



CalPolyPomona

Philanthropic
Foundation

POLICIES AND PROCEDURES

**Subject: Accounts Payable
Consultant Activity**

Policy No. 303

Date: 07/2019

CONSULTANT ACTIVITY AGREEMENT

Effective February 1, 2002 for all consultants performing services commencing after this date, the procedure below must be followed to ensure timely payment of services rendered. For all consultant services payments in excess of \$5,000, an Agreement for the Performance of Consultant Activity for Services in Excess of \$5,000.00 form must be completed and submitted to Foundation Human Resources at least two days before the individual is scheduled to begin work. Work shall not commence until a fully executed Agreement for the Performance of Consultant Activity for Services in Excess of \$5,000.00 document including Foundation Human Resource Department approval has been given to the project director who then gives to the consultant. After the services have been completed, the consultant will need to submit an original invoice to the project director for submission with a Payment Request. The original consultant invoice must document the exact days worked and the daily rate of payment. The completed Agreement for the Performance of Consultant Activity for Services in Excess of \$5,000.00 form also needs to be attached to the Payment Request and the consultant's original invoice. All requests for payments that do not have all the necessary documentation attached will be returned.

For all consultant services payments \$5,000 or less, a Services Invoice form must be completed and submitted with a Payment Request to pay the consultant for their services. As a reminder, payments cannot be divided for the purposes of avoiding this policy. In addition, all payments of services for anyone affiliated with the University, Foundation, ASI, and UET including employees and/or students must be processed through Foundation Human Resources and paid through Foundation payroll.

BACKGROUND

Occasionally there is a need for short-term professional services that cannot be performed by existing employees on our campus. The use of a consultant may satisfy this need in some qualified situations. Consultants are in business for themselves and receive a fixed amount for services rendered. The Foundation is not required to withhold federal or state income taxes, unemployment, social security, or disability insurance benefits from their payments.

It is very important that individuals are classified correctly as either employees or consultants due to the potentially severe financial consequences facing the employer (Foundation). Both the Internal Revenue Service and the Employment Development Department have the legal authority to audit an employer's records to check for such misclassifications. When individuals meeting the definition of an employee are found to be misclassified as consultants, both agencies will not only collect the applicable taxes that should have been withheld but will impose large penalties on the employer (Foundation).

The basic definition of a consultant and employee are:

Consultant: A consultant is an individual, not affiliated with the University, Foundation, UET, or ASI, providing primarily professional or technical advice under a written agreement.

Employment Relationship: An employee relationship exists when the employer (Foundation) has the right (whether or not it exercises the right) to supervise and control the manner of performance as well as the results of the service by the individual (employee). When such a relationship exists, the individual will be employed under the formal employment process through Foundation payroll.

To aid in this process, the Internal Revenue Service has developed guidelines in determining if an individual should be classified as an employee or a consultant. These guidelines have been integrated into this policy.

PROCEDURE

For payments in excess of \$5,000.00, an Agreement for the Performance of Consultant Activity for Services in Excess of \$5,000.00 form (Exhibit A) must be completed consisting of the two-page form and the two-page question form. After verbal agreement on the work to be accomplished and the payment terms is reached between the Foundation account holder and the proposed consultant, the Agreement for the Performance of Consultant Activity for Services in Excess of \$5,000.00 form is completed, signed by an Foundation account authorized signor, and submitted to the consultant for review and signature. This would include the Foundation account authorized signor completing the two pages of questions attached to the form by answering yes or no. The consultant signs the agreement and the Foundation account holder returns all four completed pages of the form to Foundation Human Resources Department for approval. This form must be submitted to Foundation Human Resources at least two days before work is scheduled to begin. If the person can be classified as a consultant, a fully-executed document will be return to the account holder by Foundation Human Resources within two days and the consultant can begin work on the project.

Work shall not commence under this agreement until a fully executed document complete with Foundation Human Resource Department approval has been received by the

consultant and the consultant has been given approval to proceed. Any work performed by the contractor prior to the date of approval of the Agreement for the Performance of Consultant Activity for Services in Excess of \$5,000.00 shall be considered as having been performed at the contractors own risk for which the Foundation is not obligated to pay. As a reminder, payments cannot be divided for the purposes of avoiding this policy. If a pattern of sending in these agreements to Foundation after the work is performed is noted, the Foundation's Chief Financial Officer and account holder will meet to resolve this issue.

For grant and contract accounts, the maximum daily rate must be in compliance with the contract/agency guidelines. If no specific amount is detailed in the contract/agency compliance guidelines, the maximum amount per day allowable is \$500.00 per guidelines established by the Foundation's cognizant agent for sponsored projects, The Department of Health and Human Services. In addition, the number of days the individual will be working and the daily rate must be indicated on the Agreement for the Performance of Consultant Activity for Services in Excess of \$5,000.00 form.

PERFORMANCE AND PAYMENT

It is the Foundation account holder's responsibility to closely monitor the work of any contractor to be certain that the work is being performed in accordance with the requirements of the agreement.

The consultant must submit original, itemized invoices to the account holder after the services have been satisfactorily performed. The invoice must document the exact days worked and the daily rate of payment. Under no circumstances will services be paid in advance of work not completed. When a contractor invoice is received, the Foundation account holder must submit a Payment Request Form and attach the original consultant invoice and the completed Agreement for the Performance of Consultant Activity for Services in Excess of \$5,000.00 form. All requests for payment that do not have all the necessary documentation attached will be returned.

This policy and related forms can be found on the Cal Poly Pomona Foundation Financial Services website at: www.foundation.csupomona.edu/financial. If you have any questions about this policy, please call:

Foundation Campus Program/Auxiliary Accounts	x2910
Foundation Grant/Contract Accounts	x2903
Foundation Human Resources	x4378