



Independent Contractor Determination Application

Individual to mail completed form to address below

Complete with black or blue ink only. Your request will be rejected if there is any whiteout on this form.

COMPLETED BY THE INDIVIDUAL

New application Renewal/amendment/modification

Name (First, Middle, Last)

Last 4 digits of SSN

Phone number

XXX-XX-

Mailing address

City

State

Zip

Last LAU employer

Position held at last LAU (pre-retirement)

Name of contact at last LAU employer

Phone number

Proposed Contract Information

LAU name

Contract start date, if known
(mm/dd/yyyy)

Contract end date, if known
(mm/dd/yyyy)

Mailing address

City

State

Zip

Supervisor name

Phone number

Questionnaire About the Individual's Business

Name of Individual's business

1. Describe the nature of your business: _____

2. Describe the services to be performed: _____



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- 3. Did you perform these services for the LAU in any capacity prior to this proposed contract? yes no
 - If yes, list the dates of prior service: _____
 - If yes, explain the differences, if any, between the current and prior service: _____
 - _____
 - Was the prior service performed as an employee? yes no
- 4. Is the service to be performed covered by a written agreement? yes no
(if yes, please include the agreement and job description)
- 5. If there is no written agreement yet available, describe the terms and conditions of the services to be performed and attach a job description to this application: _____

- 6. Have or will you receive training from/by the LAU? yes no
If yes, please explain: _____

- 7. Will you be given written instructions, procedures, guidelines on how to perform your services? yes no
If yes, please explain and attach these document(s): _____

- 8. Will the LAU direct you on how to do your work? yes no
If yes, please explain: _____

- 9. Is it a requirement that you be supervised or controlled by the LAU in the performance of the services? yes no
If yes, please explain: _____

- 10. Is the LAU engaging you to perform and complete a particular job only? yes no
If yes, please explain: _____

- 11. Is the LAU engaging you to work at a job for an indefinite period of time? yes no
If yes, please explain: _____

- 12. Are you required to follow a routine or schedule? yes no
If yes, please explain: _____

- 13. Will/do you furnish a record of time for the job? yes no
If yes, please explain and provide any schedule and means of reporting: _____



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14. List the kind of tools, equipment, supplies furnished by the LAU, if any: _____

15. List the kind of tools, equipment, supplies furnished by you, if any: _____

16. What expenses are incurred by you in the performance of these services? _____

17. Is the LAU to reimburse you for any expenses? yes no
If yes, please list: _____

18. Will you perform services personally? yes no

19. Do you have helpers (employees)? yes no
If yes, who hires and pays them: _____

20. If you will hire employees, do you need LAU approval? yes no

21. What location are your services being performed? _____

22. Describe how your services are billed, i.e., hourly, by task, other: _____

23. Are you eligible for any benefits (e.g., pension, bonus, paid vacations, sick pay, etc.)? yes no
If yes, please list: _____

24. Will/does the LAU carry Workers Compensation insurance on you? yes no

25. Will/does the LAU deduct Social Security, Medicare taxes, and federal income taxes from the amounts paid to you? yes no

26. How will/does the LAU report your income to the Internal Revenue Service? _____

27. How many hours a day will/do you perform services for the LAU? _____

28. Will/does the LAU set the time/hours of the day that you work? yes no

29. Will/do you perform similar services for other employers? yes no

30. Do you perform the services under a business name? yes no

31. Do you advertise or maintain a business listing in a phone, trade, or journal directory? yes no



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- 32. Do you provide business cards? If yes, please provide samples. yes no
- 33. Do you hold yourself out to the public as being in business to perform the services? yes no
- 34. Does/will the LAU identify you as an employee? yes no
- 35. How did the LAU learn of your services? _____
- 36. Are licenses necessary for the services? yes no
If yes, please list which license(s): _____
- 37. Are there licensing fees? yes no
If yes, who is responsible for paying the fees? _____
- 38. Do you have a financial investment in the business related to the services rendered? yes no
- 39. Can you incur a loss in the performance of the service for the LAU? yes no
If yes, please explain: _____

- 40. Has the LAU ruled on your status (employee or independent contractor)? yes no
If yes, list their determination: _____
- 41. Do/will you assemble or process a product at home or away from the location of the services? yes no
If yes, please explain: _____
- 42. Has either the LAU or you filed an IRS Form SS-8 with respect to the service in question? yes no
- 43. Will the LAU issue you an IRS Form W-9 or an IRS Form 1099? yes no

I hereby acknowledge that the information herein is true and correct to the best of my knowledge and belief.

