

PROCEDURE

Series:	HR-Practices	COA: HR 5.04; RPM 2.01; NET 3, NET 7 CFOP:
Procedure Name:	Legal Compliance	
Procedure Number:	HR 2507	
Reviewed Date:	1/18/13, 12/1/15	
Revision #/Date:	(1) 8/11/14, (2) 11/1/19	
Effective Date:	09/04	
Applicable to:	All Brevard Family Partnership Family of Agencies (BFP FOA) Staff, Temporary Staff, Independent Contractors, Interns and Volunteers	

PURPOSE: To ensure compliance with all employment related labor and tax laws impacting employees or others engaged to perform work for the agency. To ensure that Independent Contractors meet the definition as prescribed by the Fair Labor Standards Act (FLSA).

References: HR 2220 Legal and Fair Employment Practices

PROCEDURE:

BFP FOA Staff (Leased Employees):

1. Brevard Family Partnership has a client services agreement with a Professional Employer Organization (PEO). As a result of this arrangement, the agency staff is considered "leased" employees to the BFP FOA.
2. All new hires are provided a job description which identifies the FLSA classification in accordance with the regulations. The FLSA designation is assigned by the Human Resources Manager in accordance with the FLSA governed by the Department of labor.
3. All new hires are offered compensation based on the agency's salary administration program and is expressed in offer letters and on new hire paperwork as a bi-weekly pay for exempt staff and as an hourly rate for non-exempt staff.
4. Overtime for non-exempt staff if applicable is paid at the federal overtime rate or that of the State of Florida whichever is higher.
5. New employees complete initial W-4 withholding forms which are used to calculate tax withholding. All staff may change these elections during the year as their personal circumstances change.
6. Employees also complete a W-9 form for reimbursements for travel related expenses in compliance with accounting procedures.

Temporary Staff:

1. Temporary employees placed to perform work at the agency are employees of a temporary firm. The staffing firm is responsible for the payment of wages, ensuring proper tax reductions and for any calculation and payment of minimum wage and overtime for non-exempt staff.
2. When temporary staff is sourced and begin with the agency, the Human Resources Manager negotiates with the staffing company on the bill rate for the position; the hourly rate for which the agency will be billed. The Human Resources Manager ensures that the federal or state minimum wage requirement is met or exceeded. Payment to the individual is between the staffing firm and its employee.
3. The agency supervisor of the temporary employee or Human Resources Manager is responsible for signing the timesheet on the payroll basis of the staffing company and the temporary employee is responsible for submitting this document to the staffing company in order to receive the wages.
4. The staffing company is responsible for the payment of taxes, and for providing Unemployment Insurance and coverage for Workers Compensation. Before a relationship begins with a staffing firm, the Human Resources Manager meets with a representative of the firm and receives documentation that required deductions and insurance requirements are provided to the temporary staff member.

Independent Contractors:

1. When Independent Contractors are engaged by the agency for specific projects or events, the agency executes an Independent Contractor Agreement with the individual or organization representing the individual.
2. These Agreements clearly specify the scope of the work to be performed, the timeframe in which the work will be performed and the fee to be paid for the services delivered.
3. The Agreement also documents that the relationship of the Independent Contractor and the agency is not an "employment" relationship and that the agency does not provide Unemployment Insurance or Workers Compensation coverage, office space, staff, or other agency equipment.
4. The Independent Contractor must complete a W-9 form and wages paid will be documented on a 1099 which is sent to the individual no later than January 31 of the following calendar year.

Interns:

1. If interns work for the agency this may be in a paid or unpaid arrangement providing the federal guidelines are met for non-profit exemptions if the intern will be unpaid.

2. Paid interns are enrolled in the PEO payroll system where the taxes are withheld according to the intern's designation on the W-4 form and interns will be paid at a rate not less than the federal minimum wage or the Florida state rate whichever is higher. Paid interns would be considered "temporary" employees in this event and would be covered under Unemployment and Worker's Compensation Insurance.
3. Unpaid interns, if considered, would have to meet all the following requirements in accordance with the Department of Labor and as such would not be "paid," covered by Worker's Compensation or Unemployment Insurance:
 - (a) The training, even though it includes actual operation of the facilities of the employer, is similar to that which would be given in a vocational school.
 - (b) The training is for the benefit of the trainees or students.
 - (c) The trainees or students do not displace regular employees but work under their close observation.
 - (d) The employer that provides the training derives no immediate advantage from the activities of the trainees or students, and on occasion his/her operations may be impeded.
 - (e) The trainees or students are not necessarily entitled to a job at the conclusion of the training period.
 - (f) The employer and the trainees or students understand that the trainees or students are not entitled to wages for the time spent in training.

Note that ALL the above criteria must be met, otherwise the trainee or student is an employee and must be paid at least minimum wage. Reference: <https://www.dol.gov/whd/flsa/>

Volunteers:

1. When volunteers are engaged to assist with short- or long-term office projects or for specific events these are unpaid positions.
2. Volunteers are covered under the agency Volunteer Insurance for participation at agency events but are not covered under a Workers Compensation Policy.

BY DIRECTION OF THE CHIEF EXECUTIVE OFFICER:



PHILIP J. SCARPELLI
Chief Executive Officer
Brevard Family Partnership Family of Agencies

APPROVAL DATE: [1/27/2020](#)