

## **Hire An Independent Contractor (Scope of Work)** <sup>[1]</sup>

The University of Colorado Employee Services uses the scope of work form to determine if someone can be classified as an independent contractor. This determination is based on the nature of the relationship between the service provider and the university. As of March 11, 2024, the Department of Labor has tightened the requirements to classify someone as an independent contractor.

Before ANY work takes place, a Scope of Work/Independent Contractor form must be completed and approved by Employee Services for all service providers who operate under a Social Security number.

### **When do I have to submit a Scope of Work form?**

Contract positions are generally intended for service providers working on a specific project for a finite amount of time **and** who are individuals or sole proprietors and do business under their Social Security number. (Note: service providers who are foreign nationals may not have an SSN.) To determine if a service provider qualifies as an independent contractor, ask yourself the following questions:

- 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 has a [detailed FAQ](#) <sup>[2]</sup> to help you understand the new requirements and find solutions to specific circumstances. You can also reach out to [SOW@cu.edu](mailto:SOW@cu.edu) <sup>[3]</sup> to ask questions about any contract position you'd like to request approval for.

### **Costs to include in your Scope of Work request**

All costs proposed to be covered by the university must be fully identified on the SOW form.

Note:

- Independent contractors typically charge rates adequate to cover their miscellaneous expenses (e.g., travel).
- If these costs are not included in the service rate, then they must be listed as additional costs on the SOW form and covered using the same procurement method as the service payment (i.e., Marketplace Payment Voucher or Marketplace Requisition).
- It is prohibited to use other, separate procurement methods (Procurement Card, Travel Card, Marketplace Purchase Order, or Non-Employee Reimbursement form) to cover costs associated with an independent contractor.

## **Background checks**

A background check must be performed on service providers who will be working with minors and/or vulnerable populations. The second category includes, but is not limited to, academic programs and camps that include working or assisting with programs serving minors or at-risk adults; working or assisting in child care facilities; spending the night in a situation where minors are present; or, providing housing for minor undergraduate students.

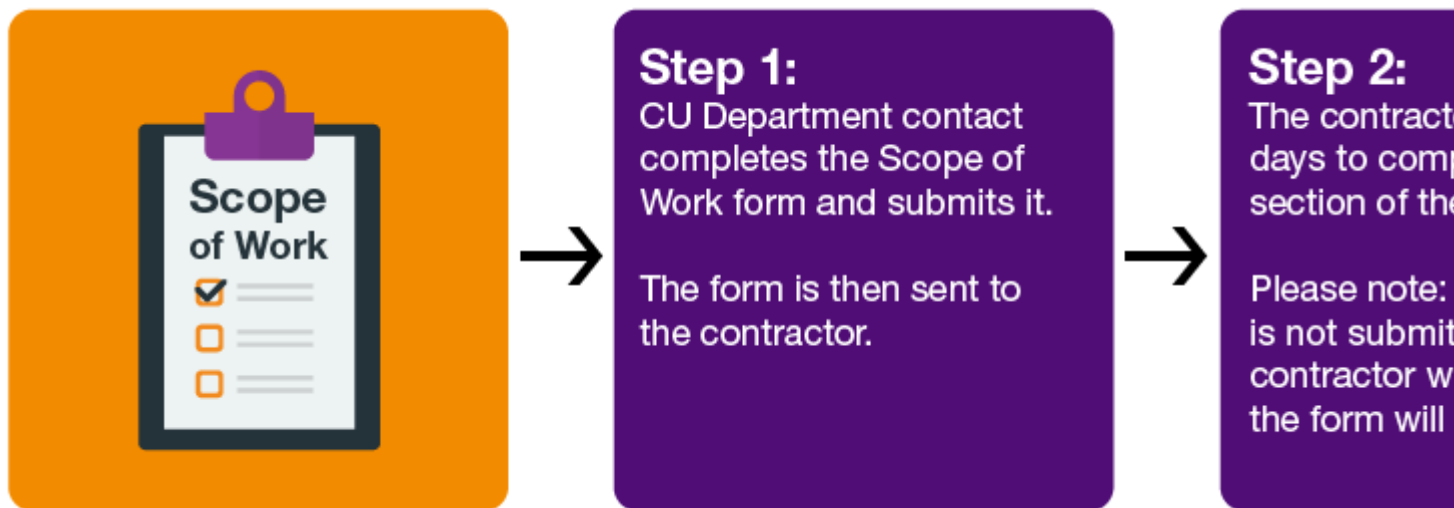
The background check must be completed by HR and can be started during or after the SOW approval process, but it **must be completed before work can begin**.

