



PALOMAR COMMUNITY COLLEGE DISTRICT
EVALUATION OF EMPLOYER/EMPLOYEE RELATIONSHIP

PART 1

Questions:

- 1) What services are needed from the individual? _____
-
- Number of days per week? _____
- Number of hours per day? _____

Questions:

- | | YES | NO |
|--|--------------------------|--------------------------|
| 2) Are there currently ANY employees of the District doing substantially the same work/services as will be required of this individual? <i>(See job descriptions on HR website)</i> | <input type="checkbox"/> | <input type="checkbox"/> |
| If yes, which job description(s) apply? _____ | | |
| 3) Are the services to be provided necessary to the operation of the college/program/project?
<i>(This indicates the District has an interest in the method of performance and implies the maintenance of legal control.)</i> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4) Is the individual already employed by the District? | <input type="checkbox"/> | <input type="checkbox"/> |
| If yes, what is the individual's current assignment? _____ | | |
| If hourly (i.e., hourly, adjunct), would they have a District assignment concurrent (or overlapping with the anticipated assignment)? | <input type="checkbox"/> | <input type="checkbox"/> |
| 5) Has the individual performed substantially the same services for the District while working as an employee in the past?
<i>(Is the individual retired, returning to substitute, returning to train, etc.?)</i> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6) Does the District have the legal right to control the method of performance by this individual (both by contract and in fact)?
<i>(Consider whether the District has to train this individual or give instruction as to when, where, how, and in what order to work. Does the District require the individual to submit or perform services at the District site? These factors would indicate the District maintains control sufficient for an employer/employee relationship. It is not necessary that the District exercise this right or have the expertise required to do so. In many cases this would not be practical or advisable)</i> | <input type="checkbox"/> | <input type="checkbox"/> |

If the answer to **any** of the above yes/no questions is "YES," **STOP HERE!**

Do not complete the rest of the questions. The individual would be considered a District employee and must be paid and reported accordingly. Therefore, sign and date the reverse of this evaluation and submit the proper forms, to Human Resource Services to hire the individual as a temp or professional expert.

If **ALL** of the answers above are "NO," continue to Part 2 on the following page.

PART 2

Questions:	YES	NO
7) Will the individual perform work that is outside the usual course of District business? <i>(Not a task of service ordinarily performed by District employees)</i>		
8) Is the individual customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed? <i>The district must prove that the independent business operation actually exists at the time the work is performed. The fact that the business operation could come into existence in the future is not sufficient. An individual who independently has made the decision to go into business generally takes the usual steps to establish and promote that independent business.</i> <i>A determining factor in judging independence is the performance of services to the general public, including other districts. Keep in mind: If the District is utilizing this individual's services on a full-time basis, the individual is not available to the general public. Note: Possession of a business license or incorporation does not automatically satisfy this requirement. The determination must be made on the actual relationship between the District and the individual performing services.</i>		
9) Does the individual have a substantial investment in their business (i.e., maintains a facility, equipment, etc.) as it relates to the proposed assignment with the District? <i>(This is indicative of economic risk inherent in business enterprises. An independent contractor must be able to make a profit or sustain a loss.)</i>		
10) Does the individual bear the cost of providing all materials and support services (e.g., mileage, meals, travel, clerical support, copying, etc.) necessary to perform this services? <i>(Generally these types of expenses are paid by an employer, however, some contracts provide for payment of airfare, mileage, car rentals, etc. for consultants, and should be kept at a minimum to avoid giving the impression of an employment relationship. The District should not be providing office space, clerical, secretarial, or any other support for this individual or materials (copying, printing, office supplies, etc.). Any necessary assistants would be hired by the individual.)</i>		
11) A. Is the individual to be paid by the job/project or on commission? B. Is the individual to be paid a fixed rate or a fixed commission?		
12) Must the required services be performed by this individual (or someone under their direct supervision)? <i>(Consider whether the individual may designate someone else to do the work without the District's knowledge or approval.)</i>		
13) Can this relationship be terminated without the consent of both parties?		

If the answer to all or most of the questions 7 through 13 is "YES," the District may be able to engage the individual as an **independent contractor**, subject to review by Business & Contract Services in consultation with Human Resource Services and/or legal counsel, as needed.

Requesting Dept: After reviewing this evaluation, I have concluded that this individual is a(n):

Employee/Professional Expert – Submit this evaluation and the "Short-term Employment Action Form" with necessary District paperwork to Human Resource Services.

OR

Consultant/Independent Contractor – Submit this evaluation, the draft "Independent Contractor's Agreement" Form, and documentation supporting your answers above (if any) to Business & Contract Services for review. If approved, you will be asked to provide an "Exhibit A Scope of Work" and a "Contract Review & Approval Form," with required information and signatures, to Business & Contract Services.

Signature

Department / Date

Signature

Division / Date

Business & Contract Services Review of Independent Contractor Status

Based on my review of this evaluation and supporting documentation, I have concluded:

The individual may be retained as a Consultant/Independent Contractor

The individual does **not** meet the conditions for engagement as a Consultant/Independent Contractor.

Rationale: _____

Business/Contract Services Signature

Date