



INDEPENDENT CONTRACTOR REQUEST
State Form 55381 (9-13)



*Use this form as a guide for determining whether an individual or entity performing a service for the Family and Social Services Administration could be appropriately classified as an independent contractor or if that individual should be hired as a State Employee. The questions based on the **IRS 20 Factor Test on Employment Status** below help you to identify the appropriate classification of the individual by indicating whether sufficient control is present to establish an employer-employee relationship.*

Division Information

Division/Department Name:	
Program/Project Name:	
Contract Owner or Responsible Manager:	

Proposed Contract Information

If known, name of proposed contractor:	
Description or purpose of services to be provided by proposed contract:	
Anticipated length of service:	
Procurement method:	

Question		Additional Information
Is the work that of a licensed profession? If yes, identify profession.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Do state employees perform substantially similar work? If yes, provide incumbent and position information.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Is the proposed contract project specific or for an indefinite service/job? Describe project.	<input type="checkbox"/> Project Spec <input type="checkbox"/> Indefinite Svc	
Is this an outsourced function with an employee(s) employed by the contractor? Provide details.	<input type="checkbox"/> Yes <input type="checkbox"/> No	

IRS 20 Factor Test on Employment Status

- INSTRUCTIONS.** A worker who is required to comply with other persons' instructions about when, where, and how he or she is to work is ordinarily an employee. This control factor is present if the person or persons for whom the services are performed have the **RIGHT** to require compliance with instructions.

Question		Additional Information
Will the worker be supervised by an FSSA employee?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Will FSSA expect the work to be performed in a specific manner? If yes, briefly describe.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Will FSSA require compliance with instructions? If yes, briefly describe.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Is independent initiative and judgment of the worker involved? If yes, describe how much.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does FSSA have the right to change methods used by the worker?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

2. **TRAINING.** Training a worker by requiring an experienced employee to work with the worker, by corresponding with the worker, by requiring the worker to attend meetings, or by using other methods, indicates that the person or persons for whom the services are performed want the services performed in a particular method or manner.

Question		Additional Information
Will FSSA provide training to the worker? If yes, describe proposed training.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Will FSSA require attendance in meetings? If yes, describe types of meetings and anticipated role of worker in meetings.	<input type="checkbox"/> Yes <input type="checkbox"/> No	

3. **INTEGRATION.** Integration of the worker's services into the business operations generally shows that the worker is subject to direction and control. When success or continuation of a business depends to an appreciable degree upon the performance of certain services, the workers who perform those services must necessarily be subject to a certain amount of control by the owner of the business.

Question		Additional Information
Is the proposed contract for a specific service that is necessary or integral to the business operation? If yes, describe the service.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Is the proposed service a temporary or on-going business requirement?	<input type="checkbox"/> Temporary <input type="checkbox"/> On-going	

4. **SERVICES RENDERED PERSONALLY.** If the Services must be rendered personally, presumably the person or persons for whom the services are performed are interested in the methods used to accomplish the work as well as in the results.

Question		Additional Information
Must the services be performed personally by the vendor?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

5. **HIRING, SUPERVISING, AND PAYING ASSISTANTS.** If the person or persons for whom the services are performed hire, supervise, and pay assistants, that factor generally shows control over the workers on the job. However, if one worker hires, supervises, and pays the other assistants pursuant to a contract under which the worker agrees to provide materials and labor and under which the worker is responsible only for the attainment of a result, this factor indicates an independent contractor status.

Question		Additional Information
Will individuals be providing support services (assistants) to the vendor? If yes, who furnishes (hires, supervises, and pays) for those support services?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

6. **CONTINUING RELATIONSHIP.** A continuing relationship between the worker and the person or persons for whom the services are performed indicates that an employer-employee relationship exists. A continuing relationship may exist where work is performed at frequently recurring although irregular intervals.

Question		Additional Information
Is FSSA exercising the right to extend an existing contract with the vendor? If yes, when was the original contract executed.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does FSSA anticipate a permanent, continuing, or recurring relationship with the vendor? Briefly describe frequency and timelines of proposed activities.	<input type="checkbox"/> Yes <input type="checkbox"/> No	

7. **SET HOURS OF WORK.** *The establishment of set hours of work by the person or persons for whom the services are performed is a factor indicating control.*

Question		Additional Information
Will FSSA determine the hours of work? Provide estimate of the number of hours/day and days/week the vendor will be expected to work.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Will the worker be required to submit time records?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Is there flexibility for the vendor to perform their services within the hours the FSSA department or facility is open?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

8. **FULL TIME REQUIRED.** *If the worker must devote substantially full time to the business of the person or persons for whom the services are performed, such person or persons have control over the amount of time the worker spends working and impliedly restrict the worker from doing other gainful work. An independent contractor on the other hand, is free to work when and for whom he or she chooses.*

Question		Additional Information
Will the vendor work or be able to work for others providing same or similar services at the same time they work for FSSA?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

9. **DOING WORK ON EMPLOYER PREMISES.** *If the work is performed on the premises of the person or persons for whom the services are performed, that factor suggests control over the worker, especially if the work could be done elsewhere. Work done off the premises of the person or persons receiving the services, such as at the office of the worker, indicates some freedom from control. However, this fact by itself does not mean that the worker is not an employee. The importance of this factor depends on the nature of the service involved and the extent to which an employer generally would require that employees perform such services on the employer's premises. Control over the place of work is indicated when the person or persons for whom the services are performed have the right to compel the worker to travel a designated route, to canvas a territory within a certain time, or to work at specific places as required.*

