



# **PURCHASING SERVICES**

# **INDEPENDENT CONTRACTS AND AGREEMENTS**

*Updated May 2013*

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## Independent Contracts and Agreement for Services - Including Professional Services and Insurance Services

- Any contract to purchase the services of a business, corporation, or person who is not an employee of the District or the colleges is an independent contract.
- A District approved form includes the most advantageous terms & conditions for the District.

- An agreement can be entered into only if the contract is not subject to the competitive bid requirements of the Education Code or the Public Contract Code.
- Contract agreements for certain types of professional services or advice and contract agreements for insurance services are not subject to competitive bid requirements.
- An agreement should not be use to procure material, supplies, and equipment.

- An agreement must not be used to hire contractors to perform public projects such as construction services, alteration, renovation, improvement, demolition or repair if the total project is \$15,000 or more.
- Public project contract agreements of \$1,000 or more must comply with prevailing wage requirements.
- Additionally, for public project contract agreements less than \$15,000, Public Contract Code 20657 requires that notice of informal bidding opportunities must be given to all interested contractors. Purchasing Services posts such notices on BidNet.

## Summary of Requirements

- Contract agreements must be in a written format.
- Pre-approved formats include the District Independent Contractor form and the Agreement For Services form. Both forms are posted at the following web-site <http://purchasing.fhda.edu>.
- For new vendors, the contractor must provide a completed IRS Form W-9, Vendor Information Form.
- Contract agreements for application of toxic chemicals such as pesticides or herbicides must be reviewed and approved by the Director Environmental Health and Safety prior to execution.

# Independent Contract Agreement vs. Agreement for Services

- ICA has fewer terms & conditions
  - ◆ Simple, one-time services
  - ◆ Small contractors or individuals
  
- Agreement for Services is more protective of the District
  - ◆ More complex services
  - ◆ Businesses, corporations

## Ask:

- Is this a service?
- Should this be purchased as a regular order via a District Purchase Order instead ?
- Do I have the delegated authority to enter into this contract?
  - ◆ If so, then I am required to accept the responsibilities of complying with legal requirements, policies, and procedure

## **Authority to enter into contracts**

- District officials who have been authorized by Board of Trustees Resolution to enter into contracts on behalf of the Governing Board pursuant to Education Code Section 81656 may authorize contracts up to the amount designated in the Board Resolution without seeking prior Board authorization of the contract.

## ■ ADDITIONAL GUIDELINES:

- ◆ **Contracts are not to be executed for the purchase of materials, supplies, equipment, including software.**
- ◆ **If the service includes trades labor, then the labor must be quoted at the prevailing wage rates for that trade (i.e. electrical, cabling, plumbing, carpentry, etc.).**
- ◆ **Obtain competitive quotes.**
- ◆ **Obtain insurance certificates.**
- ◆ **Maintain records.**
- ◆ **Obtain a fully executed contract prior to start of contract, signed by a person with the proper delegated authority.**

■ **Resolution #2012-50C authorizes the following positions to execute contracts up to \$5,000:**

- ◆ Dean
- ◆ Director (incl. Co, Assist., Assoc., Clinic, Exec.)
- ◆ Manager
- ◆ Supervisor
- ◆ Vice President
- ◆ Associate Vice President
- ◆ Controller

## ■ IMPORTANT:

Your campus administration may have a more restrictive policy/procedure and may require additional signatures on all contracts. Campus administration may also require that the contract have a Purchase Order in place to facilitate the payment.

- Resolution #2012-50B authorizes the following positions to execute contracts for public projects of \$14,999 or less and for other services of \$20,000 or less:
  - ◆ Vice Chancellor, Business Services
  - ◆ Vice Chancellor, Technology
  - ◆ Vice Chancellor, Human Resources & Equal Opportunity
  - ◆ Vice President, Educational Resources & Instruction
  - ◆ Vice President, Finance & Educational Resources
  - ◆ Executive Director, Foundation
  - ◆ Executive Director, Facilities, Operations, & Construction Management
  - ◆ President

- Contracts for more than \$20,000 must be approved by the Board of Trustees before the contractor provides services, unless signed by Vice Chancellor of Business Services in which case they must be ratified within 60 days.

- The Board of Trustees delegations of purchasing and contracting authority can be found at <http://purchasing.fhda.edu/policies>.
- Refer to Board Policy 3140 & Board Administrative Procedure 3140 for additional information.
- Splitting contracts in order to circumvent the competitive bidding requirements or approval by the Board of Trustees is not permissible.

**RECOMMENDED Instructions  
for Contracts If Amount is \$20,000  
or Less (\$14,999 or less for public  
projects) With A Single Payment  
are As Follows:**

- Complete the Independent Contractor Agreement or Agreement for Services form. Fill in all fields with clear and precise information (description of services, beginning & ending dates, fee schedule, & aggregate total cost).
- Before services begin obtain (1) contractor signature on the contract, (2) an IRS Form W-9, and (3) proof of insurance from the contractor.

