



OFFICE OF PROCUREMENT


Isiah Leggett
County Executive

Cherri Branson
Director

MEMORANDUM

November 30, 2018

TO: Montgomery Contractors that are subject to the Wage Requirements Law (WRL)

FROM: Cherri Branson, Director 
Office of Procurement

SUBJECT: Prime Contractor Use of Independent Contractors Subject to the WRL

It has come to our attention that there is some confusion with respect to the designation of workers as employees or Independent Contractors (IC).

The classification of a worker as an employee or an independent contractor is a legal determination which depends on the actual circumstances of the working relationship, rather than how the parties represent themselves. The IRS and courts have established several factors to be considered in making the determination. The weight given to each factor may vary across industries. Montgomery County strongly encourages all of its prime contractors who utilize the services of an independent contractor to seek legal advice to ensure that they are in compliance with the law. Further information and guidance may be found on the IRS website at <https://www.irs.gov/businesses/small-businesses-self-employed/independent-contractor-self-employed-or-employee>.

All offerors who respond to a County solicitation are required to indicate whether they intend to utilize independent contractors in the course of any contract that may be awarded. The County will now require all future offerors and all current prime contractors utilizing independent contractors to submit Wage Requirements Law Independent Contractor Declaration Form (Form). Current prime contractors who are not using independent contractors must so certify below. If a prime contractor begins using an independent contractor at any point during the course of the contract, the Wage Requirements Law Independent Contractor Declaration Form must be submitted to this office. This Form can be found at www.montgomerycountymd.gov/WRL.

In order to ensure that workers are being properly classified and paid, those prime contractors who are utilizing the services of one or more independent contractors will be asked to submit certain documentation verifying the status of the worker. Such documentation may include, but is not necessarily limited to:

Division of Business Relations and Compliance

255 Rockville Pike, Suite 180 • Rockville, Maryland 20850 • 240-777-9900 • 240-777-9956 TTY
www.montgomerycountymd.gov





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- Copy of the worker's business license;
• The worker's Certificate of Insurance for general liability coverage and workers' compensation insurance;
• Copy of the worker's Workers' Compensation Commission Sole Proprietor's Status as Covered Employee Form;
• Copy of the contract between the prime contractor and the worker;
• The worker's 1099s from the prime contractor and from other clients;
• The worker's invoices to the contractor;
• SDAT information for the worker;
• Federal tax return for the worker; and
• Documentation which shows that the worker at issue makes his/her services available to the general public, and not just the contractor
o For example - the worker's business card, business phone, website, advertising, white pages listing, etc.

Please return your signed declaration via email to wrl@montgomerycountymd.gov or US Postal Service to: Office of Procurement, Division of Business Relations and Compliance, Wage Program Manager, 255 Rockville Pike, Suite 180, Rockville, MD 20850. If you have any questions, please contact Jack Gibala at (240) 777-9918 or Kerri Albright at (240) 777-9920.

Contractor Declaration

I am using Independent Contractors on contract # _____.

I am NOT using Independent Contractors on contract # _____. If at any point during the course of the contract I use Independent Contractors, I understand and agree that I must complete the Wage Requirements Law Independent Contractor Declaration Form (Form) and submit either via email or US Postal Service mail to the above referenced address. This Form can be found at www.montgomerycountymd.gov/WRL.

Table with 4 columns: Authorized Signature, Title of Authorized Person, Typed or Printed Name, Date.

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