

Tips for hiring independent contractors

The use of freelancers or independent contractors has become increasingly popular over the past decade. Companies such as Uber and InstaCart are built on this type of gig labor. However, all businesses can benefit from working with independent contractors.

Independent contractors are an especially helpful option for small businesses that need support in a certain area or a specific project but don't have the demand or budget to justify hiring a full-time employee. They can also be more affordable as independent contractors do not get employee benefits, employer contributions to payroll taxes, unemployment insurance, or overtime. When carried out correctly, the lack of benefits and employment law protections is often offset by increased flexibility and earning potential for the independent contract worker.

Many businesses do improperly assign independent contractor status to workers that should be considered employees under state laws or Department of Labor and IRS guidelines. Sometimes this is intended as a cost-saving measure, but often this error occurs because employers do not properly understand how to hire independent contractors in a fair and legal manner.

If you're interested in hiring independent contractors for your business, keep reading to find out how to do it the right way.

Who can you hire as an independent contractor?

Before we dive into how to hire an independent contractor, it's important to make sure that you can hire an independent contractor to fill your intended role or purpose. Improperly classifying a worker as an independent contractor when should

Independent contractors are non-employees that provide services to your business on a contract basis. To stay legally compliant, they are also meant to have a higher degree of autonomy than a traditional employee would when it comes to when, where, and how they perform work.

There can be a great deal of confusion around what is legal, particularly as misclassifications are so common. For example, many businesses hire full-time hourly 1099 staff as part of a contract-to-FT trial run or to supplement W2 staff during peak business seasons. If these contractors do not have appropriate control and autonomy over their work, this may be considered an employment misclassification.

The instructions are often unclear, leading to even more confusion for employers looking to hire independent contractors. The [IRS advises](#) that employers should consider the degree of control and independence of the worker when distinguishing between independent contractors and employees. Businesses are advised to analyze the proposed working arrangement to identify the level of independence that will be provided.

California is currently the state with the strictest and clearest guidelines on hiring independent contractors. Under the state's [ABC test](#), a worker must be considered an employee and not an independent contractor, unless the contractor relationship satisfies all three of the following conditions:

1. The worker is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact;
2. The worker performs work that is outside the usual course of the hiring entity's business; and
3. The worker is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

Recruiting independent contractors

From a recruiting perspective, hiring independent contractors can be very similar to hiring an employee, or it can be a completely different process. This will largely depend on your business's preferences and the type of work that you are looking to engage an independent contractor for.

Where to find independent contractors to hire

Independent contractor roles can be posted on traditional job boards and websites like Indeed and LinkedIn. Industry-specific sites are also a great way to find contractors. There are also dedicated freelancer sites like UpWork or Freelancer that are designed to connect businesses with independent contractors. Those sites often act as a middle-man throughout the contractual relationship to handle paperwork, facilitate payments, and send out required end-of-year tax forms. They also generally charge a fee to the contractor and/or the business engaging a contractor.

Evaluating candidates for contract roles

You may want to alter your interview or hiring process when evaluating independent contractors instead of employees. While working with a contractor, you will not have a typical employment relationship, so the hiring considerations are a bit different.

Often when interviewing employees for W-2 roles, human resources staff or hiring managers are looking for someone that is a good fit for the team and company culture. They may be willing to train someone if they find a great candidate that doesn't quite check all the boxes in terms of specific skills or experiences. This works well for hiring employees but doesn't fit the independent contractor relationship very well.

Independent contractors are meant to require minimal supervision. When you hire an independent contractor, there may be a bit of training provided to give them an overview of the company's products, branding, or technology in order to prepare them to start their work. However, they are often short-term project-based hires that may not be in the office working closely with your team.

As such, it's typically best to hire a contractor with the right skills and a great portfolio that can get up and running quickly, rather than someone that you can train and mold into the right fit over the course of several months. Though this isn't always the case as some organizations do treat contract work as a stepping stone to full-time in-house employment. The most important thing is to know exactly what you need out of the contractor relationship and to evaluate candidates accordingly, even if it requires a different approach than usual.

Onboarding independent contractors

Once you've selected an independent contractor to hire, it's time for onboarding to begin. Here is what you'll need to know about the differences between independent contractor onboarding and employee onboarding.

Signing the contract

The first step of the onboarding process will be negotiating terms and getting a contract signed. When onboarding independent contractors, the contract takes the place of an offer letter. However, independent contractor agreements are typically much longer and more detailed than offer letters or W2 employment agreements.

