



INDEPENDENT CONTRACTOR APPLICATION & GUIDE

Included:

Overview

Dos and Don'ts Checklist

Sample Independent Contractor Application

1. Overview

From an accounting perspective, hiring an independent contractor is cheaper than employing someone full time. In addition to the obvious expenses of salaries, bonuses, and other compensation, employees can cost a company in more subtle ways, requiring further outlays for benefits, payroll taxes, insurance premiums, office space, and equipment. These fixed costs don't apply to independent contractors: companies can use such individuals for specific tasks as the business requires, and avoid the legal minefields of hiring and firing staff according to the ebb and flow of the market. Organizations can choose experts to perform the necessary work at the time it's needed, and can avoid the cost and hassle of providing additional education or training to current employees.

There are risks, of course, for a business using independent contractors, the most dangerous of which is that those individuals will be reclassified as employees. If this happens, the company that used those contractors will be required to reimburse the IRS or state tax authority for delinquent employment taxes, interest, and penalties. Although a business cannot insulate itself absolutely from reclassifications or contract audits, providing a potential worker with an independent contractor application is a good start.

The enclosed document can provide a good starting point for your contracting arrangement. You and the contractor must continue to discuss the terms of your agreement, settling questions about work parameters, payment, and responsibilities. Once you have settled on contract terms and have signed an agreement, each party can focus on its area of expertise: you on the development of your business and the contractor on the tasks assigned.

2. Dos & Don'ts Checklist

- An independent contractor should **never** fill out an employee application. Each applicant should be provided with a copy of the enclosed document, which indicates that it is for independent contractor use only. A completed employee application may be used as later evidence that an independent contractor was, in fact, an employee of the organization for which it worked.
- The IRS has developed a "category" test to determine whether an individual is an employee or an independent contractor. Essentially, the test explores the employer/worker relationship in three areas:
 - o Behavioral control (e.g., the amount of control the employer has over the individual in terms of where, how, and when the job is done)
 - o Financial control (e.g., the amount of control the employer has over the worker's pay and expenses)
 - o Relationship type (as demonstrated by written agreements, employee benefits, and ongoing nature of interaction)

Written documents like the enclosed independent contractor application can help a company confirm the nature of an employer/worker relationship under the third category.

- Many labor laws govern the employer-employee relationship specifically, and are not directly applicable to the relationship between a company and its independent contractors. However, it's still a good idea for a business to follow all laws governing discriminatory and inequitable conduct. Treat all candidates equally and be consistent in the questions you ask about qualifications for any open position.
- Be professional and courteous to prospective contractors. Allow every individual ample time to review and complete the application. Anticipate and be ready to answer questions about the document.
- There are a number of ways to verify the accuracy of the information provided in a contractor application:
 - o If the potential contractor is an individual, and you want to verify that he or she graduated from a particular school, ask the applicant to request an official transcript from the school, to be sent to your company directly. You may also contact the school directly, but be aware that many schools will not release private information without the applicant's consent.
 - o If you want to confirm an applicant's contracting or employment history, you can either hire an outside company or call those former colleagues directly. Note, however, that many employers have internal policies prohibiting the distribution of any information except work dates and last or highest wage.
- Review your state's laws governing independent contractors. In recent years, many states have made it more difficult for individuals to qualify as such, imposing absolute requirements about the freedom the contractor must have from company control. You may need to include certain provisions in your final agreement to make sure your relationship will not be considered that between an employer and an employee.

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Form Sample

SAMPLE INDEPENDENT CONTRACTOR APPLICATION

Insert Your Company

Logo Here

For Official Use Only Date Received: _____, 20__ Reviewed by: _____ Comments: _____ _____ _____

INDEPENDENT CONTRACTOR APPLICATION

Applications are considered for all independent contractors, and contractors are treated during the agreement, without regard to race, color, religion, sex, national origin, age, disability, or any other prohibited basis of discrimination as provided under applicable state and federal law.

Position(s) Applying For: _____

Background Information

Name

Street Address

(City, State, Zip Code)