

**COUNTY OF MARIN**  
**OFFICE OF THE COUNTY ADMINISTRATOR**  
**ADMINISTRATIVE REGULATION NO. 18**

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SUBJECT: TEMPORARY HIRING/INDEPENDENT CONTRACTING POLICY

EFFECTIVE DATE: January 30, 1996

This regulation is issued pursuant to Chapters 2.08 and 2.56 of the Marin County Code. It has been approved by the Board of Supervisors on the effective date. Together with Administrative Regulation No. 11, it sets forth the policy of the County of Marin with respect to the obtaining of personal services by the County of Marin.

**I.** No appointing authority, within the meaning of Chapter 2.56 of the Marin County Code, shall employ or contract with any person for personal services to be paid out of funds of the County of Marin except in accordance with the provisions of Chapter 2.56 of the Marin County Code, or in the following categories.

**A. Independent Contractor.**

Independent contractor, with the approval of the Board of Supervisors and/or the County Administrator, dependent on the amount of the proposed agreement, shall be as described in Part 1, Division 4, Title III of the California Government Code (31000 et seq.).

1. For purposes of this regulation, an independent contractor is a corporation, partnership or individual hired outside the employer-employee relationship to independently accomplish a specific program, project or result. The standard for determining such status is that the individual or corporation, rather than the County, primarily controls the manner and means by which the work is to be performed.

Other factors which may determine the status include, but are not limited to:

- a. The individual or group is incorporated;
- b. Holds a business license to offer services;
- c. Possesses a state and federal tax ID number for his/her business;
- d. Has registered a fictitious business name;
- e. Invoices for services rendered on a project-by-project basis rather than by time;
- f. Is not provided with a regular workplace;
- g. Uses own tools, equipment and employees;
- h. Offers their services to the general public and works for other jurisdictions or employers as well as the County;
- i. Holds a professional license.

2. Independent contractors shall be compensated by means of a purchase order or written

contract approved by the Office of the County Counsel and the County Administrator or the Board of Supervisors (depending on the dollar amount of the contract) and not through the County payroll system.

## **B. Temporary Appointment.**

Temporary appointments may be made with the consent of the County Administrator and review of the Director of Human Resources to ensure compliance with administrative regulations and personnel policies. Temporary appointments of employees other than through Chapter 2.56 may be made without a competitive examination for a temporary period of time. The services of such persons may be terminated at any time by the County, with or without cause, including but not limited to the expedient of not calling them back when the services have been performed or are otherwise no longer needed. A temporary employee does not receive County-provided benefits, except as required by law. Once an individual has worked in a temporary capacity 2080 hours, or 1950 hours in the event of a 75 hour/pay period employee, he or she shall not be rehired by the County in any temporary capacity for a minimum of 90 calendar days. If a temporary employee works less than 975 hours per fiscal year, is in a pool of temporary employees to cover in a 24-hour facility, or is a retiree, said temporary employee may not be subject to the 90-day requirement. Such temporary appointment may consist of one of the following types:

### 1. Extra-hire into an existing County job classification.

An extra-hire appointment is an appointment into a classification and pay schedule established by the Board of Supervisors and approved through the budgeting process. The employment shall be for a period not to exceed 1020 hours per fiscal year. An individual hired to perform a job for which an existing job classification exists shall be paid consistent with the salary for that job classification. Extra-hire employees may be paid against budgeted positions or against extra-hire funds. Other relevant policies are contained in Administrative Regulation 11.

### 2. Special Appointment.

With the written consent of the County Administrator and the Director of Human Resources, a temporary employee may be utilized at a mutually agreed upon salary level, if such person is not in a budgeted position; the work to be performed does not fit an existing merit system classification; the individual is not an independent contractor; the individual possesses a unique combination of expertise, background and skills; and/or the situation is an emergency which does not allow another alternative. Such persons may be employed after permission is obtained from the appropriate County officers only by utilization of an employment agreement, approved by the Office of the County Counsel, and shall not exceed one year. The job classification of 8001 shall be utilized and state and federal taxes are withheld. Special appointment employees are not entitled to benefits except as required by law.

**II.** The previous practice of contract employee is hereby eliminated.

**III.** Appointing authorities shall terminate any contracting or temporary employment relations not in accordance with this regulation no later than June 30, 1996. The Auditor-Controller is requested not to authorize payment on any new independent contracts or temporary employees not in accordance with this regulation after the effective date of this regulation.

**IV.** Exceptions to this regulation may be granted by ~~a majority vote of the Board of Supervisors~~ *the County Administrator*, upon request of the appointing authority, provided, however, that, if appropriate, such request must show notice to the appropriate recognized bargaining unit.