

Checklist: Utilizing Independent Contractors

Contract Development

- Review [Department of Labor](#) and [IRS criteria](#) to ensure an independent contractor relationship.
- Use Form SS-8 for IRS determination of independent contractor status if unclear and the determination cannot be made by the business.
- Develop a written agreement with an assigned specific scope of work for a specific duration.
- Do not have a contractor complete an employment application.
- Require the contractor to supply his or her own workers' compensation and liability insurance.
- Require the contractor to supply his or her own equipment and tools.
- Establish invoicing requirements and payment dates.
- Do not pay contractor expenses; expenses should be built into the contract for the cost of the entire job.
- Do not provide continuing education training. The company may provide training specific to the assignment or company procedures.
- Do not have contractors perform similar work of employees or perform routine work.
- Contractor work should not be close to core business operations and therefore considered employee-type work.
- Require documentation demonstrating an independent contractor relationship, such as a copy of business or professional license, copy of insurance certificates, copies of the independent contractor's advertising, and copy of the contractor's business card and stationery.

Contract Signed; Contractor Work to Begin

- Require the contractor complete Form W-9, Request for Taxpayer Identification Number and Certification. This form can be used to request the correct name and taxpayer identification number, or TIN, of the worker. A TIN may be either a Social Security number (SSN) or an employer identification number (EIN).
- Do not complete an I-9 form.
- Do not pay contractors from a payroll account.
- Do not provide an employee handbook.

- Do not allow independent contractors to enroll in any company-sponsored benefit plans or offer other benefits.
- Do not invite or permit contractors to attend company parties or special events intended for employees.
- Do not issue company business cards or employee ID badges to contractors.
- Restrict contractor participation in projects or department meetings.
- Do not give independent contractors authority for hiring, disciplinary action or termination decisions.
- Do not require the contractor to work “full time” or have set hours. Contractors should control when and how they work.
- Do not conduct performance evaluations similar to employee evaluations. Companies should require deadlines and results and can require contractors to follow job and company rules.

Contract Work in Progress (1 month to end of contract)

- Periodically review the contract and assigned scope of work to ensure contractor is working within the contract scope and maintaining independent contractor status.
- Confirm with company contact(s) that the contractor has not been provided additional duties or benefits outside the scope of the contract or anything else that would jeopardize independent contractor status.
- Retain records of all transactions with the contractor, such as the contractor’s invoices for billing.

Ongoing

- Review IRS criteria to ensure company is maintaining an independent contractor relationship.
- Confirm W-9 is on record and retained for four years.
- Send form 1099-NEC each year for any contractor (e.g., attorney, accountant, consultant) paid \$600 or more for services provided during the year.
- Review W-9 Record Retention Schedule to purge unneeded files.
- Retain W-9 for four years for future reference in case of any questions from the worker or the IRS.
- Destroy records that have met the retention requirements unless employer is involved in a dispute that has not yet been resolved.