

## **Instructions for Contracts for Professional Services/Consultant/Presenter** *(Contract For Individuals NOT employed with BCBE)*

Any contract for professional services must be properly documented and approved prior to the services being performed. ***(If the contract is to be initiated at the local school level but processed and paid with system funds, please refer to separate procedures and coordinate with applicable central office department regarding process.)***

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 Local School Funds: Contracts less than \$15,000 paid with local school funds may be approved and processed at the school level. Any contract for professional services for \$15,000 or greater must be approved by the Board.** 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 beginning immediately. All old forms must be destroyed. The new forms have been placed on the website.**

### **Procedures for Contracts Processed and Paid with Local School Funds:**

#### **1. Submit W-9 if applicable.**

- Obtain a W-9 form from the contractor if new and an up-dated W-9 if applicable. Submit W-9's to LSA staff as usual. As directed in the past, 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.
- 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, school secretary/bookkeeper may obtain a manual signature, 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. If you scan in a copy of this form for processing, you will lose the digital flexibility from that point forward!
- Individual completing form must document that a W-9 form has been submitted by click the check box (☐ W-9 Form has been submitted).
- Save and Name document: Save the contract form as the name of the contractor/vendor and date.
- The form can be emailed to principal for final approval and all documents kept on file at local school. (No need to send contract to Central Office unless over \$15,000 threshold.)
- If contract is \$15,000 or greater, send contract to CSFO for further submission to the Board and Superintendent for approval. ([jwilson@bcbe.org](mailto:jwilson@bcbe.org) with a copy to [jcox1@bcbe.org](mailto:jcox1@bcbe.org).)
- Once all approvals are obtained, B&F will return approved form to the school.

### **3. Submission of AP-C for 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 school should keep on file all documentation supporting the electronic submission (ex. Contractor's e-mail). The Principal approves the electronic AP-C pay request. The school and contractor may continue to use a copy of the approved AP-C for all subsequent submissions of pay requests.
- The contractor may elect to submit a standard business invoice that contains all required information for payment instead of the AP-C.

***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.