

Questionnaire for Hiring Independent Contractors In Accordance with IRS Regulations

Part I

- 1. Has this category of worker been classified as an "employee" by the IRS** YES NO

Refer to the Guidelines for Employing "Independent Contractor Consultants" for categories of jobs listed IRS Publication SWR 40 and others identified during a recent IRS compliance audit to determine if the individual if the individual you are contemplating establishing a contractual relationship with has been determined by the IRS to be properly classified as an employee.

- 2. Is the individual working as an employee as prescribed by the Education Code?** YES NO

Education Code Sections 45100-45451 define what constitutes the classified service. Education Code Sections 44800-45060 define certificated service. The IRS predisposes an employer/employee relationship when state law mandates such a relationship.

- 3. Is the individual an employee of the district in another capacity?** YES NO

- 4. Is the individual performed substantially the same services for the district as an Employee in the past?** YES NO

Watch for former employees who are returning to work

- 5. Are there currently employees of the district doing substantially the same work as will be required of the individual you are hiring?** YES NO

- 6. Will the district have the legal right to control the method of performance by this individual?** YES NO

Consider whether the district will train the individual or give instruction as to how the job gets done to the end result. Is the individual required to obtain approval before taking certain action? It doesn't matter if the employer allows freedom of action in the workplace. Just the fact that the employer has the legal right to control the method and result of the work is enough to show an employer-employee relationship.

- 7. Are the services, as being provided an integral part of district operations?** YES NO

Are the services provided necessary to the operations of the district's program, projects, etc.? This indicates the district has an interest in the method of Performance and implies maintenance of legal control.

Part II

8. Will all the work be performed by this individual? YES NO

Consider whether or not the individual has the right to designate someone else to do the work without district approval.

9. Does the District have a continuing relationship with this individual? YES NO

If an individual is engaged with the expectation that the relationship will continue indefinitely, rather than for a specific project or period, this generally considered evidence of their intent to create an employment relationship.

10. Can this relationship be terminated without the consent of both parties? YES NO

Independent contractors have contractual obligations to fill.

11. Does the individual operate an independent trade or business that is available to the general public? YES NO

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 providing the work.

12. Will the individual provide all material and support services necessary for the performance of the service? YES NO

The district should not be providing space on a regular basis, clerical, secretarial or other support for the individual such as materials, copying, printing, office supplies, etc. Any necessary assistance should be provided by the individual.

13. Is the individual paid by the job OR upon completion and acceptance of the work as a whole OR milestone identified in the contract? YES NO

14. Will the individual bear the cost of any travel and business expenses incurred to perform the work? YES NO

Generally the individual will pay the cost of any travel and business expenses incurred to perform the work. However, some agreements may be made to provide for payment of air fare, mileage, etc. for consultants

I certify/declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Consultant's Signature Date

Originating Office Signature/Title Date