## **Hiring PERA retirees**

The process for hiring a CU retiree varies according to a number of factors:

- EIN (Employee Identification Number): Individuals/sole proprietors who operate under an EIN are not subject to Scope of Work review. However, active PERA retirees who operate under an EIN must complete PERA's Disclosure of Compensation form and email it to [SOW@cu.edu](mailto:SOW@cu.edu) <sup>[3]</sup>
- Independent Contractor Social Security number: If the retiree is a proposed independent contractor and operating under a Social Security number, a Scope of Work is necessary.

## **Scope of Work form steps:**



[Start a Scope of Work form](#) [4]

[Learn how to create and submit a SOW form](#) [5]

## Your SOW form has been approved. Now what?

You will be notified by email and provided an approved copy of the SOW, when Employee Services confirms that the work can be completed by an independent contractor. The service provider's classification as an independent contractor or not determines how the service provider will be paid.

## Paying an independent contractor

If the individual will function as an independent contractor, Employee Services will return an approved SOW/Independent Contractor form to the requesting department for final processing. The payment is made through Marketplace. Your service provider must be registered as a supplier in Marketplace.

Payment method is determined by the total dollar amount and frequency of the payments:

- **When total payment is \$10,000 or less:** As invoices are received, complete the Payment Voucher form in CU Marketplace and attach the approved SOW form and contractor invoice(s). Multiple payment vouchers may be used if the contractor submits multiple invoices, however, total payment may not exceed \$10,000.
- **When total payment is more than \$10,000:** Prior to any work being performed, complete the appropriate form in CU Marketplace and attach approved SOW form. In addition to the form, the PSC may require a formal quote or Statement of Work from the service provider to be included in your Marketplace requisition.

**Please note:** Employee Services reviews the work to ensure it is classified correctly under IRS guidelines; the PSC reviews the purchase for compliance with the University of Colorado's Procurement rules. The requisition will still need to go through the PSC

purchasing process before a Purchase Order is generated.

As invoices are received, email them to [APinvoice@cu.edu](mailto:APinvoice@cu.edu) [6] for payment.

## **Paying an employee**

If the SOW form is not approved (including if the service provider is a University of Colorado employee):

If an employer-employee relationship exists, payment is made through Employee Services. In this case, Employee Services notifies the department of the proper course of action to establish the service provider on payroll.

**For an individual who has never been an employee**, submit the following information to your campus human resources office:

1. A job description, including discussion of duties and estimated length of appointment; and
2. An offer letter, identifying hourly rate and start date – your campus HR office has a template for the offer letter.

**For a current or former employee who was active within the same calendar year**, work with your campus human resources. You will likely need to submit the following information to your campus human resources office:

1. A job description, including discussion of duties and estimated length of appointment;
2. An offer letter, identifying hourly rate and start date – your campus HR office has a template for the offer letter.
3. In addition, submit a completed additional pay form or one-time pay form to your department's business partner for processing.

**For a PERA retiree**, submit the following information to your campus human resources office:

1. A job description, including discussion of duties and estimated length of appointment; and,
2. An offer letter, identifying hourly rate and start date – your campus human resources office has a template for the offer letter.

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**Source URL:**<https://www.cu.edu/employee-services/collaborative-hr-services/cu-campuses/hire-independent-contractor-scope-work>

## **Links**

[1] <https://www.cu.edu/employee-services/collaborative-hr-services/cu-campuses/hire-independent-contractor-scope-work> [2] <https://www.dol.gov/agencies/whd/flsa/misclassification/rulemaking/faqs#g1>

[3] <mailto:SOW@cu.edu>

[4]

<https://ping.prod.cu.edu/idp/startSSO.ping?PartnerSpId=SP:EnterprisePortal&TargetResource=https%3A%2F%2Funityform.prod.cu.edu%2FUnityForms%2FUnityForm.aspx%3Fd1%3DAWTI9iQ7NLnRcRsBDIyAUJ943CUTouKsSb>

[5] <https://www.cu.edu/docs/scope-work-sow-submission-guide>

[6] <mailto:APinvoice@cu.edu?subject=Invoice%20for%20purchase%20order>