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Issuance Date:	
Effective Date:	
Last Review Date:	
Scope:	

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TABLE OF CONTENTS

I. POLICY SUMMARY	2
II. DEFINITIONS	2
III. POLICY TEXT	3
IV. COMPLIANCE / RESPONSIBILITIES	3
V. PROCEDURES	5
VI. RELATED INFORMATION	5
VII. FREQUENTLY ASKED QUESTIONS	5
VIII. REVISION HISTORY	5

I. POLICY SUMMARY

Arrangements to secure the services of an independent consultant may be made only when the services are so urgent, special, temporary, or highly technical that they cannot be performed economically or satisfactorily by existing University staff during the course of their normal University responsibilities or duties.

The use of an independent consultant is expected to be infrequent and is primarily used to solve clearly delineated problems.

An independent consultant shall not be used to carry out a major portion of a program.

If there is any likelihood that a proposed agreement may result in an employer-employee relationship, the case shall be reviewed in consultation with Personnel Services. If it is determined that an employer-employee relationship would be established, the proposed agreement shall not be processed.

If the consultant is or has recently been a University employee, the University policy regarding employee-vendor relationships applies. If an employee-vendor relationship exists, the necessary reporting and approval requirements shall be followed.

The services of an independent consultant shall not entitle the person to credit other than as a "consultant" in any published report or other document.

II. DEFINITIONS

Employer-Employee Relationship: An employer-employee relationship exists when 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 the service. The University document used to execute this type of relationship is an employment form.

Independent Consultant: An independent consultant is an individual or organization outside the University of proven professional or technical competence that provides primarily professional or technical advice to the University in an independent contractor relationship. The University document used to secure the services of an independent consultant is an Independent Consultant Agreement form. A purchase order type document may not be used.

Independent Contractor Relationship: An independent contractor relationship exists when the University has the right to control only the result of the service, not the manner of performance. Independent contractors provide services as defined below, and are not considered independent consultants as defined in II.B. above. As related to independent contractors, service is labor performed for another, useful labor that may or may not produce a tangible commodity. Service includes, but is not limited to, bookstore operation; use of security guards; transportation; computer programming; clothing rental, cleaning, and laundry; tests and analysis; film processing; janitorial work, window washing, rubbish and waste removal; and service and repairs to office equipment,

transportation equipment, laboratory and medical equipment, and musical instruments.

Employee-Vendor Relationship: A relationship where any employee who is presently employed by the University or a near relative thereof, acts as an independent consultant for the purpose of providing services to the University.

Program Review Official: The person who approves the purpose and contents of each independent consultant agreement. The Office of the Controller and Business Services (OCBS) has been designated as the Program Review Official (PRO).

Responsible Administrative Official: The person who is responsible for overall administration of independent consultant procedures and agreements. The Coordinator, Administrative Policies/Business Contracts has been designated as the Responsible Administrative Official (RAO).

III. POLICY TEXT

A. Request and Approval

1. The requestor shall make a written presentation of the requirements for services of an independent consultant and submit it to the RAO. Requests from counties or statewide special programs or projects will be routed through the respective County and Regional Director or Program Director and Assistant Director--Programs. The request for consultant service will clarify and define the problem for the benefit of the RAO and the PRO, and will enable prospective independent consultants to prepare proposals.
2. The request for consultant service shall include, but not necessarily be limited to, the following:
 - a. A description of the issues to be addressed.
 - b. The objectives of the study or a general statement of what is expected to be accomplished.
 - c. An explanation of why the service cannot be performed by University employees.
 - d. The location where services are to be performed.
 - e. A detailed description of the work to be performed including the scope of the work, any desired approach to the problem, specific limitations, questions requiring answers, format for the completed report, and the extent to which assistance and cooperation from the University will be available to the consultant. The services to be performed under the agreement will be based upon the information provided in response to this item.
 - f. If the services are to be performed in connection with a contract or grant, pertinent extracts of such contract or grant must be attached, and the

conditions set forth therein shall be considered a part of the request for consultant service.

- g. A firm or established time schedule including dates for commencement of performance, submission of progress reports, and for completion of the service.
 - h. Information from any proposed consultant as specified in C.1 below and information specified in C.2-7 as appropriate.
 - i. To what extent progress payments will be allowed.
 - j. The account to be charged.
3. If the amount of payment by the University to an independent consultant is expected to be \$15,000 or more in any 12-month period, the requestor shall solicit proposals from three or more qualified independent consultants. When competitive proposals are not solicited, the reason for not seeking competition shall be documented and strong justification provided as to why it is necessary to contract with the consultant selected.
 4. Selection of the independent consultant shall be made on the basis of qualifications, resources, and experience, needs of the University, and cost to the University. In the selection process, any University officer or employee participating in the decision must keep in mind the disqualification requirements for financial conflict of interest of the State of California Political Reform Act of 1974, as set forth in Section 435 of this Handbook.
 5. In the selection of an independent consultant, the furtherance of the University's business affirmative action programs shall be considered to optimize opportunities for contracting with small business concerns owned and operated by socially and economically disadvantaged individuals or by women.

B. Preparation of Agreement

After all criteria for securing the services of an independent consultant as set forth in sections I and III above are met, the RAO will prepare the formal agreement. When details are lacking, the request will be returned to the initiator. The agreement between the University and an independent consultant shall be signed by the consultant, the PRO and RAO prior to the beginning of any service.

C. Payment for Services

- a. The consultant shall submit an invoice, setting forth the appropriate charges and indicating the agreement number and taxpayer reporting number, to the unit official to whom he/she reports. An invoice need not be submitted if exempted by terms of the agreement.
- b. Payment shall not be made for services rendered prior to the execution of a

- written agreement, except as expressly approved by the RAO and the PRO, nor shall payment be made for services rendered after expiration of the agreement.
- c. Payment shall be made in accordance with the schedule set forth in the agreement. In case of termination prior to completion of the work to be performed under the agreement, a determination shall be made of 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.
 - d. Final payment will be withheld until evidence is received by the RAO that terms of the agreement have been completed. This evidence must take the form of a final report or a memo attesting to completion signed by both the consultant and unit official to whom the consultant has reported.
 - e. If the consultant is not a citizen of the United States, University procedures regarding payments to aliens shall be followed.

D. Exclusions

This section does not apply to appointment of consultants under the Standing Order of The Regents, Section 100.4 (y), covering the appointment of architects and engineers for approved projects.

IV. COMPLIANCE / RESPONSIBILITIES

V. PROCEDURES

VI. RELATED INFORMATION

- Business and Finance Bulletin [BUS-34](#), revised March 15, 1990.

VII. FREQUENTLY ASKED QUESTIONS

VIII. REVISION HISTORY

July 2017:

Policy Format Updated