



Flagstaff Unified School District #1

Purchasing Department

5400 E. Railhead Ave.

Flagstaff, AZ 86004

INDEPENDENT CONTRACTOR AGREEMENT FOR SUPPLEMENTAL EDUCATIONAL SERVICES (SES)

This Agreement, identified as ICA # _____ is made between Flagstaff Unified School District, No. 1 with a principal place of business at 3285 E. Sparrow Ave., Flagstaff, AZ 86004 and _____(Contractor), with a principal place of business at:

This Agreement becomes effective on _____ and will end no later than _____.
with the understanding that a valid fingerprint clearance card will be presented within the given timeframe on page 6 of this document. Failure to present a clearance card may result in this contract being canceled.

1. Accordance with Law. The terms of this Contract shall be construed in accordance with Arizona law, the Arizona Administrative Codes and the Uniform System of Financial Records; any action thereon shall be brought in the appropriate court in the State of Arizona.
2. Duties and Compensation. The Contractor's duties and compensation provisions for payment thereof shall be as set forth in Attachment A, and may be amended in writing from time to time, or supplemented with subsequent estimates for services to be rendered and payment received by the Contractor and agreed to by FUSD, and which collectively are hereby incorporated by reference.
3. Term of Agreement. This Agreement shall commence _____, 20____, and shall continue in full force and effect through _____, 20____ or earlier upon completion of the Contractor's duties under this Agreement. This Agreement may only be extended thereafter by mutual consent, unless terminated earlier by operation of and in accordance with this Agreement.
4. Expenses. During the term of this Agreement, the Contractor shall bill and FUSD shall reimburse Contractor in connection with the performance of the duties hereunder as specified in Attachment A. Notwithstanding the foregoing, expenses for the time spent by Contractor in traveling to and from FUSD facilities shall not be reimbursable. Standard FUSD payment terms are Net 30.
5. Independent Contractor. This Agreement shall not render the Contractor an employee, partner, agent of, or joint venturer with FUSD for any purpose. The Contractor is and will remain an independent contractor in relationship to FUSD. FUSD shall not be responsible for withholding taxes with respect to the Contractor's compensation hereunder. The Contractor shall have no claim against FUSD hereunder or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.
6. Indemnification. Contractor shall indemnify, defend and hold FUSD harmless from and against all claims and actions, and all expenses incidental to such claims and actions, based upon or arising out of damage to property, personal injury or other tortuous acts caused by or contributed to by Contractor or anyone acting under Contractor's direction or control or on Contractor's behalf in the course of performance under this Agreement. Contractor's obligations shall not apply to liability based upon the sole negligence of FUSD.

7. Insurance. The Contractor will carry liability and auto insurance, acceptable to FUSD, (including malpractice insurance, if warranted) relative to any service that is performed for FUSD. Contractor shall provide proof of requested insurance upon request by FUSD.
8. Termination of Agreement.
- A. Termination for Convenience
- Either party may terminate this Contract at any time with thirty (30) days notice in writing to the other party. This provision does not preclude FUSD from terminating the Contract sooner under other applicable provisions of this Contract.
- B. Termination by Mutual Consent
- This Contract may be terminated by mutual written agreement of the parties specifying the termination date therein.
- C. Termination for Cause.
- If the Contractor is convicted of any crime or offense, fails or refuses to comply with the written policies or reasonable directive of FUSD, is guilty of serious misconduct in connection with performance hereunder, or materially breaches provisions of this Agreement, the FUSD at any time may terminate the engagement of the Contractor immediately and without prior written notice to the Contractor.
- D. Right of Cancellation per A.R.S. § 38-511
- Notice is given that pursuant to A.R.S. § 38-511 FUSD may cancel this contract without penalty or further obligation within three years after execution of the Contract, if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of FUSD is at any time while the Contract or any extension of the Contract is in effect, an employee or agent of any other party to the Contract in any capacity or consultant to any other party of the Contract with respect to the subject matter of the Contract.
- Additionally, pursuant to A.R.S. § 38-511 FUSD may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of FUSD from any other party to the Contract arising as the result of the Contract.
9. Laws Rules and Regulations
- A. This Contract and Contractor is subject to all state and federal laws, rules and regulations that pertain hereto, including OSHA statutes and regulations.
- B. The terms of this Contract shall be construed in accordance with the laws, ordinances, rules, regulations and zoning restrictions of the United States of America, the State of Arizona, County of Coconino, City of Flagstaff; any action thereon shall be brought in the appropriate court in the State of Arizona.
10. Notices. Any and all notices, demands, or other communications required or desired to be given hereunder by any party shall be in writing and shall be validly given or made to another party if personally served, or if deposited in the United States mail, certified or registered, postage prepaid, return receipt requested. If such notice or demand is served personally, notice shall be deemed constructively made at the time of such personal service. If such notice, demand or other communication is given by mail, such notice shall be conclusively deemed given five days after deposit thereof in the United States mail addressed to the party to whom such notice, demand or other communication is to be given as follows:

