



Independent Contractor vs. Employee Relationships

To assist SFM in determining if a laborer is an independent contractor or an employee, it is important for you to understand the reasons we are examining these labor costs. The state of Minnesota uses a 9 point test, to help us determine the independent contractor vs. employee relationship you have with all individuals/companies you paid for services.

For additional information, please refer to the Minnesota Department of Labor and Industry website.

<http://www.dli.mn.gov/WC/IndpCont.asp>

Under Minnesota statute 181.723, an individual is an independent contractor and not an employee if:

1. They maintain a separate business with the individual's own office, equipment, materials and other facilities;
2. (i) They hold or has applied for a federal employer identification number or (ii) has filed business or self-employment income tax returns with the federal Internal Revenue Service if the individual has performed services in the previous year;
3. They are operating under contract to perform the specific services for the person for specific amounts of money and under which the individual controls the means of performing the services;
4. They are incurring the main expenses related to the services that the individual is performing for the person under the contract;
5. They are responsible for the satisfactory completion of the services that the individual has contracted to perform for the person and is liable for a failure to complete the services;
6. They receive compensation from the person for the services performed under the contract on a commission or per-job or competitive bid basis and not on any other basis;
7. They may realize a profit or suffer a loss under the contract to perform services for the person;
8. They have continuing or recurring business liabilities or obligations; and
9. The success or failure of the individual's business depends on the relationship of business receipts to expenditures.

To assist us in determining the independent contractor vs employee relationship, please complete the attached form for payments made to all laborers who are not reported in your regular payroll records.



Determination of independent contractor status for workers' compensation insurance coverage

Subcontractor business name: _____

Please answer all 9 questions below:

- | Yes | No | |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Does contractor maintain a separate business with the individual's own office, equipment, materials and other facilities; |
| <input type="checkbox"/> | <input type="checkbox"/> | Does contractor hold or has applied for a federal employer identification number (FEIN) or (ii) has filed business or self-employment income tax returns with the federal Internal Revenue Service if the individual has performed services in the previous year; If FEIN exists, please give number _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | Does contractor operate under contract to perform the specific services for the person for specific amounts of money and under which the individual controls the means of performing the services; |
| <input type="checkbox"/> | <input type="checkbox"/> | Does contractor incur the main expenses related to the services that the individual is performing for the person under the contract; |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the contractor responsible for the satisfactory completion of the services that the individual has contracted to perform for the person and is liable for a failure to complete the services; |
| <input type="checkbox"/> | <input type="checkbox"/> | Does contractor receive compensation from the person for the services performed under the contract on a commission or per-job or competitive bid basis and not on any other basis; |
| <input type="checkbox"/> | <input type="checkbox"/> | Can the contractor realize a profit or suffer a loss under the contract to perform services for the person; |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the contractor have continuing or recurring business liabilities or obligations; and |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the contractor's success or failure of the individual's business depends on the relationship of business receipts to expenditures. |

Signature: _____ Date: _____

If you answered yes to any questions above, please continue to next page for additional required documentation.



If you answered yes to any of the 9 questions, we will need you to provide the following documents for each independent contractor paid.

- Copies of job bids or estimates from the independent contractor.
- Copies of invoices for work performed by the independent contractor. The invoices should match the amount you paid each independent contractor.
- Letterhead or business cards from the independent contractor.
- Certificate of insurance for workers' compensation coverage.
- Certificate of insurance for general liability coverage.

Please answer the following questions for each independent contractor:

- Do you have any guidelines or work procedures set between you and the independent contractor?
- Who directs the means, order or method by which the work is completed?
- How is it determined the hours the independent contractor will work?
- Does the independent contractor work for other general contractors?
- How is it determined what amount you will pay the independent contractors for each job?
- Does the independent contractor bring their own tools or do you provide them with any tools?
- Does the independent contractor advertise for their services?
- Does the independent contractor have employees/helpers?
- How do you pay the independent contractor? Hourly, per job.....
- If the independent contractor becomes negligent in their duties and cause damages, who would be responsible for that damage? If they are responsible and do not have a general liability policy, who would pay for the damages?

Please provide valid documentation to support the answers above.