

MERCED UNION HIGH SCHOOL DISTRICT
Questionnaire for Hiring Independent Contractors
In Accordance With IRS Regulations

PART I

(Circle Yes or No)

- 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 in IRS Publication SWR 40 and others identified during a recent IRS compliance audit to determine 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 and employer/employee relationship when state law mandates such a relationship.

- 3. Is the individual an employee of MUHSD in another capacity? Yes No**

- 4. Has the individual performed substantially the same services for MUHSD as an employee in the past? Yes No**

Watch for former employees who are returning to work at MUHSD.

- 5. Are there currently employees of MUHSD doing substantially the same work as will be required of the individual you are hiring? Yes No**

- 6. Will MUHSD have the legal right to control the method of performance by this individual? Yes No**

Consider whether the Office will train the individual or give instructions 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 MUHSD operations? Yes No**

If the answer to any of the above questions is **YES – STOP HERE**

If not, complete the rest of the questions. The individual is an employee of MUHSD and must be paid and reported accordingly. If all of the above are **NO**, continue to **PART II**.

PART II

(Circle Yes or No)

- 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 MUHSD's approval.

- 9. Does the Office 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 specified 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 obligations 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 previous clients 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 MUHSD and the individual performing the work.

- 12. Will the individual provide all materials and support services necessary for the performance of the service? Yes No**

The office 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 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 milestones 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, or monthly) is not relevant.

- 14. Will the individual bear the cost of any travel and business expenses 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 airfare, mileage, etc. for consultants.

After completing, please return this form the MUHSD Business Office.