CONTRACTED CONSULTING AND PROFESSIONAL SERVICES

Background

From time to time, specialized professional services may be required that cannot be provided by Board employees.

Contracted consulting and professional services are defined as the provision of unique, technical and/or infrequent services or advice by an independent contractor qualified by education, experience and/or technical ability to provide such services. The contractor may not be required to be licensed. In most cases these services are of a specific project nature, and are not a continuing, on-going responsibility of the School District. Contracted consulting and professional services engagements may involve partnerships, corporations, or individuals.

Examples of consulting and professional services contracts include: accountants, actuaries, appraisers, attorneys, brokerage firms, business consultants, copywriters, engineers, law firms, physicians, public relations professionals, recruiters, researchers, translators, software engineers and web designers.

1. Scope

1.1. This administrative procedure applies to all school district contracted consulting and professional services, regardless of the ultimate source of funding.

1.1.1. This policy does not apply to contracted on-going services (e.g. school bus or taxi services), or services for required projects, facilities maintenance, information services contracts, or capital construction project contracts (including architectural services, engineering services, etc.).

1.2. Formal approval must be obtained prior to entering into a contract for consulting and professional services as defined in this policy.

1.3. If a circumstance arises that is not specifically covered in the procedures below, the most conservative course within the "spirit" of this policy must be adopted or the responsible person should consult the Superintendent, the Secretary Treasurer or the Assistant Secretary Treasurer, Corporate and Financial Services.

1.4. All requests for consulting and professional services must be approved by an authorized individual as outlined below.

Amount	**Authorization Required**
Over $25,000	Secretary Treasurer or Superintendent
0 - $25,000	District Leadership Team Member

2. Procedures

2.1. Purchasing of Consulting and Professional Services

2.1.1. All purchases done on behalf of the School District must be made in accordance with Administrative Procedure 514 - Purchasing. Whenever practicable, consulting and professional services are to be processed through the Purchasing Department, invoiced to the School District and paid by the Accounting Department.

2.2. Contract Format

2.2.1. All consulting and professional services agreements must be in writing in a format approved by the Purchasing Department. The Purchasing department will seek advice from Legal Counsel if required.

2.3. Employee or Independent Contractor

2.3.1. An employer/employee relationship exists where a person providing a service is deemed, for Revenue Canada purposes, to be an employee of the Board. In this case, the Board is required by law to provide statutory benefits and make specific source deductions from payments. Please refer to Appendix 1 for more details.

2.3.2. When an employer/employee relationship exists, standard Board hiring procedures must be followed. The individual will be paid through the payroll system, the payments will be subject to source deductions for income tax, CPP and EI , and will be reported on a T4 slip.

2.3.3. Generally, the hiring of retired employees as backfill for permanent employees on leave should be treated as temporary employment and not as contracted consulting.

2.4. Method of Payment

2.4.1. All invoices for consulting and professional services must be submitted to the Accounting Department for processing and payment.

2.5. Filing

2.5.1. A copy of all approved professional services contracts will be provided to the Assistant Secretary Treasurer, Corporate and Financial Services and the Purchasing Department for record retention and documentation.

Appendix 1

Determination of Employment Relationship

Various indices have evolved from court cases over the years as to whether an individual is an employee or self-employed. These indices are often grouped into "tests". For example, one general test is the control test. Others may be described as the integration test, the economic reality test and the specified result test.

While a number of tests have been used by the courts in determining whether or not an individual is an employee, no one test is conclusive. The question can only be settled by examining the whole of the various elements which constitute the relationship between the parties.

Control

In an employer/employee relationship, the employer has the right to control the employee's method of doing the work. This might be compared to the situation (i.e. self-employment) in which the work to be done is controlled but not the manner of doing it. In the former, the employer determines what is to be done and how it is to be done; in the latter, the employer determines what is to be done but not how it is to be done. The degree of control exerted (frequently referred to as the "control test") may be examined in light of the following:

- the employer's power to select the employee,
- the extent to which the employee is subject to the supervision of his/her employer,
- the method and nature of compensation,
- the employer's right to determine the hours of work,
- the power to delegate, and
- the employer's right to dismiss or suspend the employee.

Integration

The integration test examines the role of the individual in the Board and if the work done is an integral part of the Board's business, the individual is an employee. If the work done can be severed from the Board’s regular business, that may be an indication that the individual is self-employed.

Economic Reality

The economic reality test examines the opportunity for profit (or loss) and investment in facilities. The absence of chance of profit and risk of loss may indicate an employee relationship (for example, where a fixed salary is paid and there are few expenses not reimbursed by the employer).

Specified Result

If the contract provides for a specific result to occur but does not contemplate the services of any particular individual to accomplish that result, then the relationship may be one of self-employment. If, on the other hand, the contract requires the services of one person to be put at the disposal of another for a fixed or indeterminate time, the relationship may be that of an employee.

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