

CAL POLY POMONA FOUNDATION, INC.

AGREEMENT FOR INDEPENDENT CONTRACTOR ACTIVITY

Independent Contractor's Name: _____ Date: _____

In compliance with [Assembly Bill \(AB\) 5](#), which address the "Employment Status" of workers who claim to be Independent Contractors and not employees, a review of the "employer-employee" relationship questionnaire must be completed. The review requires a detailed analysis of each situation's unique circumstances. Because of recent changes in the law, past approval of an individual as an independent contractor should not lead to a presumption that the same classification will be made again. Convenience cannot be a determining factor for classification. It is important to understand that misclassification can result in serious financial penalties and consequences for the campus/Enterprise Foundation as a whole.

1) Questionnaire

The following questionnaire is to be completed by the Requestor and will be used by Employment Services to determine if the work can be conducted by an Independent Contractor.

Requestor **MUST** check one of the following:

- YES**, this individual/organization has proof of business. Please proceed with the questionnaire and the rest of the form. The individual will need to complete a Vendor Data Record (VDR) through OnBase, and provide a copy of the proof of business and liability insurance, for submission to Enterprises AP.
- NO**, this individual/organization does not have proof of business or insurance. Please contact [Enterprises Employment Services](mailto:fdnhr@cpp.edu) (fdnhr@cpp.edu) to determine eligibility.
- NO**, this individual belongs to an academic/professional community, and does not have proof of business nor business insurance coverage. Please proceed to complete this form and request Vendor Data Record (VDR) through OnBase. This individual **MUST** provide validation of their professional qualification. The requestor **MUST** submit the service request justification on page 3 to [Enterprises AP](#) to determine eligibility.

Yes	No	Questions
<input type="radio"/>	<input type="radio"/>	1) AFFILIATION: Is the worker currently an employee in the California State University?
<input type="radio"/>	<input type="radio"/>	2) Instructions: Do you have the right to give the worker instructions about when, where, and how to work?
<input type="radio"/>	<input type="radio"/>	3) Training: Do you train the worker to do the job in a particular way?
<input type="radio"/>	<input type="radio"/>	4) Integration: Are the worker's services so important to your business that they have become a necessary part of the business?
<input type="radio"/>	<input type="radio"/>	5) Services rendered personally: Must the worker provide the services personally as opposed to delegating tasks to someone else?
<input type="radio"/>	<input type="radio"/>	6) Hiring, supervising, and paying assistants: Do you hire, supervise, and pay the worker's assistants?
<input type="radio"/>	<input type="radio"/>	7) Continuing relationship: Is there an ongoing relationship between the worker and yourself where services are performed frequently, but irregularly?

<input type="radio"/>	<input type="radio"/>	8) Set hours of work: Do you set the worker's hours?
<input type="radio"/>	<input type="radio"/>	9) Full time required: Must the worker spend all of his or her time on your job?
<input type="radio"/>	<input type="radio"/>	10) Doing work on employer's premises: Must the individual work on your premises and do you control the route or location where the work must be performed?
<input type="radio"/>	<input type="radio"/>	11) Order or sequence set: Do you have the right to determine the order in which services are performed?
<input type="radio"/>	<input type="radio"/>	12) Oral or written reports: Must the worker give you reports accounting for his or her actions?
<input type="radio"/>	<input type="radio"/>	13) Payment by hours, week, month: Are you going to pay this person by the hour/week/month?
<input type="radio"/>	<input type="radio"/>	14) Payment of business and/or traveling expenses: Do you pay the worker's business or travel costs?
<input type="radio"/>	<input type="radio"/>	15) Furnishing of tools and materials: Do you provide the worker with equipment, tools, or materials?
<input type="radio"/>	<input type="radio"/>	16) Significant investment: Does the worker have an investment in the equipment and facilities used to do the work?
<input type="radio"/>	<input type="radio"/>	17) Realization of profit or loss: Can the worker make a profit or suffer a loss as a result of the work, aside from the money earned from the project?
<input type="radio"/>	<input type="radio"/>	18) Working for more than one firm at a time: Does the person work for more than one company at a time?
<input type="radio"/>	<input type="radio"/>	19) Making service available to the general public: Does the person make his services available to the general public?
<input type="radio"/>	<input type="radio"/>	20) Right to discharge: Can the worker be fired?
<input type="radio"/>	<input type="radio"/>	21) Right to terminate: Can the worker quit at any time without incurring liability?
<input type="radio"/>	<input type="radio"/>	22) Type of Work: Does the service provider perform the same type of work that is generally performed by regular employees?

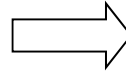
To be completed by the Requestor:

Print Name: _____ Department: _____
 Signature: _____ Date: _____
 Contact phone #: _____ Email: _____

For Cal Poly Pomona Enterprises Employment Services Use Only: (when eligible as "Employee" status)

Based on the above questionnaire, individual is identified as: Independent Contractor Employee

Employment Services Reviewer Signature: _____ Date: _____



(Invoice #)

2) Independent Contractor Request Form

Vendor #: _____
(Enterprise Foundation Use Only)

Enterprises (CPPF) Project #: _____

Enterprises (CPPF) Object Code #: _____

Project Title: _____ Date: _____

Type of Service: Consultant Other (Specified): _____

Independent Contractor's Name: _____ Phone #: _____

Address: _____

Actual dates services are to be performed: From: _____ To: _____

Detailed description of services to be performed (Required):

