

P&P 6370 CONTRACTS

REASON FOR RECOMMENDATION:

Legal Update 38 revised this procedure to reflect a change in the citation to the Labor Code provisions addressing independent contractor requirements (Labor Code Sections 2775 et seq.).

BP 6370 CONTRACTS

No BP Exists

AP 6370 CONTRACTS

With Changes Redlined

General Contract Procedures

Refer to AP 6340 titled Bids and Contracts section "General Contract Procedures", parts A through G.

Professional Services

Professional service contracts may be let without competitive bidding. Professional service providers are persons specially qualified to provide services and advise in financial, economic, accounting, engineering, legal or administrative matters. They must be specially trained, experienced and competent to perform the services required. Compensation for special services and advice from professional service providers may be paid from available funds in the amounts deemed proper for the services rendered.

Conflict of Interest

SBCCD will not execute a professional service contract or agreement with the intent of delegating decision making authority on behalf of the District to a consultant. In the event that an extenuating condition exists where a consultant is given this authority, he or she will be subject to compliance with SBCCD's conflict of interest code and will be required to complete a statement of economic interests. See BP 2710 titled Conflict of Interest and AP 2712 titled Conflict of Interest Code.

Employees as Professional Service Providers

An individual cannot be both an SBCCD employee and a professional services provider with SBCCD at the same time unless it can be clearly demonstrated that the work being performed as a professional services provider has no relationship to work being performed as an employee of SBCCD and such work cannot be construed as falling within the broad definition of the individual's job description or classification as an employee. Any SBCCD employee hired as a professional services provider through the Human Resources Office is considered an "employee" for payroll purposes and payment for services is subject to appropriate tax withholding.

Contracts

Each professional services provider will have an approved agreement or contract on file in Business Services prior to beginning the service that has been negotiated through SBCCD's contracting process.

References:

Ed Code 88003.1_{3,7}

Gov Code 53060_{4,7}

Labor Code 2775 et seq. 3353_{4,7}

Public Contract Code 10335.5, and the IRS 20-point Checklist

END OF RECOMMENDATION