## Checklist: Utilizing Independent Contractors

### Contract Development

☐ Review Department of Labor and IRS criteria to ensure an independent contractor relationship.

☐ Use Form SS-8 for IRS determination of independent contractor status if unclear and the determination cannot be made by the business.

☐ Develop a written agreement with an assigned specific scope of work for a specific duration.

☐ Do not have a contractor complete an employment application.

☐ Require the contractor to supply his or her own workers' compensation and liability insurance.

☐ Require the contractor to supply his or her own equipment and tools.

☐ Establish invoicing requirements and payment dates.

☐ Do not pay contractor expenses; expenses should be built into the contract for the cost of the entire job.

☐ Do not provide continuing education training. The company may provide training specific to the assignment or company procedures.

☐ Do not have contractors perform similar work of employees or perform routine work.

☐ Contractor work should not be close to core business operations and therefore considered employee-type work.

☐ Require documentation demonstrating an independent contractor relationship, such as a copy of business or professional license, copy of insurance certificates, copies of the independent contractor's advertising, and copy of the contractor's business card and stationery.

### Contract Signed; Contractor Work to Begin

☐ Require the contractor complete Form W-9, Request for Taxpayer Identification Number and Certification. This form can be used to request the correct name and taxpayer identification number, or TIN, of the worker. A TIN may be either a Social Security number (SSN) or an employer identification number (EIN).

☐ Do not complete an I-9 form.

☐ Do not pay contractors from a payroll account.

☐ Do not provide an employee handbook.

☐ Do not allow independent contractors to enroll in any company-sponsored benefit plans or offer other benefits.

☐ Do not invite or permit contractors to attend company parties or special events intended for employees.

☐ Do not issue company business cards or employee ID badges to contractors.

☐ Restrict contractor participation in projects or department meetings.

☐ Do not give independent contractors authority for hiring, disciplinary action or termination decisions.

☐ Do not require the contractor to work "full time" or have set hours. Contractors should control when and how they work.

☐ Do not conduct performance evaluations similar to employee evaluations. Companies should require deadlines and results and can require contractors to follow job and company rules.

**Contract Work in Progress (1 month to end of contract)**

☐ Periodically review the contract and assigned scope of work to ensure contractor is working within the contract scope and maintaining independent contractor status.

☐ Confirm with company contact(s) that the contractor has not been provided additional duties or benefits outside the scope of the contract or anything else that would jeopardize independent contractor status.

☐ Retain records of all transactions with the contractor, such as the contractor's invoices for billing.

**Ongoing**

☐ Review IRS criteria to ensure company is maintaining an independent contractor relationship.

☐ Confirm W-9 is on record and retained for four years.

☐ Send form 1099-NEC each year for any contractor (e.g., attorney, accountant, consultant) paid $600 or more for services provided during the year.

☐ Review W-9 Record Retention Schedule to purge unneeded files.

☐ Retain W-9 for four years for future reference in case of any questions from the worker or the IRS.

☐ Destroy records that have met the retention requirements unless employer is involved in a dispute that has not yet been resolved.