Here are the key things to include in the written contract:

- **The rate of compensation.** Independent contractors are typically paid either by billable hours or per deliverable. There may be different rates based on different projects or deliverable types or sizes. Try to be as clear as possible when detailing compensation in the contract to avoid any confusion or frustrations down the road.
- **Payment terms.** Businesses that work with a large number of independent contractors may have more detailed processes for paying contract staff. For example, some businesses provide standardized templates that they want all contractors to use to bill them or have set dates that they want invoices to be submitted by each month. List any of those details here. If you don't have a process in place yet, you can simply include the processing time for invoices. Net 30 is standard but some businesses pay on Net 60 or other terms.
- **Project details.** Describe the work that the contractor will be performing and the expected deliverables.
- **Ownership of work completed.** Agree on who owns the rights to any deliverables or intellectual property created during the course of the contractual relationship. Sometimes independent contractors will want to add in language regarding whether work completed for your business may be showcased in their portfolio or on their website.
- **Length of the contract.** If it is a short-term contract for a specific project or to cover a busy season, write in the projected end date on the contract. If it will be an ongoing contract, you may skip this or choose to set the length to one year to allow for annual updates and contract revisions.
- **Responsibility for tools and business expenses.** Detail whether the contractor is expected to provide their own tools for completing the work and what, if any, tools or expenses your business will be responsible for. Often independent contractors are expected to provide their own tools if those tools are standard for the service that they provide. For example, a graphic design contractor should have their own computer and design software. However, it is common to reimburse for travel expenses for contractors.
- **Confidentiality.** Many contracts include NDAs or confidentiality clauses to protect the business' trade secrets. This can be important when working with independent contractors, as it is fairly common for a well-established contractor to provide services to several businesses within the same industry and even work with competing businesses. You do not want them to share private details of your business or product with your competition.
- **Termination conditions.** Detail how and when the contract may be terminated. Many businesses

provide general language such as “this agreement may be terminated by either party at any time for any reason with a 30-day written notice”. You may also list actions that may be grounds for immediate termination of the agreement.

Some contracts also include additional clauses such as arbitration agreements or non-compete clauses. One thing to keep in mind with non-compete clauses is that it is often advantageous to work with contractors that also work with or have worked with competitors. For example, a small business owner looking to break into an existing market may want to work with a marketing contractor that has built brand decks, social content, or the website of one of the bigger competitors in the market. That contractor likely has a good understanding of the market, target customers, and how to obtain positive results based on their experience working with the competitor. Non-competes are most effective if you are the larger competitor in your niche and don't want to share talent with smaller businesses in your region or industry.

Paperwork requirements

You'll need to have all new contract workers complete IRS form W-9. This form includes information such as their taxpayer identification number or social security number, which you will need in order to properly complete the necessary end-of-year tax forms.

Businesses do not need to collect W-4 or I-9 forms for independent contractors. The W-9 is the only form required for compliance and tax purposes. Though you will want to get a contract signed and may want to provide a direct deposit form or other paperwork designating how funds will be transmitted.

Benefits

In a standard employee onboarding, the benefits enrollment process is an important step (and a lot of added paperwork). When onboarding an independent contractor, this step can be skipped entirely in most cases. Businesses aren't required to provide independent contractors with health insurance, workers' compensation insurance, or other common benefits.

Though some businesses do try to offer some benefits to contract workers. Many insurance providers limit enrollment on employer-sponsored insurance plans to current employees, meaning independent contractors are excluded. A popular workaround is to offer a health stipend. This is a monthly amount paid to the contractor to go towards their health insurance premium.

If you are engaging independent contractors that are self-employed individuals or sole proprietors with a large number of clients, you will not need to worry about offering such benefits. These contractors have likely made arrangements for their own health coverage and factored that added expense into their rates. However, it is a nice thing to offer if you are hiring contractors that will be working closer to full-time hours. Though you should be sure that they still meet the requirements for independent contractor classification.

Paying independent contractors

Paying independent contractors is actually less complicated than paying employees. There are no payroll tax withholdings or payments to worry about. Businesses do not need to withhold income tax, social security taxes, or medicare taxes from payments made to independent contractors. They are also not subject to the employer portions of the payroll taxes either, which can result in some big savings.

Independent contractors are also not subject to most labor laws, including those on minimum wage or overtime, making payment even less complex. Contractors will invoice your business at the agreed-upon rates and you can process that payment on the timeline that was spelled out in the contract.

End-of-year tax forms

At the end of the year, you will have to send out tax forms to any independent contractors to whom you paid \$600 or more. Form 1099-NEC should be sent out at the beginning of the new year to all contractors that have met the payment threshold. Contractors previously received form 1099-misc forms, but you'll need to update your process and use the new forms now. The deadlines for these forms are typically similar to the W-2 deadlines. For this tax year, the filing deadline will be January 31, 2023.