If to the Contractor:

If to FUSD:

_____ (location)

_____(Point of Contact)

_____(Address)

_____(Address)

Ph: _____

Fax: _____

Any party hereto may change its address for purposes of this paragraph by written notice given in the manner provided above.

11. Modification or Amendment. No amendment, change or modification of this Agreement shall be valid unless in writing signed by the parties hereto.
12. Entire Understanding. This document and any exhibit attached constitute the entire understanding and agreement of the parties, and any and all prior agreements, understandings, and representations are hereby terminated and canceled in their entirety and are of no further force and effect.
13. Unenforceability of Provisions. If any provision of this Agreement, or any portion thereof, is held to be invalid and unenforceable, then the remainder of this Agreement shall nevertheless remain in full force and effect.
14. Non-Discrimination. The Contractor, in connection with any service other activity under this Contract, shall not discriminate against any person on the grounds of race, color, religion, sex, national origin, age, disability, ability to pay, sexual orientation or political affiliation. The Contractor shall also comply with all applicable provisions of the Americans with Disabilities Act of 1990.
15. Safeguarding of Confidential Information. Confidential and privileged district information shall be safeguarded by FUSD and Contractor pursuant to all applicable federal, state, and local laws, rules and regulations. The use or disclosure of any information concerning any Client served is prohibited and directly limited to the performance under the terms of this Contract. Contractor will not disclose or use, either during or after the term of this Agreement, any proprietary or confidential information of Client without Client's prior written permission except to the extent necessary to perform services on Contractor's behalf.

Proprietary or confidential information includes written, printed, graphic or electronically recorded materials furnished by Client for Contractor to use; District plans, personnel issues or operating procedures.

Contractor shall not be restricted in using any material, which is publicly available, already in Contractor's possession, or known to Contractor without restriction, or which is rightfully obtained by Contractor from sources other than Client.

Upon termination of Contractor's services to Client, or at Client's request, Contractor shall deliver to Client all materials in Contractor's possession relating to Client's business.

16. Criminal Background. The Contractor affirms that it, its employees and subcontractors have had no prior offenses or convictions involving the sale or possession of illegal drugs, nor any prior offenses or convictions dealing with sexual misconduct, particularly with children.
17. Offshore Performance. Due to security and identity protection concerns, direct services under any subsequent contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the school district(s) or charter school(s) or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or "overhead" services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.
18. Contractor's Employment Eligibility. By entering the contract, contractor warrants compliance with A.R.S. 41-4401, A.R.S. 23-214, the Federal Immigration and Nationality Act (FINA), and all other federal immigration laws and regulations.

The District may request verification of compliance from any contractor or subcontractor performing work under this contract. The District reserves the right to confirm compliance in accordance with applicable laws.

Should the District suspect or find that the contractor or any of its subcontractors are not in compliance, the District may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the contract for default, and suspension and/or debarment of the contractor. All costs necessary to verify compliance are the responsibility of the contractor.

