



From The Desk of HR

What's in a Name? Employees or Independent Contractors.

One of the many advantages of using a staffing firm is that you don't have to worry about workers' compensation, unemployment insurance, liability coverage, and payroll taxes and withholdings for the temporary workers assigned to you. That's because staffing firms generally are the employers of such individuals and handle those obligations.

However, some staffing firms don't carry out these employer obligations. They send out people classified as "independent contractors" and don't withhold taxes, don't pay Social Security taxes, and don't provide insurance. The danger is, if the workers are not independent contractors but are really employees under Internal Revenue Code or other applicable rules, *you* may be held liable as the employer.

ASA (American Staffing Association) thinks it makes good business sense to ask your staffing firms if they employ the people they assign to you. If they say yes, there are questions you can ask to verify whether they are meeting their obligations. For example:

- Do they provide workers' compensation insurance?
- Do they pay unemployment taxes?
- Do they make proper income tax and other required withholdings and pay the employer's share of social security taxes?
- Are the workers' services covered by insurance?

If a staffing firm says it doesn't assume these obligations because its workers are independent contractors, you should ask

- Does the staffing firm have the power to hire and fire the workers?
- Does it establish the workers' pay rates?
- Does it pay the workers directly?
- Is the staffing firm the workers' only client?

If the answer to these questions is yes, you should be suspicious of any claim that the workers are independent contractors. IRS and court rulings indicate that "yes" answers mean the workers probably are employees and *not* independent contractors. That could mean problems for you.

The Alpha Group, Inc. wants you to use our staffing services with confidence and hopes this information will help you choose your service provider wisely.

Your business is our priority.

Sincerely,

Lory Taylor, SHRM-CP
Human Resources Director