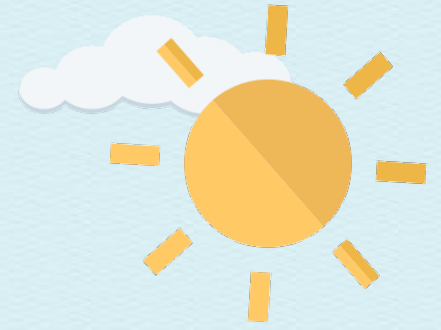
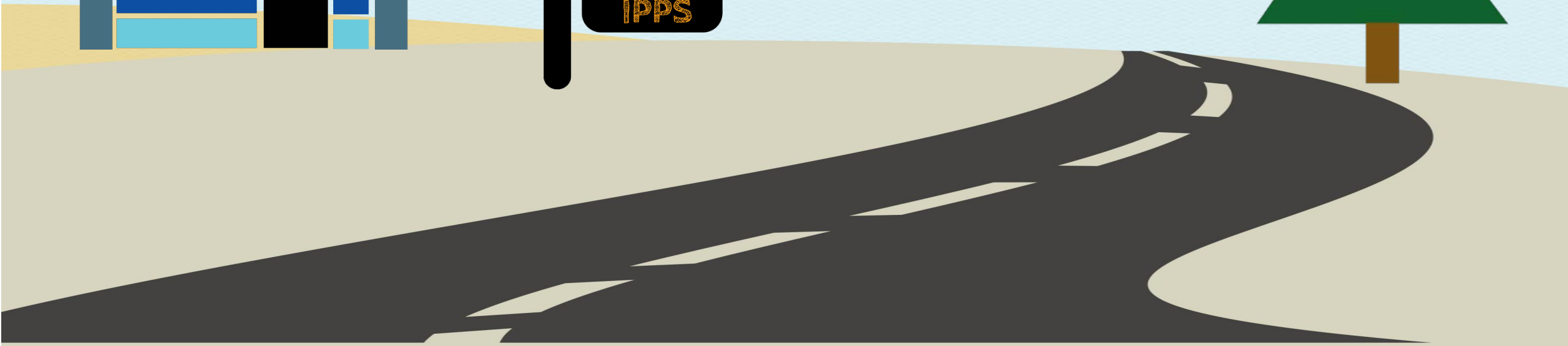


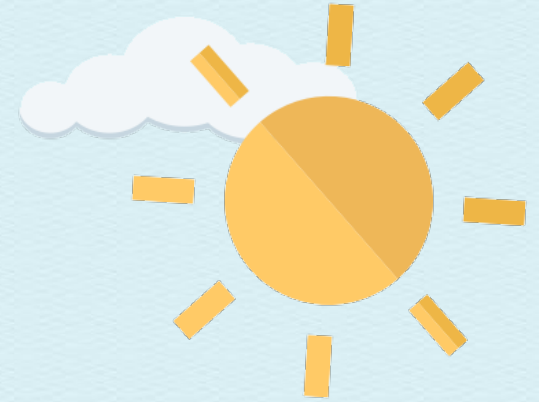


Integrated
Procure-to-Pay
Solutions



CAMP IPPS 2016





CAMP BUYING: PROVIDING EXCELLENCE

Relay Race the Ins and Outs of Contracting

Presented by Jon Heinlein

Earl Warren College Room: 12:30 p.m. – 1:15 p.m.



STRATEGIC PROGRAMS & BUSINESS CONTRACTS



Contracting unit within IPPS aligned with Strategic Procurement

BusCon



Business Need



SPBC Approach

- In 2013, UCSD reorganized its campus contract system, including the Business Contracts team.

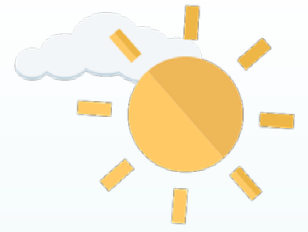
- Policy, process and contracting at UC San Diego can be confusing.
- UC San Diego's business landscape and funding model is changing (e.g., revenue generation; interdepartmental alignment).