19. Terrorism Country Divestments. Per A.R.S. 35-392, the District is prohibited from purchasing from a company that is in violation of the Export Administration Act.
20. Registered Sex Offender Restriction. Pursuant to this order, the named vendor agrees by acceptance of this order that no employee of the vendor or a subcontractor of the vendor, who has been adjudicated to be a registered sex offender, will perform work on District premises or equipment at any time when District students are, or are reasonably expected to be, present. The vendor further agrees by acceptance of this order that a violation of this condition shall be considered a material breach and may result in a cancellation of the order at the District's discretion.
21. Fingerprinting Requirements. A contractor, subcontractor or vendor, or any employee of contractor, subcontractor or vendor, or any employee of a contractor, subcontractor or vendor, who is contracted to provide services on a regular basis at an individual school, shall obtain a valid fingerprint clearance card pursuant to A.R.S. 41-1758 et seq. The Superintendent, or a principal subject to approval by the Superintendent, may exempt from the requirement to obtain a fingerprint clearance for a contractor, subcontractor, or vendor whom the Superintendent or principal has determined is not likely to have independent access to or unsupervised contact with students as part of their normal job duties while performing services to the school or to the School District. The exemption (on page 6) shall be given in writing and a copy filed in the District office.
22. Contractor's Debarment Disclosure.

I, _____
(PRINT NAME)

certify that I:

(Check One)

- ☐ have had no past history or pending proceedings for debarment, suspension or lawful preclusion from participation in public procurement activities.
- ☐ have had a past history or is pending proceedings for debarment, suspension or lawful preclusion from participation in public procurement activities. A letter setting forth the complete relevant circumstances relating to the suspension, debarment or preclusion from public procurement participation is enclosed.

23. Business Permits, Certificates and Licenses. Contractor has complied with all federal, state and local laws requiring business permits, certificates and licenses required to carry out the services to be performed under this Agreement.
24. Intellectual Property Ownership. Contractor assigns to Client all rights in all designs, creations, improvements, original works of authorship, formulas, processes, know-how, techniques, inventions and all other information or items specifically created on behalf of the District by Contractor, that is pertinent and applicable to this Scope of Work and for the specific use by the District during the term of this Agreement.

The Client retains rights assigned to include title and interest in all patent, copyright, trade secret, trademark and other proprietary rights for original designs, creations, improvements, works of authorship, formulas, processes, know-how, techniques, inventions and all other information that is non-pertinent and applicable to this Scope of Work.

Contractor shall help prepare any papers that Client considers necessary to secure any patents, copyrights, trademarks or other proprietary rights at no charge to Client. However, Client shall reimburse Contractor for reasonable out-of-pocket expenses incurred.

25. Affordable Care Act. Proposer understands and agrees that it shall be solely responsible for compliance with the Patient Protection and Affordable Care Act, Public Law 111-148 and the Health Care and Education Reconciliation Act, Public

Law 111-152 (collectively the Affordable Care Act "ACA"). Proposer shall bear sole responsibility for providing health care benefits for its employees who provide services to the District as required by state or federal law.

26. Arizona State Retirement System: Beginning July 01, 2012, Arizona Revised Statutes 38-766-02 requires the District to pay ASRS a contribution rate on behalf of a retired member who returns to work.

I, _____

(PRINT NAME)

certify that I:

(Check One)

☐ am a retiree of the Arizona State Retirement System.

If yes, were you ever employed by this District? Yes _____ No _____

☐ am not a retiree of the Arizona State Retirement System.

IN WITNESS WHEREOF the undersigned have executed this Agreement as of the day and year first written above.

Contractor:

Name of Contractor: _____ (Printed)

By: _____
(Signature)

Taxpayer ID Number: _____

Date: _____ Phone: _____

E-mail address: _____

District Client:

District Location: _____

District Representative: _____ (Site Contact)

☐ In accordance with Section 20, page 5, the, I hereby request fingerprinting exemption for this Contractor, subject to approval by the FUSD Superintendent, in that the Independent Contractor will not have any unsupervised contact with students.

☐ Temporary fingerprinting exemption is requested until Independent Contractor acquires a fingerprint card from local or state authorities, recognizing that the fingerprint card MUST be presented to me, with a copy forward to Materials and Contract Management, within 60 calendar days from the signing of this agreement, estimated to be _____.

