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Be aware: Important independent contractor classification changes effective March 11 [1]



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Many University of Colorado departments rely on contracting specialized workers on a temporary contract basis. Starting March 11, U.S. Department of Labor regulations will tighten the requirements for classifying someone as an independent contractor as opposed to a regular employee under the Fair Labor Standards Act (FLSA).

For CU, this means hiring managers will need to exercise greater scrutiny in assessing whether a proposed independent contractor (being paid under the social security number) qualifies for contract work status. A failure to classify the individual's relationship and services correctly could result in penalties to the university.

How to know if you're proposing a legitimate contract position

Anyone who wishes to hire a contractor must submit a Scope of Work form [3]to gain approval prior to hiring that contractor. The SOW is intended to outline the contract terms and intended deliverables and to help the university make a determination on whether the position qualifies as an independent contractor.

Before beginning the SOW process, your department should ask critical questions to help determine if the proposed work is a legitimate contract position. The new analysis, effective March 11, is intended to assess the degree to which a contractor is financially and behaviorally dependent on a given employer.

It will be helpful for hiring managers to ask:

- Is the work focused on a specific project?
- Does the work term last for a finite amount of time?
- Will the worker be paid based on the deliverables?
- Does the work require specialized skills?
- Is the proposed work a core function of your department?
    - Contract work often fills a unique or rare department need or require skills that would otherwise not be needed in ongoing day-to-day operations.
- How much control would your department have over the worker?
    - Would the work enable your department to control their behavior, their finances or

their long-term relationships, including the ability to contract with other entities?

None of these questions is weighted more heavily than any others, and hiring managers should consider the totality of circumstances.

The Department of Labor website [4] has a detailed FAQ to help you understand the new requirements and find solutions to specific circumstances. You can also reach out to SOW@cu.edu [5] to ask questions about any contract position you'd like to request approval for.

independent contractors [6]

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