

IMPORTANT
INFORMATION,
FORMS AND
INSTRUCTIONS
RELATED TO
OBTAINING A

TALENT AGENCY LICENSE



What's inside?

IMPORTANT INFORMATION

	Page
1. Forms and Documents Required to be Filed	1
2. Where to Send Forms and Documents	1
3. Name	1
4. Duration of License	1
5. Filing and License Fees	1
6. Business Location	1
7. Record Keeping	1
8. Subagents Ruled Employees	2

INSTRUCTIONS

	Page
1. Application for Talent Agency License	3
2. Personal Record	3
3. Affidavits of Character	3
4. Contracts	3
5. Schedule of Fees	3
6. Talent Agency Bond	3
7. Fingerprint Cards	4

	Page
ADDITIONAL IMPORTANT INFORMATION	5

ATTACHMENTS (Samples)

	Page
Talent Agency Contract	A-1
Non-Exclusive Talent Agency Contract	A-2
Fee Schedule	A-3

Enclosed are the necessary forms for obtaining a Talent Agency License, and excerpts from the applicable law.

1. Forms and Documents Required to be filed:
 - a. Application for Talent Agency License (DLSE Form 351)
 - b. Personal Record (DLSE Form 301-B)
 - c. Affidavit of Character (DLSE Form 301-a)
 - d. Contract between Artist and Talent Agency (Sample attached)
 - e. Schedule of Fees (Sample Attached)
 - f. Talent Agency Bond (DLSE Form 305)
 - g. Fingerprint Cards (BID 7-Form)
 - h. Premise Certification
 - I. Certificate of Workers Compensation Insurance

NOTE: The name and address as shown on all forms and documents submitted must be exactly the same. Any difference in either name or address will delay the issuance of a license.

2. Where to Send Forms and Documents (Do not Fax).

All forms, documents, license fees, and correspondence should be sent to:

- a. Personal Delivery (UPS, messenger, etc.):
 Department of Industrial Relations
 Division of Labor Standards Enforcement
 Licensing and Registration Unit
 45 Fremont Street, Suite 3205
 San Francisco, CA 94105
- b. U.S. Mail:
 Department of Industrial Relations
 Division of Labor Standards Enforcement
 Licensing and Registration Unit
 P.O. Box 420603
 San Francisco, CA 94142

3. Name:

The business name of the proposed talent agency can not be the same or similar to another talent agency licensed in California. To prevent a duplication of name, applicant must submit a copy of Fictitious Business Name Statement obtained from the City/County that they are going to do business at.

4. Duration of License:

The License is effective from the date of issuance until the day before the birthday of the individual

- owner of the oldest partner, or the date of incorporation, if a corporation.
5. Filing and License Fees:

Filing and license fees may be paid by certified check, cashier's check, or money order made payable to the "Division of Labor Standards Enforcement." Do not send cash.

Filing Fee	\$ 25.00
Main Office License Fee.....	\$225.00
Branch License Fee (If any)	\$ 50.00

NOTE: Fees can not be prorated; thus the full amount must be paid irrespective of the length of time remaining before the expiration of the license.

6. Business Location:

- a. The proposed location of premises must be approved by the Labor Commissioner before a license may be issued. It cannot be in a place that would endanger the health, safety, or welfare of the artists. If a residence is used as an office, send a copy of written permission from the county planning or zoning commission that one may operate a business from the location. The room used as an office must be used solely for business purposes.
- b. Please sign attached PREMISE CERTIFICATION and return with your application.
- c. Every talent agency must notify the Labor Commissioner at the address shown in item No. 2 above, of any proposed change in business location at least 20 days before the change (California Administrative Code, Title 8, Section 12000.7). The change shall not be valid without the written consent of the Labor Commissioner (California Labor Code Section 1700.13).

7. Record Keeping:

Every talent agency must maintain the following records for each artist whom it manages, and these records must be available for inspection during all reasonable hours. (California Labor Code Sections 1700.26 and 1700.27). These records should be kept for four years.

- a. The name and address of each artist employing the talent agency.
- b. The amount of fee received from the artist.____

- c. The beginning date and the ending date of any contract entered into between the artist and the talent agency.
- d. The name and address of the employer, and the inclusive dates and type of service of each employment engaged in by the artist during his or her term of contract with the agency.
- e. The compensation received by each artist for each engagement.
- f. The amount of fee due the talent agency and the amount of fee paid to it by the artist for each engagement.
- g. A record of all funds received on behalf of an artist and the disposition of the funds.

8. Subagents Ruled Employees:

Should you as a Talent Agency, employ any subagents to act on your behalf you must, under the law, treat such subagents as bona fide employees. In explanation of this, the following are points that distinguish an independent contractor from an employee:

- a. An independent contractor is legally a self-employed person who is not subject to the direction and control of his/her principal as to the manner, method, and means of accomplishing his/her work.
- b. An employee is always subject to direction and control by his/her employer, although the employer need not always exercise such direction and control.

