

STATE CONTROLLER POLICY

INDEPENDENT CONTRACTOR

1) DEFINITIONS

a. Personnel Rules 1-51 Independent Contractor. An independent contractor is a firm or individual who is responsible to the State for the results of certain work, but is not subject to the State's control as to the means and methods of accomplishing those results. For purposes of determining independent contractor status, the Executive Director of the Department of Personnel & Administration applies the criteria set forth in the Fiscal Rules.

b. Fiscal Rule 3-1 Independent Contractor Relationship. Agencies and Institutions of Higher Education shall carefully maintain distinctions between services performed by persons who are employees of the State and services performed by independent contractors (ICs), and the employees, agents, and representatives of ICs. The State's responsibilities and obligations regarding employee/employer relations differ substantially from those owed to ICs. Two pertinent, but nonexclusive examples are:

- i. The State may be liable to a third party for the actions of its employees but not for those of ICs and their employees, agents and representatives.
- ii. The State is responsible for social security taxes and benefits for its employees but not for those of ICs and their employees, agents, and representatives.

2) TECHNICAL GUIDANCE. Agencies and Institutions of Higher Education shall follow guidelines issued by the Internal Revenue Service, the Colorado Division of Human Resources, Colorado statutes, and opinions of the State Attorney General in determining whether an individual is an employee or IC. See Division of Human Resource websites for technical guidance and training as follows:

a. <http://www.colorado.gov/dpa/dhr/rules/techasst.htm> - Click on independent contractor under personal services contracts.

b. <http://www.colorado.gov/dpa/dhr/oversight/contracts.htm> - Click on training.

c. See Internal Revenue Service website:

<http://www.irs.gov/businesses/small/article/0,,id=99921,00.html>

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