

EXPLANATION OF INDEPENDENT CONTRACTOR STATUS With LIST OF CERTIFICATION DOCUMENTS

When you receive your independent contractor certification, you are acknowledging that you are engaged in an independently established business. As such, if you are hurt on the job, you are not entitled to workers' compensation; and if the job ends, you are not entitled to unemployment insurance. Other rights, such as wrongful discharge and wage protection statutes do not apply to you as an independently established businessperson. Additionally you are responsible for reporting your own taxes.

Experience indicates that a major source of controversy between businesses such as yours and customers or clients is misunderstanding over relationships to one another. Included in this are disagreements over such things as to what work was to be done, when it is to be accomplished, how it is to be accomplished and the price to be paid for the service performed.

The Department of Labor and Industry suggests that you use a written agreement when contracting with another to perform a project. The Department hopes that such written agreements will result in a good and productive working relationship between you and your client. As the old saying goes, "an ounce of prevention is worth a pound of cure." It is hoped that the work you do up front as you enter into agreements will prevent problems down the line between you and your customer.

Following is a list of documents which are to be submitted to demonstrate Independent contractor status:

State of Montana
Department of Labor & Industry
Brian Schweitzer, Governor



Employment Relations Division

WC Regulation Bureau
Independent Contractor Central Unit

The following is a list of the documentation accepted by the Montana Department of Labor and Industry to demonstrate an independent contractor exemption certificate applicant is engaged in each occupation listed on their application. An applicant must score 15 points for each different occupation listed. An applicant may only provide up to two items in each category. The Department has the discretion to assess the reliability of the documentation in order to award points for the items submitted up to the total points for each category. Possible point values are bracketed below.

- Workers' compensation, unemployment insurance, and department of revenue accounts for employees (10)
- Contracts or memos of understanding with different hiring agents. (6) Elements that may show proof of independent contractor status include but are not limited to:
 - payment based on a completed project basis
 - an ending date of the contract
 - liability for failure to complete the project
 - the document identifies who provides the materials and supplies
 - signatures by both parties
 - a defined body of work, complete project, or end result
- List of equipment and tools owned or controlled by the applicant with approximate value. This may be demonstrated by rental or lease agreement, county documents verifying the business equipment tax paid, or other means (6)
- Proof of business location ownership, rent or lease. (6) This may be demonstrated by an IRS form filed for claiming use of the home as a business, otherwise known as Form 8829.
- Commercial general liability insurance policy or bonding (6)
- Filed business tax forms. (6) Examples include state or federal business tax returns, Schedule C, E, F, or K from any one of the last three years.
- Trucking company lease agreement (6)
- Miscellaneous income IRS Form 1099 and/or business tax receipts (3)
- Partnership agreement. (3) An applicant that is a working partner in a partnership or limited liability partnership must submit a written partnership agreement signed by all partners. Elements of the agreement that show proof of independent contractor status by virtue of a valid partnership include but are not limited to:
 - intent to form the partnership
 - contribution by all partners
 - a proprietary interest and right of control by the working partner applying for an exemption certificate
 - the sharing of profit/loss
- Application or business license or permit (3)
- Professional license. (3) Applicants who are in a licensed profession must submit proof of compliance with the licensing requirements of that profession.
- Certificate demonstrating the business structure is registered with the Secretary of State (3)
- Certificate demonstrating the business has a registered name with the Secretary of State (3)
- Educational certification (3)
- Membership in a professional association or affiliation (3)
- Copies of advertising in a newspaper or phone book (3)
- Two or more current bid proposals or estimates (1.5)
- Federal employer identification number (FEIN) (1.5)
- Business bank account (1.5)
- Telephone bill in the business name (1.5)
- Credit card or charge account in business name (1.5)
- Printed invoices, cards, brochures, hats, shirts (1.5)
- Proof of advertising using a sign on vehicle, in yard, bulletin boards, corner lamp post, flyers (1.5)
- Standard billing invoices (1.5)
- An applicant may submit any other supporting documentation. The department has discretion to assess the reliability of and determine the point value of any documentation not listed in this rule.

Phone (406) 444-9587
TDD (406) 444-5549

Fax (406) 444-3465
"An Equal Opportunity Employer"

P.O. Box 8011
Helena, MT 59604-8011