

CITY OF SPOKANE ADMINISTRATIVE POLICY AND PROCEDURE	ADMIN 0620-05-38 LGL 2005-23
TITLE: PERSONAL SERVICE CONTRACTS EFFECTIVE DATE: January 1, 1993 REVISION DATE: May 18, 2005	

1.0 GENERAL

- 1.1 In general, services provided to the public by the City of Spokane are performed by public employees. On occasion, personal services may need to be performed by private consultants or contractors.

By law, when the City acts as an employer, it is obliged to withhold federal income taxes and withhold and pay social security and Medicare taxes on wages paid to an employee. The City is self-insured for its unemployment tax exposures for its employees.

Also, the City would normally not be responsible for the negligent actions of an independent contractor performing services for the City.

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2.0 DEPARTMENTS/DIVISIONS AFFECTED

This policy shall apply to all City departments and divisions.

3.0 REFERENCES

26 USC Sec. 3121(d)(2)
26 CFR 31.3121(d)-1(a)(3)
IRS Form SS-8

4.0 DEFINITIONS

- 4.1 "Personal Service" means the furnishing of labor, time or effort as specified in the contract by a person as an independent contractor. The person may be required to submit a report or study as part of the services performed.

5.0 POLICY

- 5.1 It is the policy of the City of Spokane that consultants or contractors performing services for the City be construed as independent contractors.

5.2 General Hiring Process

- 5.2.1 Planning. Each City department is responsible for determining what its individual needs are for contracting out personal services.

- 5.2.2 Budgeting. Each City department is responsible for individually budgeting sufficient funds to compensate persons performing personal services; and to have these funds encumbered in the appropriate budget line item before entering into any contract.

- 5.2.3 Solicitation. Section 7.06.100 of the Spokane Municipal Code requires a public advertisement and solicitation process for personal service contracts over \$50,000. Under resolution 04-131, quotes are required for personal service contracts between \$10,000 and \$50,000.

- 5.3 General Criteria. To determine whether an individual is an employee or an independent contractor under the common law, the relationship of the work and the business must be examined. In any employee - independent contractor determination, all information that provides evidence of the degree of control and the degree of independence must be considered. Facts that provide evidence of the degree of control and independence fall into three categories: behavioral control, financial control, and the type of relationship of the parties.

- 5.3.1 "Behavioral Control" facts show whether there is a right to direct or control how the worker does the work. A worker is an employee when the City has the right to direct and control the worker. The City does not have to actually direct or control the way the work is done by a consultant or contractor as long as the City has the right to direct and control the work.

- 5.3.2 "Financial Control" facts show whether there is a right to direct or control the business part of the work, the worker's investment, services made available to others, and payment for services.

5.3.3 "Relationship of the Parties" facts illustrate how the City and the worker perceive their relationship; includes written contract and permanency of the relationship.

6.0 PROCEDURE

6.1 If a department has concerns about the legal implications of a proposed personal service contract, the concerns should be discussed with the Human Resources Department before approval is requested. Depending on the situation, departments may also be referred directly to Civil Service and the City Attorney's Office. Additional information may be required before approval is given. Workers not considered as true independent contractors may be required to be hired as temporary seasonal employees.

6.2 Departments shall complete the independent contractor questionnaire on all persons / firms with whom they plan to enter into personal service contracts if there is any question as to the independent contractor status of the outside person / firm. The personal service contract, including the completed questionnaire, shall be submitted to the City Attorney's Office and the Director of Human Resources for approval before submittal to the Deputy Mayor for signature.


7.0 RESPONSIBILITIES

The Human Resources Department and the City Attorney's Office shall be responsible for administering this policy.

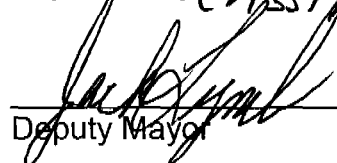
8.0 APPENDICES

Independent Contractor Questionnaire

APPROVED BY:



City Attorney (Asst)



Deputy Mayor



Director

May 3, 2005

Date

CITY OF SPOKANE

PERSONAL SERVICE CONTRACT INDEPENDENT CONTRACTOR QUESTIONNAIRE

Name of worker: _____

Services to be provided: _____

Department: _____ Contact Person: _____

Please answer the following questions about the person/firm (worker) with whom you are proposing to contract.

BEHAVIORAL CONTROL

- Will the City instruct the worker about when, where, and how work is to be performed?
- Will the worker be trained by the City?
- Will the worker perform the services personally?
- Will the worker have control over hiring and supervising assistants?
- Does the workers have set work hours and schedule?
- Will the worker devote a set amount of time to performing services for the City?
- Will the worker perform the services on City premises?
- Will the worker perform the services in a prescribed order or sequence?
- Will the worker be required to submit regular oral or written progress reports?
- Will the City furnish the worker with any tools or materials?

YES	NO

FINANCIAL CONTROL

- Is the worker paid by the hour, week, or month?
- Will the worker be reimbursed by the City for business or traveling expenses?
- Does the worker make his/her services available to the general public?
- Does the worker provide services for more than one business at a time?
- Does the worker have a significant investment in tool or other types of instruments?
- Can the worker realize a profit or loss as a result of his/her services?

YES	NO

RELATIONSHIP OF THE CITY AND THE WORKER

- Will the worker's services be integrated into the City's operations?
- Is there a written contract that sets forth the terms and conditions of the services?

YES	NO

Does the worker earn employee benefits from the City?
 Is the worker incorporated?
 Does the worker have a continuing relationship with the City?
 Can the worker be terminated at the City's discretion?
 Can the worker end his/her relationship with the City at any time?

OTHER FACTORS

Does the worker have a City of Spokane business license?
 Does the worker have a unified business identifier number from the State of Washington?
 Has the worker established an account with the State Department of Revenue and other state agencies as required by the particular case for the type of business the worker is conducting?
 Does the worker maintain a separate set of books or records that reflect all items of the business the worker is conducting?

YES	NO

COMMENTS:

I certify that the above statements are true to the best of my knowledge.

 Signature Title Date

REVIEWED

 Human Resources

 City Attorney