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# IDAHO DEPARTMENT OF HEALTH & WELFARE

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## INSTRUCTIONS FOR HIRING AN INDEPENDENT CONTRACTOR TO PROVIDE SERVICES

Self direction participants who want to hire an independent contractor to provide services must follow this process:

1. Participant contacts the independent contractor. The independent contractor is referred to as 'contractor'.
2. Participant explains the process of how the contractor will be paid:
  - The contractor will present an Invoice to Participant based on the Participant – Independent Contractor Work Agreement;
  - Participant submits Invoice to the Fiscal Agent (FEA);
  - Fiscal Agent (FEA) sends Participant a check made out to the Contractor;
  - Participant gives check to Contractor.
  - Pay periods are as per schedule published by FEA.
3. Once the agency agrees to partner with participant, complete Participant – Independent Contractor Work Agreement.
  - The Work Agreement must include total cost associated with the agreement.
  - As per the Work Agreement, the contractor must either complete a criminal history check or obtain a signed Waiver of the criminal history check from Participant.
4. The Support and Spending Plan must reflect the total cost of the Work Agreement.
  - The Support and Spending Plan must be authorized by the regional care manager.
5. Submit the Participant – Contractor Work Agreement to the FEA.
6. The FEA will provide the Contractor with a W-9 form that must be completed by the contractor.

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7. The contractor must provide participant and the agency with an Invoice detailing their work each pay period that they work.
  - Participant must validate the Invoice.
8. The participant submits the Invoice with a Vendor Request for Payment form to the FEA each pay period.
  - The Invoice can include more than one code and more than one rate of pay.
9. The FEA sends a check made out to Contractor to the Participant for the amount specified on the Request for Vendor Payment.
10. Participant gives check to Contractor.
11. Additional terms regarding the Work Agreement can be negotiated and added to the Agreement in the space provided.

Reprinted from Section 2 of:

Department of the Treasury, Internal Revenue Service  
Publication 15-A, Employer's Supplemental Tax Guide  
(Supplement to Publication 15 (Circular E), Employer's Tax Guide)  
For use in **2014**

## Employee or Independent Contractor?

An employer must generally withhold federal income taxes, withhold and pay over social security and Medicare taxes, and pay unemployment tax on wages paid to an employee. An employer does not generally have to with-hold or pay over any federal taxes on payments to independent contractors.

### Common-Law Rules

To determine whether an individual is an employee or an independent contractor under the common law, the relationship of the worker and the business must be examined. In any employee-independent contractor determination, all information that provides evidence of the degree of control and the degree of independence must be considered.

Facts that provide evidence of the degree of control and independence fall into three categories: behavioral control, financial control, and the type of relationship of the parties. These facts are discussed next.

**Behavioral control.** Facts that show whether the business has a right to direct and control how the worker does the task for which the worker is hired include the type and degree of:

***Instructions that the business gives to the worker.*** An employee is generally subject to the business' instructions about when, where, and how to work. All of the following are examples of types of instructions about how to do work.

- When and where to do the work.
- What tools or equipment to use.
- What workers to hire or to assist with the work.
- Where to purchase supplies and services.
- What work must be performed by a specified individual.
- What order or sequence to follow.

The amount of instruction needed varies among different jobs. Even if no instructions are given, sufficient behavioral control may exist if the employer has the right to control how the work results are achieved. A business may lack the knowledge to instruct some highly specialized professionals; in other cases, the task may require little or no instruction. The key consideration is whether the business has retained the right to control the details of a worker's performance or instead has given up that right.

***Training that the business gives to the worker.*** An employee may be trained to perform services in a particular manner. Independent contractors ordinarily use their own methods.

**Financial control.** Facts that show whether the business has a right to control the business aspects of the worker's job include:

***The extent to which the worker has unreimbursed business expenses.*** Independent contractors are more likely to have unreimbursed expenses than are employees. Fixed ongoing costs that are incurred regardless of whether work is currently being performed are especially important. However, employees may also incur unreimbursed expenses in connection with the services that they perform for their employer.

***The extent of the worker's investment.*** An independent contractor often has a significant investment in the facilities or tools he or she uses in performing services for someone else. However, a significant investment is not necessary for independent contractor status.

***The extent to which the worker makes his or her services available to the relevant market.*** An independent contractor is generally free to seek out business opportunities. Independent contractors often advertise, maintain a visible business location, and are available to work in the relevant market.

***How the business pays the worker.*** An employee is generally guaranteed a regular wage amount for an hourly, weekly, or other period of time. This usually indicates that a worker is an employee, even when the wage or salary is supplemented by a commission. An independent contractor is often paid a flat fee or on a time and materials basis for the job. However, it is common in some professions, such as law, to pay independent contractors hourly.