- Serve campus as a reliable point of contact and knowledge center for contracts, compliance, policy and process.
- Add value through strategic programs, optimized processes, and leveraging existing resources.
- Provide counsel, advice and direction to IPPS and external departments on policy, contracts, compliance and dispute resolution.



CONTRACTS

Contracting Units



Gifts

loans



Procurement

purchase goods & services

Leases

licenses & use



IP

intellectual property & copyright

Construction

renovations



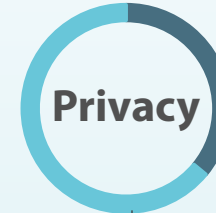
Research

Funding, material transfers, subawards, services & research collaborations



PHI

protected health information



ITS/Security

data security & privacy

Risk

indemnity & insurance



Counsel

legal & policy review



CONTRACTS

Goods & Services

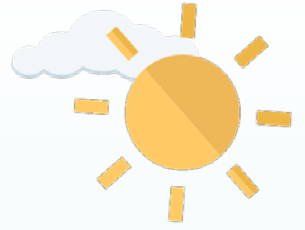
My purchase requires a contract...
What next?





CONTRACTS

Signing Agreements- Authority



Delegation of authority

This delegation comes down from the President of the University of California through the UC San Diego Chancellor. Unless specifically granted by the Chancellor or a designee, UC San Diego faculty and/or staff do not have authority to sign contracts on behalf of the University.

Asked to sign a document

It's probably a contract of some type, do not sign. You may be liable for the purchase.

Who can sign for this purchase

IPPS - Professional buyers have delegated authority to sign all contracts or agreements that commit UCSD to purchase goods or services.





CONTRACTS

3 Threshold Questions

#1. Employee v. Independent Contractor:

The determination of an individual's status as an employee or independent contractor must be made prior to engagement to perform personal or professional services.

#2. Employee-Vendor Relationships:

State and federal law, as well as UC policy, requires that the University keep separate an employee's University and private interests and to safeguard the University and its employees from charges of favoritism in the acquisition of goods and services.

- PCC 10515/ Political Reform Act
- Current Employee/Former Employee/UC Retiree

#3. Independent Consultant and Follow-on Work:

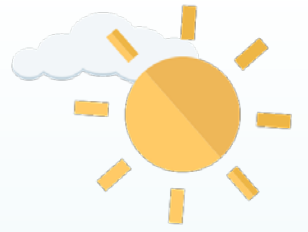
Under California Public Contract Code Section 10515, an entity who performed consulting services on behalf of UC may not subsequently provide goods or services that were required, suggested or otherwise deemed appropriate in the end product of the consulting services contract.

Two Part Test:

- Is the entity an "Independent consultant" under the original contract?
- Is the second contract for "follow-on" work?



#1. EMPLOYEE V. INDEPENDENT CONTRACTOR



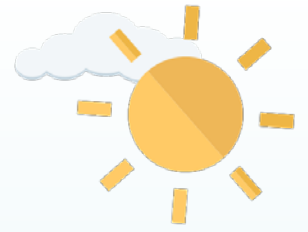
BUS-77: University purchasing procedures may not be used in lieu of placing an individual on the payroll. An individual may only be retained as an independent contractor if a determination has been made that an employer-employee relationship does not exist.

***As a general rule individuals should only be classified as independent contractors on an exception basis only.**



BASIS FOR DETERMINATION

When is an individual an employee?



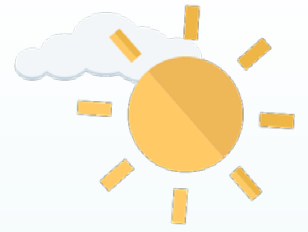
Generally, if an employer has the right to direct and control the work (methods and means) of an individual who performs the services, an employer-employee relationship exists.