Question		Additional Information
Does the work have to be performed on FSSA premises or a geographic location determined by FSSA? If yes, where?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

10. **ORDER OR SEQUENCE SET.** *If a worker must perform services in the order or sequence set by the person or persons for whom the services are performed, that factor shows that the worker is not free to follow the worker's own pattern of work but must follow the established routines and schedules of the person or persons for whom the services are performed. Often, because of the nature of an occupation, the person or persons for whom the services are performed do not set the order of the services or set the order infrequently. It is sufficient to show control, however, if such person or persons retain the right to do so.*

Question		Additional Information
Will FSSA expect the work to be performed in a specific order or sequence? If yes, briefly describe.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Will the vendor be expected to follow FSSA work routines and schedules?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

11. **ORAL OR WRITTEN REPORTS.** *A requirement that the worker submit regular or written reports to the person or persons for whom the services are performed indicates a degree of control.*

Question		Additional Information
Will written or oral reports be required of the vendor? If yes, briefly describe.	<input type="checkbox"/> Yes <input type="checkbox"/> No	

12. **PAYMENT BY HOUR, WEEK, MONTH.** *Payment by the hour, week, or month generally points to an employer-employee relationship, provided that this method of payment is not just a convenient way of paying a lump sum agreed upon as the cost of a job. Payment made by the job or on straight commission generally indicates that the worker is an independent contractor.*

Question		Additional Information
Describe the proposed compensation method.		

13. **PAYMENT OF BUSINESS AND/OR TRAVELING EXPENSES.** *If the person or persons for whom the services are performed ordinarily pay the worker's business and/or traveling expenses, the worker is ordinarily an employee. An employer, to be able to control expenses, generally retains the right to regulate and direct the worker's business activities.*

Question		Additional Information
Will FSSA reimburse travel or other business expenses?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Who provides pension, insurance, and leave benefits to the worker?		
Who pays employment taxes on the worker?		
Who carries Worker's Compensation Insurance on the worker?		

14. **FURNISHING OF TOOLS AND MATERIALS.** *The fact that the person or persons for whom the services are performed furnish significant tools, materials, and other equipment tends to show the existence of an employer-employee relationship.*

Question		Additional Information
Will FSSA provide a desk and telephone to the worker?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Will FSSA provide a computer to the worker?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Will FSSA provide office supplies to the worker?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

15. **SIGNIFICANT INVESTMENT.** *If the worker invests in facilities that are used by the worker in performing services and are not typically maintained by employees (such as maintenance of an office rented at fair value from an unrelated party), that factor tends to indicate that the worker is an independent contractor. On the other hand, lack of investment in facilities indicates dependence on the person or persons for whom the services are performed for such facilities and accordingly, the existence of an employer-employee relationship. Special scrutiny is required with respect to certain types of facilities, such as home offices.*

Question		Additional Information
Is vendor set up and operating as a business? If yes, provide name of business.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does the vendor maintain its own office or facility? If yes, provide location information.	<input type="checkbox"/> Yes <input type="checkbox"/> No	

16. **REALIZATION OF PROFIT OR LOSS.** *A worker who can realize a profit or suffer a loss as a result of the worker's services (in addition to the profit or loss ordinarily realized by employees) is generally an independent contractor, but the worker who cannot is an employee. For example, if the worker is subject to a real risk of economic loss due to significant investments or a bona fide liability for expenses, such as salary payment to unrelated employees, that factor indicates that the worker is an independent contractor. The risk that a worker will not receive payment for his or her services, however, is common to both independent contractors and employees and thus does not constitute a sufficient economic risk to support treatment as an independent contractor.*

Question		Additional Information
Does a potential profit or loss situation exist for the vendor?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

17. **WORKING FOR MORE THAN ONE FIRM AT A TIME.** *If a worker performs more than de minimis services for a multiple of unrelated persons or firms at the same time, that factor generally indicates that the worker is an independent contractor. However, a worker who performs services for more than one person may be an employee of each of the persons, especially where such persons are part of the same service arrangement.*

Question		Additional Information
Does the vendor work for others at the same time they work for FSSA?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

18. **MAKING SERVICE AVAILABLE TO GENERAL PUBLIC.** *The fact that a worker makes his or her services available to the general public on a regular and consistent basis indicates an independent contractor relationship.*

Question		Additional Information
Are same or similar services offered to the general public by the vendor?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Does the vendor advertise, maintain a business listing in the telephone directory, or maintain a business website? If yes, briefly describe.	<input type="checkbox"/> Yes <input type="checkbox"/> No	

19. **RIGHT TO DISCHARGE.** *The right to discharge a worker is a factor indicating that the worker is an employee and the person possessing the right is an employer. An employer exercises control through the threat of dismissal, which causes the worker to obey the employer's instructions. An independent contractor, on the other hand, cannot be fired so long as the independent contractor produces a result that meets the contract specifications.*

Question		Additional Information
Could the relationship with the worker be terminated for breach of policies or poor performance (other than product not conforming to contract specifications)?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

20. **RIGHT TO TERMINATE.** *If the worker has the right to end his or her relationship with the person for whom the services are performed at any time he or she wishes without incurring liability, that factor indicates an employer-employee relationship.*

Question		Additional Information
Could the worker quit without breach of contract liability?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Additional Information:	

Signatures for Approval

Contract Requestor: _____ **Date:** ____ / ____ / ____

Division/Functional Director Approval: _____ **Date:** ____ / ____ / ____

Based on the information provided, it has been determined that the proposed individual or entity could be appropriately classified as an independent contractor.

Agency Authorization: _____ **Date:** ____ / ____ / ____