

Independent Contractors

The Independent Contract and Certification form (BSF-01) must be completed and approved by fiscal services **prior** to entering into contracted services with an individual.

Determine Necessity:

- The BSF-01 form should **not** be used if any of the following are true:
 - The individual is a current BCOE employee
 - The individual maintains a business and business license within the scope of the intended services, and provides these services within their normal business operation
 - The individual is an employee of a business with a federal taxpayer identification number and services rendered are on behalf of the business
 - The individual is part of a business-named corporation, non-profit agency, or a partnership
 - The services to be rendered are already available through a current BCOE position
 - Payment is a stipend
- If the individual is part of a business, corporation, non-profit agency, or partnership (as noted above), then the normal development / approval of a contract and encumbrance of funds should be followed as indicated in the Contracts section of the Operating Procedures.
- If the services to be rendered are already available through a current BCOE position, then a Human Resources Temporary Services Contract (HR-046) should be completed.
- If payment is in the form of a stipend, then a Human Resources Temporary Services Contract (HR-046) should be completed.

Certification:

- In order to begin the process of establishing an Independent Contract, the Certification portion of the BSF-01 must be completed and approved. The Certification requires completion of the Independent Contractor Checklist, pursuant to IRS Revenue Ruling 87-41, and *Dynamex Operations West, Inc. vs The superior Court of Los Angeles County*. Review of this checklist is an important factor in determining if an individual is qualified as an Independent Contractor or an employee, as misclassifying an individual subjects BCOE to significant penalties and fines in the event of a federal or state audit.
- Before any Independent Contractor Agreement can be entered into, the Certification must be approved by all required management personnel. The Certification portion of the BSF-01 is designed to accommodate an electronic approval process.
- The Certification requires the electronic approval of BCOE administrative management with program budget authorization. Once this approval is completed, the Certification is sent to the Internal Services Manager in Fiscal Services for final approval.

- To properly complete the approval electronically, the Program Administrator must be logged on to their BCOE account, fill in their name/date on the Certification approval line, and click the Submit button.
- The Submit button on the Certification form is set to automatically launch an email from the approving Program Administrator, directed to the Internal Services manager, with the completed Certification form already attached. Prior to submitting the email, it will need to be encrypted. To do so, add ENCRYPT to the email subject line.
- Upon receipt, the Internal Services Manager will temporarily un-hide the social security number, electronically approve or disapprove the Certification, re-hide the social security number, and then send electronically to Accounts Payable for vendor set-up. Once the vendor is set-up, Accounts Payable (AP) will forward the approved Certification to the submitting department/division for their records.
- It is important for the submitting department/division to wait for the approved Certification to be returned before entering into an Agreement. After receipt of the approved Certification, the department/division may then proceed with completion of the Independent Contractor Agreement.
- If the Certification is unapproved, the department/division must hire the individual through the Human Resources Temporary Services Contract (HR-046), as the individual does not qualify to be hired as an Independent Contractor.
- Once approved, Certifications can be used for the entire fiscal year as long as the definition of service remains the same. If a Contractor is currently certified under a particular definition of service, and is to be hired for another purpose, a new Certification and Agreement must be approved.
- Certifications are valid through June 30th. Independent contractor services overlapping fiscal years require a new certification on July 1st.

Agreement:

- To complete the process of establishing an Independent Contract, the Agreement portion of the BSF-01 must be completed and approved.
- The Agreement is a contract, therefore must be authorized with original signatures, rather than electronic approval.
- The Agreement requires the original signature of the Independent Contractor, the BCOE administrative management with program budget authorization, and the Division Assistant Superintendent. If the amount of the contract is over \$20,000, then the signature of the Superintendent is required as well.
- When the department/division submits the Agreement to the Contractor for signature, a copy of the approved Certification must be provided. The Contractor is required to review the Independent Contractor Checklist on the Certification, and then initial the Agreement as acknowledgment of their qualification to be paid as an Independent Contractor.
- Encumber total amount of Independent Contract in a purchase order, with any subsequent payments processed in reference to the purchase order.