IRS 20-Factor Test:

- As an aid to determining whether an individual should be classified as an employee, the IRS has developed a twenty-factor test to determine whether sufficient control is present to establish an employer-employee relationship.
- The degree of importance of each factor varies depending on the occupation and the factual context in which the services are performed.
- Independent Contractor Pre-Hire Form: <http://blink.ucsd.edu/buy-pay/contract-svcs/independent/index.html#Forms-and-contacts>



MISCLASSIFICATION OF WORKERS

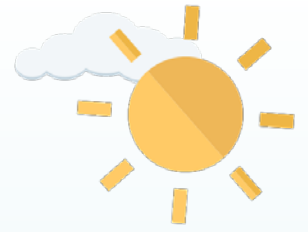


Incorrect classification can result in the following:

1. Penalties for violation of state and federal tax withholding laws;
2. Penalties for violation of federal laws pertaining to the employment of aliens;
3. Loss of reimbursement under federal contract and grant funds
4. State Oath of Allegiance, as required by the California Constitution; and
5. State Political Reform Act financial conflict of interest rules



#2. EMPLOYEE-VENDOR RELATIONSHIP

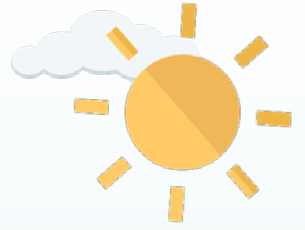


An employee-vendor relationship exists when:

- An employee, former employee or near relative offers to rent, sell or provide goods or services to UC.
- An employee, former employee or near relative owns or controls more than 10% interest in a supplier who offers to rent, sell or provide goods or services to UC.
- Blink: <http://blink.ucsd.edu/buy-pay/responsible/policies/relationships.html>



CONFLICT OF INTEREST



Separation of Interests – Law and Policy

- CA Political Reform Act and Public Contract Code prohibit the University from purchasing goods or services from University employees under most circumstances.
- It is the policy of the University to keep separate an employee's private and University interests and to safeguard against charges of favoritism.

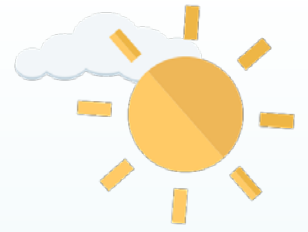
Restriction on Purchases

- UC may not purchase goods or services from a University employee unless:
 - (1) the employee has teaching or research responsibilities;
 - (2) the goods or services are not available from within the University or commercially;
 - (3) the employee was not involved in any portion of the planning, negotiation, or decision making process for the purchase; **and**
 - (4) the purchase is otherwise permissible under state and federal law.



CONTRACTS

Typical Issues & Considerations



Federal Funds

Grants and contracts awarded by the federal government are subject to federal administrative requirements, cost principals, and audit requirements

- Federal Contract
 - Purpose: To obtain goods or services for direct benefit or use of Fed. Gov't.
- Federal Award
 - Purpose: To transfer anything of value to a recipient to accomplish a public purpose (i.e. research)

Data Security and Privacy

- PHI v. PII v. PCI v. Confidential Information
- FERPA, HIPAA, CA Constitution, Data Breach laws

Indemnification

Reimbursement or insurance against a particular loss or liability.

Intellectual Property and Use of Name

Copyright, Patent, Trademark

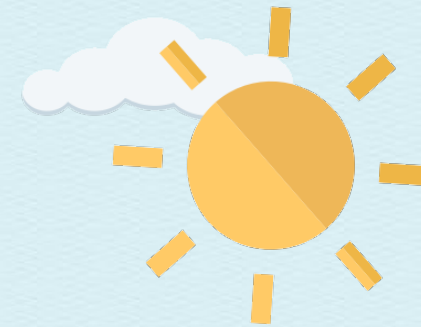


STRATEGIC PROGRAMS & BUSINESS CONTRACTS



Questions?

Serving campus as a reliable point of contact
and knowledge center for contracts,
compliance, policy and process.



Don't forget to stop by
and visit us in the

Price Center East Ballroom