- Obtain signature of your board authorized campus or district representative.
- Additionally, if required by the campus and before services begin you must submit the contract to your campus vice-president or director of budget for review, approval, and signature.

- After services are satisfactorily completed, submit vendor's invoice, completed and signed ICA/ Agreement for Services form, and W-9 directly to District Accounts Payable.
- Invoice must be signed by the responsible Administrator as "approved for payment" and show account code(s) charged and description of work including date(s) performed.
- The invoiced amount cannot exceed the contract amount.

- Or otherwise, a Purchase Requisition is submitted in advance of the service rendered to create a Purchase Order to facilitate the payment.
- **NOTE:** Check with your campus administration – they may require that all contracts have a Purchase Requisition submitted to create a Purchase Order against the contract.

## Do I need to submit a Purchase Requisition for a Purchase Order?

- There are certain circumstances when it does not make reasonable sense to create a Purchase Order:
  - ◆ The service will occur immediately
  - ◆ The District does not frequently conduct business with the vendor
  - ◆ Payment is due immediately upon completion of services
  - ◆ The service is long-since over and the invoice is due (oops!)

## A Purchase Requisition was submitted – what now?

- Document the Requisition Number
- A Purchase Order will be generated in Banner
  - ◆ You can view the requisition in SSB to determine the PO #
  - ◆ A copy of the PO is generally forwarded to the requestor
- Reference the Purchase Order number on the vendor invoices and/or District form “Invoice for Services Rendered” and submit to Accounts Payable for payment.
- DO NOT submit the requests for payment directly without the Purchase Order number.

## Changes To Contract dates, scope of work, dollar amount or other terms and conditions:

- The change forms can be located at <http://purchasing.fhda.edu/forms>.
- Must be in written contract amendments, sequentially numbered, dated, and signed by the contractor, an authorized District representative, and the campus vice-president.

- If an amendment increases cost of contract, it must clearly explain the reason for cost increase.
- Total amount of contract including all amendments must not exceed \$14,999 for public projects or \$20,000 for services.
- If the total amended contract value exceeds \$20,000 then it must be signed by the Vice Chancellor of Business Services.

**RECOMMENDED Instructions  
for Contracts If Amount is \$20,000  
or Less (\$14,999 or less for public  
projects) With Multiple Payments  
are As Follows:**

- Complete the Independent Contractor Agreement or Agreement for Services form. Fill in all fields with clear and precise information (description of services, beginning & ending dates, fee schedule, & aggregate total cost).
- Before services begin obtain (1) contractor signature on the contract, (2) an IRS Form W-9, and (3) proof of insurance from the contractor.

- Obtain signature of your board authorized campus or district representative.
- Additionally, if required by the campus and before services begin you must submit the contract to your campus vice-president or director of budget for review, approval, and signature.

- For contracts with multiple payments, it is *recommended* that a District Purchase Order be issued in advance of the services rendered.
- Otherwise, follow the procedures previously provided to facilitate payments.
- Purchasing Services will issue P.O. to facilitate payments for services and will send copy of P.O. to the requestor, contractor, and District Accounts Payable department. Contractor should indicate the District's P.O. number on all invoices.

- After invoiced services associated with that payment are satisfactorily completed, submit each vendor invoice directly to District Accounts Payable.
- Invoice must be signed by responsible Administrator as "approved for payment."

- Invoice must indicate the correct P.O. number, and must include a description of work billed including date(s) performed.
- Invoiced amount must not exceed the contract amount.

## Changes To Contract dates, scope of work, dollar amount or other terms and conditions:

- The change forms can be located at <http://purchasing.fhda.edu/forms>.
- Must be in written contract amendments, sequentially numbered, dated, and signed by the contractor, an authorized District representative, and the campus vice-president.

- If amendment increases cost of contract, it must clearly explain the reason for cost increase.
- Total amount of contract including all amendments cannot exceed \$20,000.
- If the total amended contract value exceeds \$20,000 then it must be signed by the Vice Chancellor of Business Services.

## To request a P.O. revision consistent with contract amendment:

- Submit the properly authorized signed amendment along with Purchase Requisition to District Purchasing Services
- Reference contract's existing P.O. Number.

## **If the Contract Amount Will Exceed \$20,000 (\$14,999 for public projects):**

- Must comply with applicable legal requirements for competitive bidding, if any.
- Requires that you submit a Purchase Requisition for a Purchase Order to facilitate payments.

- Complete the Business Services “Contract Routing Sheet” that can be found at:  
[http://business.fhda.edu/stories/storyReader\\$88](http://business.fhda.edu/stories/storyReader$88)
- The contract must be signed by Vice Chancellor of Business Services, subject to ratification, or approved by the Board prior to start of services.
- AP3140 currently states that any amendment 10% or more must be ratified by the Board of Trustees.

END