Fee is calculated at \$ _____ per _____ Total Fees: \$ _____

Total Amount Due: \$ _____

Less Out-of-State Withholding Tax \$ (_____) Less Foreign Withholding Tax \$ (_____)
(Enterprise Fdn use only - if applicable) 190010-2232 190010-2236

Net Payment Amount: \$ _____

For Grants & Contracts Only: (Must be completed PRIOR to service)

P.I. Signature: _____ Date: _____
(P.I. Pre-Authorization to Proceed)

Agreement of Independent Contractor/Consultant:

I agree to perform the services described above at the rate indicated. And with respect to solely these services; I understand that I am not now and will not become, as a result of this Agreement, an employee of the California State Polytechnic University or Cal Poly Pomona Foundation, Inc., because, with respect to these services, I follow an independent trade or profession, and will not be subject to control and direction of Enterprise Foundation as to the details and means for accomplishing the anticipated result of my service.

- A. In specific to Grants, the Consultant must certify they are not employee of the CSU. If the Consultant is an employee of the CSU, payment for the consulting services will be payable to the university of which the Consultant is employed with.
- B. Payment will be made as per agreement. Consultant shall submit an invoice, in arrears, containing a certification of the type of services performed, and a statement that all required work has been completed, as well as a written report of the required work as agreed to herein.
- C. The Consultant agrees to indemnify, defend and hold harmless Cal Poly Pomona Foundation, Inc. ("the Enterprises"), its officers and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, materialmen, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of this agreement and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Consultant in the performance of this agreement.
- D. The Consultant and the agents and employees of the Consultant, in the performance of this agreement, shall act in an independent capacity and not as employees or agents of the Enterprise Foundation.
- E. Without the written consent of the Enterprise Foundation, this agreement is not assignable by the Consultant either in whole or in part.

- F. Any and all proprietary information disclosed to the Individual shall remain confidential and individual agrees it will not disclose or publish such information for a period of two (2) years following the payment of services relating to this agreement.
- G. Individual shall not employ or use the name of Cal Poly Pomona Foundation and/or California State Polytechnic University, Pomona in any promotional materials, advertising, or in any other manner without prior written express permission of Cal Poly Pomona Foundation.
- H. Any unreasonable delay in processing this agreement will cause it to be null and void.
- I. Insurance information must be provided for total services fee equal to or greater than \$5,000 (≥\$5K).
- J. Alterations or variations of the terms of this agreement shall be invalid unless made in writing and signed by each party that is signatory hereto, and no verbal understanding or agreement not incorporated herein, shall be binding on any of the party's signatory hereto.
- K. Work shall not commence under this agreement until the independent consultant has received a fully executed agreement and the consultant has been given approval to proceed. Any work performed by the contractor prior to the date of the Enterprises approval of this form shall be considered as having been performed at their own risk for which the Enterprises is not obligated to pay.**

The Consultant shall not utilize any information, not a matter of public record, which is received by the consultant by reason of this agreement, for pecuniary gain not contemplated by the terms of this agreement, regardless of whether the Consultant is or is not under contract at the time such gain is realized. The report survey or other product developed by the contract pursuant to this agreement is the property of the Enterprises. Breach of this provision will make the contract voidable at the Enterprises' option, and the Consultant shall be liable for any other damages incurred by the Enterprises as the result of such breach. This agreement shall be construed in accordance with, and their performance governed by, the laws of the State of California. Consultant hereby acknowledges that the Enterprises is subject to The Richard McKee Transparency Act of 2011.

This agreement is acknowledged to have been made and shall be construed and interpreted in accordance with the laws of the State of California. In the event that a court of competent jurisdiction holds any provision of this agreement to be invalid, such holding shall have no effect on the remaining provisions of this agreement, and they shall continue in full force and effect.

In signing this agreement, Consultant certifies that she/he is not an employee of the Federal Government or an employee of any other project sponsored by a Federal Agency, thereby not receiving dual compensation for the services provided herein.

The Enterprises reserves the right to terminate this agreement upon written notice to the Consultant. All satisfactory work completed up to the time of such termination shall be paid in full by the Enterprises upon submission of an invoice. The Consultant agrees that all services were performed in the State of California. Out-of-State individuals understand that all payments in excess of \$1,500 are subject to State of California Out-of-State Withholding regulations.

I certify that in the capacity of this agreement, I am not a Cal Poly Pomona Foundation, Inc., Philanthropic Foundation, Cal Poly Pomona University, ASI or CSU employee or student.

Independent Contractor's Signature: _____ Date: _____

To be completed by Project Authorized Signer/P.I.: (For Grants & Contracts Only - P.I. signs AFTER service is completed.)

Certification and justification regarding the need for these services:

I hereby authorize the obligation of funds (indicate above), I have reviewed pages 1 to 2 of this agreement and agree with the answers, and certify to the following conditions which I understand the requested performance agreement must meet:

- a. No University, Enterprises, Philanthropic Foundation, CSU, or ASI employees assigned to the project can perform the services describe above.
- b. The objective selection process for the above-named consultant include the following steps:

- c. The fee is calculated as follows:

Project Authorized Signer/P.I.: _____ Date: _____

To be completed by the Enterprises Financial Services: (when Independent Contractor background documents are validated.)

Enterprises Financial Services: _____ Date: _____

Enterprises Financial Services: _____ Date: _____

If Total Payment is equal to or greater than \$10,000 (≥\$10K)

Enterprises CFO Authorized Signature: _____ Date: _____