☐ No fingerprinting exemption or Superintendent's approval required. Copy of an approved state or local fingerprint card is attached.

Requesting Principal or Dept. Head: _____

By: _____ Date: _____
(Signature of Principal or Department Head)

SUPERINTENDENT’S STATEMENT: As the Superintendent of Flagstaff Unified School District, I approve the fingerprint exemption or temporary exemption for this Contractor.

Signature Date

Materials and Contract Management Dept., 5400 E. Railhead Ave., Flagstaff, AZ 86004

Title: _____

By: _____ Date: _____
(Signature)

SCHEDULE A

DUTIES, TERM, AND COMPENSATION

DUTIES: The Contractor will [describe here the work or service to be performed]

The Contractor will report directly to _____ and to any other party designated by _____ in connection with the performance of the duties under this Agreement and shall fulfill any other duties reasonably requested by the Company and agreed to by the Contractor.

COMPENSATION: (Choose A or B)

A. As full compensation for the services rendered pursuant to this Agreement, the Company shall pay the Contractor at the hourly rate of \$_____ per hour, with total payment not to exceed \$_____ without prior written approval by an authorized representative of the Company. Such compensation shall be payable within 30 days of receipt of Contractor's monthly invoice for services rendered supported by reasonable documentation.

B. As full compensation for the services rendered pursuant to this Agreement, the Company shall pay the Contractor the sum of \$_____, to be paid _____ [time and conditions of payment.]

**INDEPENDENT CONTRACTOR AGREEMENT
FOR SUPPLEMENTAL EDUCATIONAL SERVICES (SES)**

ATTACHMENT "A", DUTIES, TERM, AND COMPENSATION

VENDOR REGISTRATION

- Vendors are strongly encouraged to attend the SES organizational meetings conducted by the District just prior to the start of each individual school's Provider Fair.
- Vendors must complete a FUSD *Vendor Registration Form* and return it to Dave Dirksen, Flagstaff Unified School District, Office of Educational Enrichment, 3285 East Sparrow Avenue, Flagstaff, AZ 86004.
- Vendors utilizing school facilities must provide proof of insurance.
- Vendors must ensure that all company tutors have successfully passed required background checks.
- Vendors must submit a list of tutors with copies of all tutors' fingerprint cards prior to initiating tutoring services.

SUPPLEMENTAL EDUCATIONAL SERVICES (SES) AGREEMENT

- Only official copies of the ARIZONA DEPARTMENT OF EDUCATION SUPPLEMENTAL SERVICES (SES) AGREEMENT may be used for students in the Flagstaff Unified School District. Copies that have been modified from their original form will not be accepted.
- SES Agreement Tutoring/Learning Goals for each student must be established prior to the first tutoring session and should adhere to the following:
 - ✓ Goals should be developed collaboratively by the vendor, the school, and the parent/guardian.
 - ✓ Goals should be expressed using the SMART framework (Strategic and Specific, Measurable, Attainable, Results-based, and Time-bound).
 - ✓ Goals must address the student's identified need, thus creating an individual plan of action for each child tutored.
- All sections of the SES Agreement must be completed in full, including all required signatures/initials of the parent, vendor, and school official prior to initiating tutoring services.

