

Guidelines: Employee or Independent Contractor or Sole Proprietor or Subcontractor

Employee
Subcontractor
Independent Contractor
Sole Proprietor

Criteria	Employee	Subcontractor	Independent Contractor	Sole Proprietor	Supporting Documentation
Under the direction and control of the insured	Yes	No	No	No	* are they supervised by someone from the insured * are they told where to go, when to be there, what to do * are they given deadlines * are they free to complete the work according to their own methods, on their own timetable * are they free from any control other than the final product
Power of Dismissal	Yes	No	No	No	Can terminate employment; job application; personnel file
Work being performed is a part of the regular business of the insured	Yes	Not Normally	No	No	Anything showing business description - D&B; Hoover's; Accurint; SDAT; webpage
Paid by the Hour / Week / Salary	Yes	No	No	No	MD Quarterlies; Federal 941s
Paid by the Job	No	Yes	Yes	Yes	Copy of contract ; invoices
Are multiple individuals hired directly by the insured to perform the same trade/task/work at the same job location?	Yes	No	No	No	Ex. drywall, siding, roofing , landscaping, etc. (crew activities)
Maintains their own business	No	Yes	Yes	Yes	Indicia of business; business card; business phone; billing mechanism, company website
Works for others - makes services available to the general public	No	Yes	Yes	Yes	Yellow pages listing; business cards; Schedule C, company website
Has a business license	No	Yes	Yes	Yes	Copy of license
Insured/Employer sets work hours	Yes	No	No	No	Time cards
Worker devotes substantially full time to the company	Yes	No	No	No	1) time cards 2) 1099's from other customers/clients
Has taxes, etc withheld	Yes	No	No	No	Federal tax return
Receives W2 or 1099	W2	1099	1099	1099	W2s; W3; 1096; 1099s
Has an investment in their company - opportunity for profit or loss	No	Yes	Yes	Yes	SDAT information
Submits invoices for payment	No	Yes	Yes	Yes	Invoices - review content of invoices
Works under contract	No	Yes	Yes	Yes	Copy of contract
Provides tools, materials and/or equipment	No	Yes	Yes	Yes	Invoices, contracts and proposals
Is provided training	Yes	No	No	No	Safety training, internal training program
Can have others perform the work; brings their own employees	No	Yes	Yes	Yes	
Maintains their own workers' compensation insurance	No	Yes	Yes	Yes	Certificate of insurance
Maintains General Liability insurance	No	Yes	Yes	Yes	Certificate of insurance
Files a signed Sole Proprietor's Exclusion form	No	No	May	Yes	Sole Proprietor Form
Is the worker required to complete a job or project before they can quit or get paid?	No	Yes	Yes	Yes	Copy contract agreement, AIA Agreement, release of liens

This information is to serve as a guideline only. These are the factors that IWIF utilizes to determine whether to include amounts paid to an individual or company in the premium basis for an insured. The list is not meant to be all inclusive and some factors carry more weight than others. We suggest that you contact your underwriter, agent or auditor in the event that you have a question. Please refer to Title 9-202 (Covered Employee) of the Workers' Compensation Law of Maryland.