

New Independent Contractor Test (Construction):

1. Established and maintained separately from and independently of the person for whom the services were provided or performed.
2. Owns, rents, or leases equipment, tools, vehicles, materials, supplies, office space, or other facilities that are used by the business entity to provide or perform building construction or improvement services.
3. Provides or performs, or offers to provide or perform, the same or similar building construction or improvement services for multiple persons or the general public.
4. Is in compliance with all of the following:
 - o Holds a federal employer identification number if required by federal law.
 - o Holds a Minnesota tax identification number if required by Minnesota law.
 - o Has received and retained 1099 forms for income received for building construction or improvement services provided or performed, if required by Minnesota or federal law.
 - o Has filed business or self-employment income tax returns, including estimated tax filings, with the federal Internal Revenue Service and the Department of Revenue, as the business entity or as a self-employed individual reporting income earned, for providing or performing building construction or improvement services, if any, in the previous twelve (12) months.
 - o Has completed and provided a W-9 federal income tax form to the person for whom the services were provided or performed if required by federal law.
5. Is in good standing.
6. Has a Minnesota unemployment insurance account if required.
7. Has obtained required workers' compensation insurance coverage if required.
8. Holds current business licenses, registrations, and certifications if required.
9. Is operating under a written contract to provide or perform the specific services for the person that:
 - o Is signed and dated by both an authorized representative of the business entity and of the person for whom the services are being provided or performed.
 - o Is fully executed no later than thirty (30) days after the date work commences (does not apply to change orders).
 - o Identifies the specific services to be provided or performed under the contract.
 - o Provides for compensation from the person for the services provided or performed under the contract on a commission or per-job or competitive bid basis and not on any other basis.
10. Submits invoices and receives payments for completion of the specific services provided or performed under the written proposal, contract, or change order in the name of the business entity. Payments made in cash do not meet this requirement.
11. The terms of the written proposal, contract or change order provide the business entity control over the means of providing or performing the specific services, and the business entity in fact controls the provision or performance of the specific services.
12. Incurs the main expenses and costs related to providing or performing the specific services under the written proposal, contract, or change order.
13. Is responsible for the completion of the specific services to be provided or performed under the written proposal, contract or change order and is responsible, as provided under the written proposal, contract or change order, for failure to complete the specific services.
14. May realize additional profit or suffer a loss, if costs and expenses to provide or perform the specific services under the written proposal, contract or change order are less than or greater than the compensation provided under the written proposal, contract, or change order.