

Instructions for Contracts for Professional Services/Consultant/Presenter (Processed/Paid at Central Office Level)

Any contract for professional services must be properly documented and approved prior to the services being performed. ***(If the contract is to be processed at the local school level and will not be paid with system funds, refer to separate instructions for Local Schools.)***

Professional services are those services provided to the Baldwin County Board of Education (BCBOE) by individuals who are not employees or professional services provided by a business or professional entity. Please refer to the guidance below from the State of Alabama Department of Finance for guidelines that distinguish between contractors (professional services) and employees. Contracts must not be executed for services that would fall under the definition of one of BCBOE's positions or under the definition of an employer/employee relationship rather than a contract for professional services. Each school administrator or department supervisor/coordinator or Executive Staff member initiating a Contract for Professional Services must ensure that the contract is in compliance with IRS guidelines regarding the definition of a contractor/vendor.

Procedures for Contracts Paid with System Funds: Contracts should be approved by all parties including Business and Finance prior to the Superintendent's approval and prior to the services being performed. **Any contract for professional services for \$15,000 or greater must be approved by the Board. Once approval has been obtained, all contracts must be sent to BFApprovals@bcbe.org for processing. Each department is responsible for forwarding any Board Approved Contracts (AP-C) to Accounts Payable.** Professional services require a completed and approved Contract (AP-C) and payment for services provided are authorized and processed with the same AP-C form or with a standard business invoice that contains all required information regarding the services provided in the contract. The following procedures must be followed when entering into contracts for professional services, consultants and/or presenters. **This guidance and the forms are effective for all services immediately. All old forms must be destroyed. The new forms have been placed on the website.**

Procedures for Contracts Processed and Paid at Central Office Level:

1. Submit W-9 if applicable

- Similar to a requisition, at the initiation of a contract, obtain a W-9 form from the contractor if new and an updated W-9 if applicable. **Staff may email form to BCBOEAccounting@bcbe.org.** Due to privacy requirements for Social Security Numbers, never email a W-9 or any document containing Social Security Numbers!

2. Complete AP-C Form:

- Complete applicable fields in top portion of form. Always provide a brief description of professional services provided (This should never be the name or title of a job or position.) Please inform the contractor of option for payments through Visa which are processed weekly as opposed to monthly check disbursements.
- Background clearance required for all individuals with unsupervised access to students.
- Signatures: All signatures on the form must be electronic in order to permit continued electronic use. If feasible, the contractor should apply a digital signature on the form. If this is not possible, the originating department may obtain an original signature from contractor on a separate form and ensure that this original signature is maintained in the originating department. If a manual signature is obtained, then type on the form: "Original signature on file" and type the name of the person in the field.

Please ensure that all other BCBOE approvals are electronic. Scanning in a copy of this form for further submission will limit the digital flexibility from that point forward!

- Individual completing form must document that a W-9 form has been submitted by clicking the check box (☐ W-9 has been submitted).
- Save and Name document: Save the contract form as the name of the contractor and date. Ex.: ABC Consultants, 10-1-11. This is necessary as many departments have multiple contracts with same contractor. If multiple contracts are submitted on same date, then differentiate with #1, #2, etc.
- The form can be emailed within departments or divisions for approval.

3. Submission of AP-C to Business & Finance for Approval:

- The Executive Staff Approval should be the appropriate Assistant Superintendent, Director, or Coordinator.
- Once approved at department/division level, email approved AP-C to BFApprovals@bcbe.org.
- B & F staff will log in, assign Contract number, review and obtain necessary approvals. The electronic contract will then assume the contract number as its file name, i.e., CT-12007.

4. Contracts over \$15,000:

- The originating office/division must submit the contract to the Board for approval as an agenda item. Once the Board has approved, (the originator must document the Board has approved by clicking Yes or No ☐ and date approved), once approved by the Board the regular approval steps are to be followed. (Reminder: It is up to the originating department/division to get the Board Approved contract to B & F for processing.)

5. Completed AP-C:

- B & F will email completed AP-C to applicable originating department and will encumber the funds for the contract in the accounting system as soon as possible. It is recommended that each department maintain an electronic folder on all approved contracts as a part of the department's files. B & F will also have a complete log and electronic folder of all approved contracts.

