Independent Contractors

E. College Business Office reviews the contract documents for completeness. Once approved, the Business Office forwards the ICA contract documents to General Services for verification and signature by uploading to the Purchasing IC/Requisition Folder. If verified as PERS/STRS, General Services will forward a copy of IC agreement to Payroll. Please allow a minimum of ten (10) working days for District approval process to be completed. General Services will upload the IC contract documents in the District’s contract management system (iContracts). The College Business Office will be able to download a copy of the fully executed contract, which should be sent back to the Contract Originator. The Contract Originator should then forward a copy to the independent contractor for their records.

IMPORTANT Note: Do not authorize the Independent Contractor to perform the services until a valid, fully executed IC Agreement has been established.

2. IC AGREEMENT PAYMENT

Payment to the independent contractor are to be made as specified by the Independent Contractor Agreement.

A. Contract originator prepares payment authorization. Once the project is completed (or at payment milestones defined in Exhibit A) and upon receipt of independent contractor’s billing invoice, contract originator prepares an Authorization for Payment form, obtains the department/division administrator’s signature and submits the signed and completed Authorization for Payment form to the College Business Officer for review and approval. The Business Office forwards the form to the Accounts Payable Department.

B. Accounts payable issues check. Accounts payable processes the invoice, cuts a check and forwards payment to the independent contractor directly to their address, as listed in the IC Agreement. The independent contractor may request for payments to be processed via direct deposit (ACH) by submitting an ACH Authorization Agreement form to Accounts Payable.

3. CONTRACT THRESHOLDS

Board approval is required for IC agreements greater than the bid threshold, as annually adjusted per Public Contract Code section 20651.

4. CURRENT WORKER CLASSIFICATIONS NOT ELIGIBLE TO BE HIRED AS AN IC

Refer to District’s Miscellaneous Pay Rates Salary Schedule for list of classifications. The “Miscellaneous Pay Rates” classifications are designed to supplement current staff services on a short-term, non-continuing basis, and constitute temporary, at-will employment for special District services and projects.

² Board Approval is also required if the services to be performed are in excess of the legal bid limit.