- Components of Agreement must include:

<p><u>Scope of Service:</u></p> <ul style="list-style-type: none"> - Indicate definition and description of services to be performed. 	<p><u>Date(s) Services to be Performed:</u></p> <ul style="list-style-type: none"> - Indicate beginning and ending date(s) or span of service.
<p><u>Location of Performance of Service:</u></p> <ul style="list-style-type: none"> - Indicate all locations 	<p><u>Amount of Payment:</u></p> <ul style="list-style-type: none"> - The total “not to exceed” amount should be indicated in the area provided for the full payment amount. This total should be inclusive of both services and expenses.
<p><u>CalSTRS Member:</u></p> <ul style="list-style-type: none"> - Indicate “Yes” or “No” on Agreement. Earnings paid to a CalSTRS member need to be reported by BCOE. - If “yes”, complete CalSTRS form ES-732 	<p><u>CA Resident:</u></p> <ul style="list-style-type: none"> - Indicate “Yes” or “No” on Agreement. If Contractor is from out-of-state, contact Accounts Payable for assistance, as additional CA tax forms are required from the Contractor.
<p><u>Accounting Information:</u></p> <ul style="list-style-type: none"> - Indicate account to charge Contractor services and expenses. 	<p><u>Student Contact:</u></p> <ul style="list-style-type: none"> - Indicate “Yes” or “No” on Agreement If “Yes”, Contractor must be fingerprinted prior to services rendered – Contractor should complete and sign BSF-01a, “<u>Criminal Record Check Affidavit</u>” and submit with signed Agreement.

- As an Independent Contractor, this individual potentially provides services to multiple customers, therefore, any travel-related expenses incurred while performing these services is considered part of their income and are tax-deductible for the Contractor. In order to properly accommodate IRS guidelines regarding payment towards Independent Contractors, any anticipated travel-related expenses should be clearly noted in the Agreement, arranged and paid for by the Independent Contractor, then subsequently included in the invoice the Contractor submits to BCOE.
- If the proposed Contractor is not a resident of California, and will be performing services within the State of California over the amount of \$1,500 during a calendar year, the Contractor must fill out a California Form 587 for Tax Withholding Allocation of 7% of their earnings, or a California Form 590 to prove they are exempt from California tax. Contact Accounts Payable for more information or assistance. Links to the CA State Forms 587 and 590 are available on the Administrative Services Forms webpage.
- Agreements and Certifications become null and void on July 1st; the contract must show proper fiscal year end date.

Payment(s):

- The originating department/division must send the original Agreement to the Accounts Payable Department to be held until receipt of the Independent Contractor invoice.
- **One-time Payments:**
 - Once the invoice is received, the reference or copy of the Agreement and original invoice should be submitted to the Accounts Payable department. Invoices must indicate date(s) of service and be approved by an authorized signer.
- **Partial Payments:**

- If the invoice is only for partial payment of the contract, reference or copy of the Agreement, and the original invoice should be submitted to the Accounts Payable department; the original invoice should be approved by an authorized signer, and indicate “partial payment”, referencing the PO#.
- Upon the first partial payment, the AP Department will scan/file the original purchase order, and use as reference when programs submit additional payments.
- When the final invoice is submitted to the AP Department, it should be approved by an authorized signer, and indicate “final payment”, referencing the PO#. The purchase order is then closed out by the AP Department.
- Electronic approval of the Certification and original signatures on the Agreement must be present prior to processing of payment.
- All out-of-pocket expenses payable to the Contractor must first appear in the original Agreement as a portion of the Agreement total. Any out-of-pocket expenses not originally calculated and accounted for in the Agreement may be denied when payment is requested per invoice.
- All requests for payment must be on an invoice provided by the Contractor. It should be communicated to contractors that all payments received, based on the invoice submitted, will be reported to the IRS on form 1099 for tax purposes; these expenses are considered part of the Contractor’s business expenses. Original receipts are to be retained by the Contractor for personal income tax purposes.
- Contractors cannot be paid by the hour, and can only be paid for the services provided and agreed to in the Agreement.
- Advance payments to Independent Contractors are prohibited. Payments to Contractors are based solely on services provided and approved.