SERVICES TO STUDENTS

- Vendors and their tutors may not disclose any information about any student to anyone outside the school community.
- Tutors are expected to carry their fingerprint card and wear a badge identifying their vendor affiliation at all times while on campus.
- Tutoring services may begin only after:
 - ✓ A Vendor Registration Form has been completed
 - ✓ A Vendor Contract had been completed and approved
 - ✓ Insurance information has been received and approved
 - ✓ Copies of tutor fingerprint cards have been received
 - ✓ A purchase order has been issued
 - ✓ An SES Agreement has been fully completed and signed/initialed by all parties (vendor, parent, school official)
- Vendors must provide consistent tutoring for students; vendors may not serve students intermittently by starting, stopping, starting, stopping services. Once tutoring has begun, vendors are expected to provide tutoring services to each student a minimum of one (1) day per week (except during holiday weeks).
- Tutoring groups are to remain small (not to exceed 3 students per session)
- All SES tutoring is to be conducted in English,
- Each tutor must supply a weekly tutoring schedule to the school in advance so that school officials are aware of which tutors and which students will be working together each week.
- Vendors must assume the responsibility of arranging for approved substitutes in the event that their tutor(s) are going to be absent.
- Hopefully this will be a rare occurrence.....but if there are ever changes to the scheduled learning sessions, it is the responsibility of the vendor to provide early notification to the student, parent, and school officials.
- Tutors must ensure that all students have safely left the campus before they, themselves, depart.
- Progress Reports are required to be submitted to the parent and the designated school official; it is expected that three (3) progress reports will be generated - the first report to be issued one-third of the way through the tutoring period; the second report to be issued two-thirds of the way through the tutoring period; and, the third report to be issued at the conclusion of tutoring for each child.

USE OF SCHOOL FACILITIES

- Vendors are encouraged to use school facilities for SES tutoring services as per the following:
 - ✓ School facilities may be used only during those days when school is in session.
 - ✓ Scheduling of school facilities must be arranged with the building principal.
 - ✓ Vendors and their tutors may not use classroom supplies.
 - ✓ Each classroom used for tutoring must be left in the same condition as it was found upon arrival.
 - ✓ The custodial staff is not on call for vendors or their tutors; however, custodians will readily assist with emergency safety issues.
 - ✓ No keys will be issued to SES vendors or tutors.
 - ✓ All tutors are expected to carry their fingerprint card and wear a badge identifying their vendor affiliation at all times while on campus.

COMPENSATION FOR SERVICES RENDERED

- FUSD's 2008-2009 PPA allocation from the Department of Education is \$1,023
- Pre and post assessments are the responsibility of the vendor and are included in the \$1,023 figure.
- The capped rate is \$55 per tutoring hour (maximum of three (3) students per tutoring session)
- FUSD does not pay for any student "no shows" or "absences"
- Monthly Invoices and Attendance Sign-In/Timesheets should be submitted to Nina Jones, Flagstaff Unified School District, Office of Educational Enrichment, 3285 East Sparrow Avenue, Flagstaff, AZ 86004.
- An SES Attendance Sign-In/Timesheet signed (not initialed) by the student must be submitted when invoicing the District each month. Monthly invoices submitted without these attendance sheets containing the student signatures will not be processed.
- Vendors are to submit one (1) timesheet per student per month.
- Failure to provide the three timely progress reports to parents and school official as stipulated previously will result in delayed or withheld payments.
- Thirty (30) days is the standard processing time from receipt of invoices and Attendance Sign-In/Timesheets to issuance of payment.

MISC./OTHER

- "No Shows": In FUSD a "no show" is defined as a student with an approved SES agreement but who has not attended any scheduled tutoring sessions. If a student does not show for the first tutoring session, the vendor should contact the parents and remind them of the tutoring schedule and encourage them to have their child attend; if the student does not show for the second tutoring session, the vendor should contact the parents and inform them that if the student misses a third time, the student will be dropped due to non-participation. FUSD does not render payments for "No Shows".
- Absences: In FUSD an "absence" is defined as a student with an approved SES Agreement and who has attended at least one tutoring session and is now absent from a session. The vendor should contact parents regarding absences in exactly the same fashion as described above for "no shows". FUSD does not render payment for "absences".
- Complaints or issues that arise should be reported immediately to the building principal.
- Providers are to refrain from canvassing initiatives prior to the District-sponsored Provider Fairs each year.
- Providers are prohibited from canvassing anywhere on school district property; the annual Provider Fairs are the only ON-CAMPUS opportunity for vendors to sign-up parents/families for tutoring services.
- FUSD is required to evaluate SES services provided by the SES tutoring companies and forward these evaluations to the Arizona Department of Education.
- Vendors may not charge students/families for learning materials, workbooks, etc.
- Tutoring may NOT occur during the instructional day.
- All State and Federal NCLB requirements must be adhered to.