Independent Contractor Guidelines

Palo Alto Veterans Institute for Research (PAVIR) procurement procedures may not be used in lieu of placing an individual on the payroll. An individual may only be retained for professional services as an independent contractor if a determination has been made that an employer-employee relationship does not exist.

A recent California Supreme Court ruling established the "ABC Test" to determine the correct classification of Independent Contractors (IC). The guidelines are much stricter than they were before and presume that all individuals are employees. An independent contractor classification is only permitted if the hiring business can prove that ***all three*** of the following are true - the burden of proof is on the employer.

1. That the worker is free from the control and direction of the hirer in connection with the performance of the work, both under the contract for the performance of the work and in fact; and
2. That the worker performs work that is outside the usual course of the hiring entity's business; and
3. That the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

Because of the increased scrutiny and risk of liability, PAVIR has changed the IC process significantly to reflect the updated legal requirements. Principal Investigators who are considering engaging the services of an IC will need to complete a requisition and submit a copy of the IC's resume for review. Please consult with your Contract & Grant Analyst (CGA) for the requisition form and for additional guidance.