Since a talent agency must always be responsible for and have complete control over the operation of the business, including the manner, method, and means by which the work is accomplished, it necessarily follows that he/she cannot have independent contractors working as subagents. Such subagents must instead be bona fide employees.

Furthermore, an independent contractor-subagent would himself/herself be in violation of the law since he/she would be performing the functions of a talent agency but would not be protected by a license. (See California Labor Code Section 1700.20).

In line with the foregoing, please be certain that any and all subagents working under your license are treated as bona fide employees and are so designated on your payroll.

If you have employees, you must be insured for workers' compensation as required by California Labor Code Section 3700. Such insurance that shows the name of the legal entity, the business name (if any), complete correct, and current physical address as well as the effective date of the Workers' Compensation Insurance Policy.

1. APPLICATION FOR TALENT AGENCY LICENSE:

- a. The application for Talent Agency License (DLSE 351) must be completed, dated and signed by (1) the individual applicant; or (2) all of the general partners; or (3) an authorized corporate officer. The corporate seal must be affixed.
- b. Enter the birthdate of the individual owner; the birthdate of the oldest general partner; or if a corporation, the date of incorporation. (See item No. 9 on application.)

2. PERSONAL RECORD:

The Personal Record (DLSE 301-B) must be completed by the individual owner, or by all of the general partners, or by all corporate officers, if a corporation, and by each person with managing responsibility in the business.

3. AFFIDAVITS OF CHARACTER:

Two Affidavits of Character (DLSE 301-A) must be completed for each individual for whom a Personal Record is required. The persons executing the affidavits should be over 18 years of age and not related to the applicant.

4. CONTRACTS:

- a. Only contracts between the artist and the agency need to be submitted for approval.
- b. Submit for approval three copies of each form of contract that will be used, such as a general services contract. (See Attachment A {DLSE 315A} and Attachment B {DLSE 301B} for sample contract forms.) All contracts submitted must contain the provisions set forth in 12001 of the California Code of Regulations. Copies of SAG, AFTRA, AfofM, AGVA, Writers' Guild and Directors' Guild contracts need not be submitted for approval as these have already been approved by the Labor Commissioner. Submit instead, a letter to the Labor Commissioner, stating which of the guild contracts you intend to use.

5. SCHEDULE OF FEES (See Attachment C):

- a. Submit for approval three copies of the Schedule of Fees to be used, one of which will be certified and returned to you. The certified copy must be posted in a

conspicuous place in the office of the talent agency.

- b. The Schedule of Fees must the following requirements:

- (1) The name of the business and the words "TALENT AGENCY" must appear.
- (2) The words "SCHEDULE OF FEES" must appear at the top of the schedule.
- (3) The maximum fee rates for all types of employment must be shown.
- (4) The following quotations must appear:

"The maximum rate of fees due this talent agency for the services rendered to the artist is _____percent (___ %) of the total earnings paid to the artist managed by this talent agency."

"In the event that a talent agency shall collect an artist a fee or expenses for obtaining employment for the artist and the artist shall fail to procure such employment, or the artist shall fail to be paid for such employmentsuch talent agency shall, upon demand therefor, repay to the artist the fee and expenses so collected. Unless repayment thereof is made within forty eight (48) hours after demand therefor, the talent agency shall pay to the artists an additional sum equal to the amount of the fee.

"If any controversy arises between the parties including one as to liability for the payment of fees, the parties involved shall refer the matter in dispute to the Labor Commissioner for hearing and determination as provided in Section 1700.44, Labor Code, unless such controversy can be handled in accordance with the provisions of Section 1700.45 of the Labor Code."

- (5) Allow 2 1/2 inches of blank space at the bottom of the schedule for certification.

- c. Changes in the schedule of fees may be made, but no change shall become effective until seven days after the date of filing the change with the Labor Commissioner and until posted for not less than seven days in the office of the talent agency.

- d. See Attachment C for sample form of Fee Schedule.

NOTE: No talent agency shall collect a registration fee from an artist (California Labor Code Section 1700.40).

6. TALENT AGENCY BOND:

- a. It is mandatory that the BONDING COMPANY execute the prescribed Talent Agency Bond (DLSE 305). The ORIGINAL must be submitted to the Labor Commissioner's Office.
- b. The legal entity shown on the Bond must be the entity applying for the license.
- c. The signature of the bonding company representative must be notarized.

7. FINGERPRINT CARDS:

- a. Two fingerprint cards (BID-7) each must be completed for the individual applicant, for all general partners, all corporate officers of a corporation, and for each person acting in a managerial capacity in the business.

- b. The personal information requested on the fingerprint cards should be completed by the applicant. The actual fingerprint should be taken by an official fingerprinted technician employed by the local police department or sheriff's office.
- c. After the fingerprint cards are completed and SIGNED by both the applicant and the fingerprint technician, they must be submitted to the Labor Commissioner's office.
8. If applicant is a Corporation must submit copies of Articles of Incorporation and Statement by Domestic Stock Corporation filed with the Secretary of State.