

# BUSINESS OPERATIONS

## EMPLOYEES & CONTRACTORS

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As your business grows, you may want to hire help. Paid employees are a more reliable, consistent, and legal work option than engaging volunteers. Below are a few classifications of paid laborers and how to distinguish between them.

### EMPLOYEES

According to common law rules, anyone who performs services for you is your employee if you control what will be done and how it will be done, even if you give the employee freedom of action. If they are employed under your business, doing work in the regular scope of your business, and do not own their own business, they are likely to be your employees. (See Fact Sheet 3.8 *Employer Responsibilities for more information*).

### INDEPENDENT CONTRACTORS

Another type of paid labor is an independent contractor. An independent contractor usually owns their own business which you contract with for a specific service or finished product. How they complete the project and what schedule they will work is up to the independent contractor. Many small farms and ranchers hire bookkeepers or payroll specialists as independent contractors if they are not able to employ them full time. Other examples could be hiring a construction company temporarily to install a building on your property, or other specialized labor.

#### *Lesser Responsibilities*

Independent contractors own their own business and have a responsibility to pay self-employment tax on their earnings. You, as the person who hired them, do not owe them the same benefits as a traditional employee, including paying workers compensation or minimum wage. Mislabeling an

employee to save on these costs carries legal consequences.

#### *Determining if a Worker is an Employee or Independent Contractor*

Below is a series of questions, known as the common law rules, to help you determine if you are engaging an employee or an independent contractor. These questions are sourced from the IRS.

#### COMMON LAW RULES

**Behavioral:** Does the company control or have the right to control what the worker does and how the worker does his or her job?

**Financial:** Are the business aspects of the worker's job controlled by the payer? (these include things like how a worker is paid, whether expenses are reimbursed, who provides tools/supplies, etc).

**Type of Relationship:** Are there written contracts or employee type benefits (i.e. pension plan, insurance, vacation pay, etc)? Will the relationship continue and is the work performed a key aspect of the business?

You must weigh all these factors when determining whether you are hiring an employee or an independent contractor. You must look at the entire relationship and decide which of the two classifications is more correct. Document what factors led to your conclusion before entering into an employment or contract situation.

#### *Required Forms*

If you pay an independent contractor more than \$600 in one calendar year, you are required to file Form 1099 with the IRS.

## **FARM CONTRACT LABOR**

Farm Labor Contractors are agencies or individuals who work as an intermediary between farmers and laborers. Payment is made to the agencies or farm labor contractors, not the laborer(s) themselves. If you employ this way, you'll need to ensure the recruiter or farm labor contractor is licensed as such. If they are not, and they do not pay the wages of the workers, you as the farmer are held liable for those wages regardless of whether you've paid the recruiter. Visit the Department of Labor website for more information. <https://www.labor.idaho.gov/dnn/Businesses/Idaho-Labor-Laws/FLC-Registry>