X _____

Retiree/Individual's signature

Date (mm/dd/yyyy)

➤ *Proceed to next section to be completed by LAU*



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COMPLETED BY THE LOCAL ADMINISTRATIVE UNIT (LAU)

Name of Applicant _____

- 1. Does the Individual regulate the hours of work during the day? yes no
- 2. Does the LAU furnish the tools, equipment, manuals, or written procedures for accomplishing the jobs? yes no
- 3. Does the Individual make these services available to the general public? yes no
- 4. Will the Individual be paid by the job as opposed to hourly, weekly, or monthly? yes no
- 5. Will the LAU pay or reimburse the Individual's expenses? yes no
- 6. Must the work (services) be performed on the LAU's premises? yes no
- 7. Does the LAU provide or control the detail of how the work is to be accomplished? yes no
- 8. Is the Individual required to perform the services personally? yes no
- 9. Are the services provided by the Individual considered a cog in the mission of the LAU? yes no
- 10. Is the Individual in a position to realize a profit or loss as a result of their services? yes no
- 11. Are the services to be performed by the Individual currently being performed by employees or last performed by an employee of the LAU? yes no
- 12. Does the arrangement between the Individual and LAU contemplate continuing or recurring work? yes no
- 13. Will the Individual be issued an IRS Form 1099? yes no

I hereby acknowledge that the information herein is true and correct to the best of my knowledge and belief.

Name of Authorized Officer (please print)	Title of Authorized Officer (please print)

X

 Authorized Officer's signature

 Date (mm/dd/yyyy)

Phone number	Email



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INSTRUCTIONS

An NMERB retiree (“Retiree” or “Individual”) who provides services as an independent contractor to an NMERB employer (“Local Administrative Unit” or “LAU”) does not have to suspend their retirement if NMERB determines that they qualify as an NMERB “Independent Contractor.”

General

1. To apply for Independent Contractor status determination, the Individual and hiring LAU must complete all appropriate sections of this form. The Individual must then mail the completed form to NMERB to the Santa Fe address.
2. The Individual must obtain a determination letter from NMERB stating that they have qualified as an Independent Contractor before they can begin providing services to the LAU. Pursuant to ERB rule 2.82.5.15(F), “Any retired member who is participating in the return to work program who has violated the provisions of the program, failed to submit the required return to work application, or is discovered to have been ineligible to participate in the program shall have their retirement immediately suspended and shall pay the educational retirement fund a sum equal to all retirement payments that they have received while ineligible under the provisions of the return to work program plus interest at a rate to be set by the board.”
3. If the Individual is approved as an Independent Contractor, member and employer contributions are not required to be made to NMERB. The Individual cannot earn service credit or purchase service credit for the time period the Individual provided service(s) to an LAU as an Independent Contractor.
4. NMERB reserves the right to contact the Individual’s former NMERB employer and any LAUs that they might be providing services relevant to the Individual’s Independent Contractor Determination Application(s).
5. NMERB will review the Individual’s application to determine if they have qualified as an NMERB Independent Contractor and will notify the Individual by postal mail.

For the Individual

1. You must submit information about the job contract that you are applying for to NMERB **at least 15 working days before** the contract effective date. This includes a complete job description. Renewals, amendments, or modifications of a previously approved Independent Contractor contract must also be submitted to NMERB **at least 15 working days before** the effective date.
2. You must include an official job description of your most recent employment with a LAU. Please be aware in most cases an NMERB Retiree will not qualify as an Independent Contractor if the proposed job contract describes essentially the same services you performed as an employee for that LAU prior to your retirement.
3. You must submit a separate Independent Contractor status application for each LAU that you propose to provide services to. Please keep a copy of this application for your records.
4. You must reapply for an Independent Contractor status with NMERB at the beginning of each new fiscal year.
5. Please call the NMERB Legal Department at (505) 827-8030 if you have any questions.