

Maine's Independent Contractor Standards

Step 1: *Does the individual have the essential right to control the means and progress of the work except as to final results?*

No: Stop. The individual is an *employee*, not an independent contractor.

Yes: Move to step 2.

Step 2: *Is the individual customarily engaged in an independently established trade, occupation, profession or business?*

No: Stop. The individual is an *employee*, not an independent contractor.

Yes: Move to step 3.

Step 3: *Does the individual have the opportunity for profit and loss as a result of the services being performed for the other individual/entity?*

No: Stop. The individual is an *employee*, not an independent contractor.

Yes: Move to step 4.

Step 4: *Does the individual hire and pay his or her assistants (if any) and to the extent that these assistants are employees, supervise the details of their work?*

No: Stop. The individual is an *employee*, not an independent contractor.

Yes: Move to step 5.

Step 5: *Does the individual make their services available to some client or customer community even if their right to do so is voluntarily not exercised or is temporarily restricted?*

No: The individual is an *employee*, not an independent contractor.

Yes: Move to step 6.

Step 6: *Determine if the individual meets any of the 3 of the following elements:*

- The individual has a substantive investment in the facilities, tools, instruments, materials, & knowledge used by the individual to complete the work.
- The individual is not required to work exclusively for the other individual/entity.
- The individual is responsible for satisfactory completion of the work and may be held contractually responsible for failure to complete the work.
- The parties have a contract that defines the relationship and gives contractual rights in the event the contract is terminated by the other individual/entity prior to completion of the work.
- Payment to the individual is based on factors directly related to the work performed and not solely on the amount of time expended by the individual.
- Such work is outside the usual course of the business for which the services is performed.
- The individual has an IRS Determination (SS-8) of independent contractor status.

No: If the individual meets less than 3 elements, **STOP**. The individual is an *employee*, not an independent contractor.

Yes: If the individual meets 3 or more elements; the individual *is* an independent contractor.