Responsibilities of BCOE Administration (originating department/division):

- Ensure that Certification and Agreement have been completed and approved prior to services being rendered or payments allocated.
- Understand that Contractors are independent and are not employees, therefore, BCOE should avoid arranging for hotel/airlines or other travel accommodations for Independent Contractors.
- Encumber the total amount of Independent Contract in a purchase order, with any subsequent payments processed in reference to the purchase order. The required encumbrance ensures that funds are set aside and tracked in the budget in order to meet the financial obligations of the approved contract.
- Ensure that all submitted invoices indicate the date(s) of service, are approved by an authorized signer, and include reference to the purchase order number.

Responsibilities of Independent Contractor:

- Handle all travel arrangements and incidental supplies necessary to complete the required services.
- Retain all original receipts and documentation / records as proof of services rendered.

- Submit an invoice to BCOE detailing date(s) of service, all services rendered, and out-of-pocket expenses. Original receipts should be retained for personal income tax purposes, and should not be submitted with invoice.
- Provide copies of receipts and documentation / records upon request by BCOE Administration, for verification purposes.

Responsibilities of Accounts Payable:

- Retain electronically approved Certification on file for fiscal year.
- Report all payments made to Independent Contractors to the IRS on Form 1099 for tax purposes.
- Ensure that payments are processed only if electronic approval of the Certification and original signatures on the Agreement have been completed and submitted by the department/division.
- Retain the signed BSF-01a Criminal Record Check Affidavit on file with submitted Agreement if contact with minor students was marked as “Yes” on Agreement.

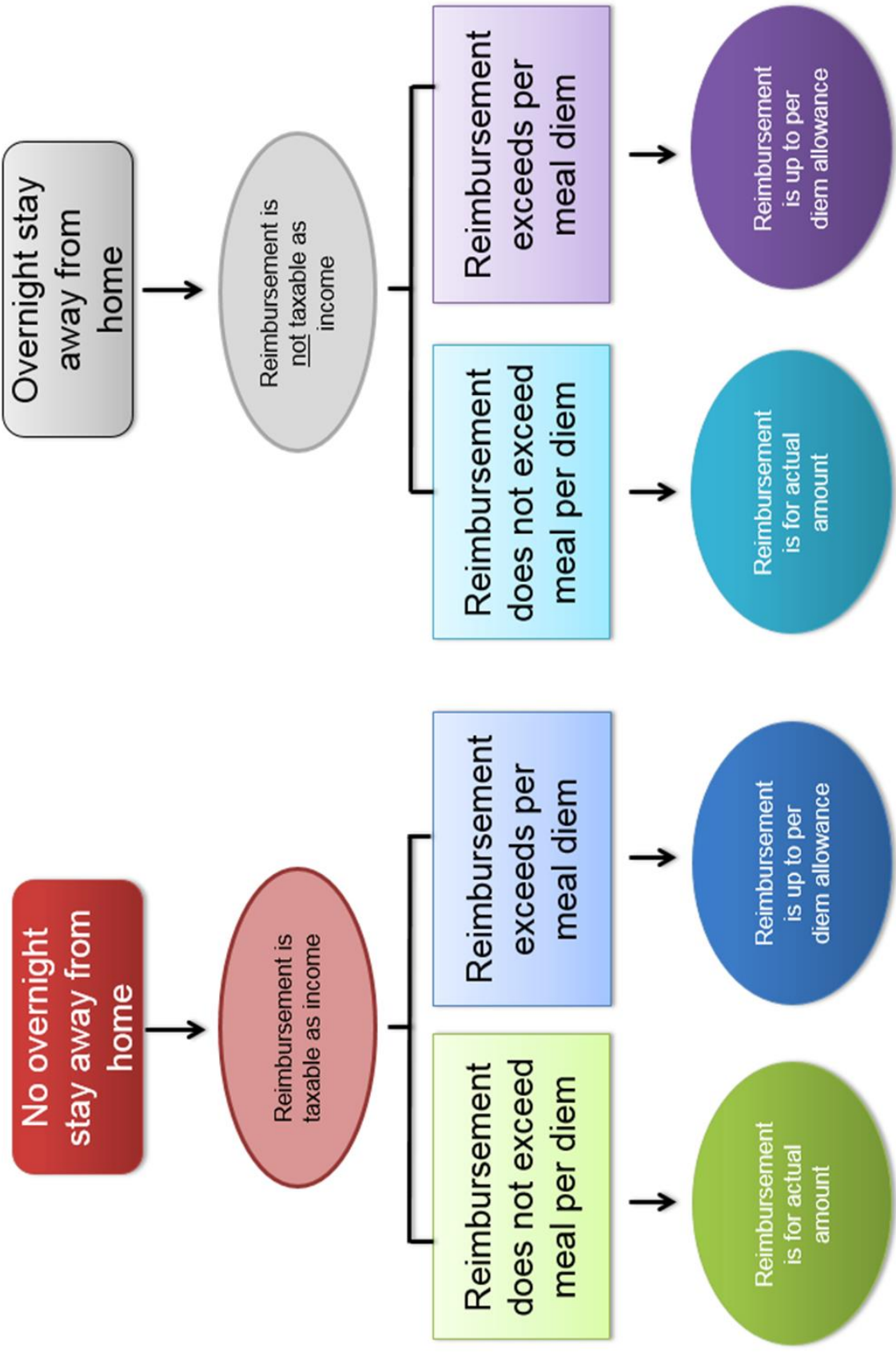
Amendments:

- The language in the Certification or Agreement form should not be altered in any way. For example, the Contractor may not line out the “Hold Harmless” section of the Agreement. Any such change makes the entire contract null and void.
- If it is necessary to amend the terms of the Agreement after the Independent Contract is fully executed, an Amendment to the Agreement will need to be completed and approved in order to facilitate the change(s) and amend the contract; original signatures are required.
- An Amendment section is available in the BSF-01 Independent Contractor form. The Amendment must be signed by all parties prior to the change of terms being provided.
- After all required signatures are complete, the original Amendment should be sent to Accounts Payable, to be attached to the original Agreement.
- If an amendment to the Scope of Service would result in a change to the definition of service, a new Certification and Agreement must be completed in lieu of an Amendment.

Cancellations:

- An Agreement may be cancelled by either BCOE or an Independent Contractor upon submission of ten (10) days advance notice. The cancellation should be personally served or sent by U.S. mail. In the event of cancellation, the Independent Contractor will be paid for all services performed up to the date of cancellation.

Flow Chart of Travel Expenses



Contracts

- Policy regarding contract conformity, Affirmative Action, and contracting with Butte County Office of Education (BCOE) employees or spouses, is outlined in SP 3312.
- All contracts must include the following key components:
 - Beginning and ending date of contract
 - Services to be provided by outside agency (scope of work)
 - Services to be provided by BCOE (scope of work)
 - Payment amount, terms, and schedule
 - Contract termination options
 - Liability contingency and resolution
 - Terms and conditions of addendum to contract
 - Approval of all parties involved (see below)
- All contracts between BCOE and outside agencies must be signed by all parties involved including, but not limited to, outside agency administration with authority to enter into a contract, BCOE administrative management with program budget authorization, and the Division Asst. Superintendent.
- In addition to the above signatures, any prepared contracts that exceed the signing limit of the Division Asst. Superintendent (\$20,000) are required to have the approval of the Superintendent.
- Contracts must be fully executed **prior** to services being rendered or payments allocated. **IMPORTANT: If contracts are established after services have been rendered, payment to the Independent Contractor may be denied.**
- The amount of the contract must be encumbered in a purchase order, with any subsequent payments processed in reference to the purchase order. The required encumbrance ensures that funds are set aside and tracked in the budget in order to meet the financial obligations of the approved contract.
- Copies of all fully executed contracts with outside agencies are to be provided to Fiscal Services to be saved on the network and/or included in budgetary files. The contract information supplies the financial department with expected revenue source information, and assists in the facilitation of a current and accurate budget.