6. Submission of AP-C Pay Request:

- The approved AP-C form may be used for all subsequent requests for payment. The contractor may submit the AP-C pay request electronically (contractor signature should be electronic/digital). The originating department should keep on file all documentation supporting the electronic submission (ex. Contractor's e-mail). The applicable Funding Administrator approves the electronic AP-C pay request, and it is dropped into the AP-C Pay Request folder provided in the department's shared invoice scan folder. The originating department and contractor may continue to use a copy of the approved AP-C for all subsequent submissions of pay requests.
- The contractor may also submit a standard business invoice that contains all required information. The originating department will note the contract number on the invoice and approve. The approved invoice should be submitted according to the usual invoice approval process (Approved invoice scanned in and emailed to BCBOEAccounting@bcbe.org.)

Companies, partnerships or corporations (vendors) may also provide professional services to the Board. It is necessary to enter into an agreement/contract with these vendors in order to properly approve the expenditure. It is permissible to utilize agreements or contracts issued by the vendors as long as the documents include all needed information. Whether with an individual or a company, a contract or agreement must be properly prepared and approved by all parties prior to work actually being performed. Whether using this form or an acceptable contract or agreement of a firm, the same process for approval is required.

A. INDEPENDENT CONTRACTOR VERSUS EMPLOYEE

The Internal Revenue Service and the courts have considered many facts in deciding whether a worker is an independent contractor or an employee. These facts fall into three main categories.

- Behavioral Control
- Financial Control
- Relationship of the Parties

The State Comptroller uses a list of 20 factors as guidelines to determine whether an individual is considered an employee. The presence of any of the 20 factors may indicate a possible employer/employee relationship depending on the occupation and the context in which services are performed. Under common-law rules, every individual who performs services subject to the will and control of an employer, as to both what must be done and how it must be done, is an employee. It does not matter that the employer allows the employee discretion and freedom of action, as long as the employer has the legal right to control both the method and the result of the services. If an employer/employee relationship exists, it makes no difference how it is described. It does not matter if the employee is called an employee, partner, agent, or independent contractor.

The 20 factors are:

1. Instructions - A worker who must comply with another's instructions about when, where and how to work is ordinarily an employee.
2. Training - If the worker is required to receive training to learn how to do the work, an employment relationship is likely.
3. Integration - The more the worker is integrated into the business operations, the more likely he is an employee.
4. Services Rendered Personally - An employee renders services personally. This shows that the employer is interested in the methods used, as well as the results, and an employment relationship exists.
5. Hiring, Supervising, and Paying Assistants - If the worker is responsible for his assistants, this is indicative of independent contractor status.
6. Continuing Relationship - A continuing or recurring nature of work suggests employment.
7. Set Hours of Work - If hours are established by the business, this tends to indicate employment.
8. Full Time Required - An independent contractor has more freedom as to when and for whom he will work than a worker who is required to devote substantially full time to the business.
9. Doing Work on Business Premises - If required, it suggests control by the employer.
10. Order or Sequence Set - If the business (State) sets the order or sequence of work, this tends to indicate employment.
11. Reporting - The more the worker must report, the greater the control, indicating employment.
12. Payment by Time, not Job - Independent contractors are more often paid by the job. Employees are usually paid by the hour, week or month.
13. Payment of Traveling Expenses - An employer generally retains the right to regulate the employee's business activities and expenses.
14. Furnishing of Tools - Independent contractors more often furnish their own tools and materials.
15. Significant Investment - Independent contractors more often invest in facilities that are used in performing services.
16. Realization of Profit or Loss - A worker who can realize a profit or loss from his services is generally an independent contractor.
17. Working for More Than One Firm at a Time - An independent contractor will often perform services for more than one business at a time.
18. Making Service Available to the Public - An independent contractor makes services available to the general public.
19. Right to Discharge - An independent contractor cannot be fired so long as he produces a result that meets contract specifications.
20. Right to Terminate - If the worker can terminate services without liability, this indicates an employment relationship.