
Questionnaire for Hiring Independent Contractors
In Accordance with IRS Regulations

Consultant: _____

Services: _____

Part I

1 Has this category of worker been classified as an "employee" by the IRS?

Yes No

Refer to Guidelines for Employing an "Independent Contractor Consultant" for categories of jobs listed in IRS Publications SWR40 and other identified during a recent IRS compliance audit to determine if the individual you are considering for a contractual relationship 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 services; Education Code Sections 44800-45060 define certificated service. The IRS predisposes and 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 Has the individual performed substantially the same services for the District as an employee in the past?

Yes No

Watch for 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 whose services you are contracting?

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 rather than 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 work. 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, project, etc? If so, this indicates that the District has an interest in the method of performance and implies maintenance of legal control.

If the answer to any of the above questions is **YES** - - - - **STOP HERE**
Do not complete the rest of the questions. The individual is an employee of the District and must be paid and reported accordingly.

If the answer to **all** of the above questions is **NO** - - - - **continue on to Part II**

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Part II

- 8 **Will all of 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 is 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 relationships to fill.
- 11 **Does the individual operate an independent trade or business that is available to the general public?**
Yes No
The individual should be able to provide a list of other clients that they have served.
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 individual performing the work.
- 12 **Will the individuals provide all materials and support services necessary for the performance of the service?**
Yes No
The District should not be providing office space on a regular basis, clerical, secretarial or other support for the individual such as materials, copying, printing, office supplies, etc. Any assistance required to perform the work 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
Performance of a task for a flat fee is generally evidence of an independent contractor relationship, especially if the worker incurs the expense of performing the services. When payments are made (daily, weekly, monthly) is not relevant.
- 14 **Will the individual bear the cost of any travel and business expense incurred to perform the work?**
Yes No
Generally, the individual will pay the cost of any travel and business expense incurred to perform the work. However, some agreement may be made to provide for payment of airfare, mileage, etc for contractors.

Signature of GJUESD Staff Requesting Contractor Services

Date

Printed Name of GJUESD Staff Requesting Contractor Services

Position/Title

All staff members recommending the employment of an independent contract consultant are responsible for completing the 'Questionnaire for Hiring Independent Contractors'. The completed and signed questionnaire must be submitted with Contract for Services defining the scope of work to the Director of Business Services for approval of the independent contractor worker status before a contract for services can be executed.