***The extent to which the worker can realize a profit or loss.*** An independent contractor can make a profit or loss.

**Type of relationship.** Facts that show the parties' type of relationship include:

- ***Written contracts describing the relationship the parties intended to create.***
- ***Whether or not the business provides the worker with employee-type benefits, such as insurance, a pension plan, vacation pay, or sick pay.***
- ***The permanency of the relationship.*** If you engage a worker with the expectation that the relationship will continue indefinitely, rather than for a specific project or period, this is generally considered evidence that your intent was to create an employer-employee relationship.
- ***The extent to which services performed by the worker are a key aspect of the regular business of the company.*** If a worker provides services that are a key aspect of your regular business activity, it is more likely that you will have the right to direct and control his or her activities. For example, if a law firm hires an attorney, it is likely that it will present the attorney's work as its own and would have the right to control or direct that work. This would indicate an employer-employee relationship.

**IRS help.** If you want the IRS to determine whether or not a worker is an employee, file Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding, with the IRS.



I D A H O D E P A R T M E N T O F  
**HEALTH & WELFARE**

**PARTICIPANT- INDEPENDENT CONTRACTOR**

**WORK AGREEMENT**

This agreement is hereby made between \_\_\_\_\_, a Participant of the Self Directed Community Supports (SDCS) Option, a Medicaid Option administered by the Department of Health and Welfare (Department),

\_\_\_\_\_, an independent contractor, hereafter referred to as 'Contractor.'

The Participant desires to engage Contractor to provide services under the SDCS Option. In exchange, Contractor will bill for services provided to the Participant. Both parties understand and agree that payment is made through a fiscal employer agent (FEA), using Medicaid monies and based on invoices submitted by Contractor and approved by the Participant. To these mutual purposes, the parties promise and agree as follows:

1. Contractor services are to be provided in accordance with the Participant's SDCS Option Support and Spending Plan, and the SDCS Option rules, outlined in IDAPA 16.03.13, "Consumer-Directed Services."
2. It is mutually understood that Contractor is an independent worker and not the employee of the participant and as such, is responsible for filing tax information with the Internal Revenue Service.
3. Contractor will provide services as directed, controlled and approved by the participant.
4. Contractor is hired to assist the Participant and assumes no legal liability for the Participant's conduct.
5. Contractor ensures that he/she meets the minimum qualifications to be a support worker, as outlined in Section 136 of IDAPA 16.03.13, "Consumer-Directed Services."
6. The parties mutually agree that Contractor is not an employee of the SDCS Option or the Fiscal/Employer Agent, and agree that Contractor is not entitled to nor will make claim for any employee benefits from the SDCS Option or the Fiscal Employer Agent, including but not limited to, worker's compensation, disability, life or health insurance.

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7. Contractor agrees to notify the Participant immediately in the event the he/she is unable to provide the agreed services due to sickness, injury or personal emergency.

8. Contractor agrees to provide services in a safe, courteous and professional manner. Any physical, sexual or mental abuse or neglect of the Participant by the contractor will result in the immediate termination of this Agreement and a report being made according to the requirements in Section 39-5303, Idaho Code.

9. Contractor agrees to report any observed physical, sexual or mental abuse, exploitation or neglect of Participant to Adult Protection Services authorities immediately.

10. Contractor understands and agrees that he/she cannot provide or bill for services until:

- a.) An authorized Support and Spending Plan has been submitted to the FEA.
- b.) Contractor has either cleared the criminal history background check or has had a Waiver signed by the Participant.

11. Contractor understands he/she will not be paid for services until:

- a.) An invoice has been submitted to and signed by the participant.
- b.) The invoice has been submitted to the FEA.
- c.) The Participant's Support and Spending Plan authorizes the service that Contractor has completed.

12. It is mutually understood that Medicaid funding can only pay for services rendered. Under the SDCS option, Medicaid will not reimburse Contractor for any vacation time, holiday time, overtime or sick time. Medicaid will not pay wages at an amount in excess of this agreement.

Contractor will provide the following service(s) to the Participant:

Service needed	Type of Support <input checked="" type="checkbox"/> only one box	Frequency  How often or how many hours:	Duration:  How long a period of time will the service be offered:	Annual Cost	
	<input type="checkbox"/> Personal PSS <input type="checkbox"/> Emotional ESS <input type="checkbox"/> Job JSS <input type="checkbox"/> Skilled Nursing SNS <input type="checkbox"/> Transportation <input type="checkbox"/> Relationship RSS TSS <input type="checkbox"/> Learning LSS		<b>x</b>	=	\$
				<b>Sub-Total</b>	
Service needed	Type of Support <input checked="" type="checkbox"/> only one box	Frequency	Duration:	Annual Cost	
	<input type="checkbox"/> Personal PSS <input type="checkbox"/> Emotional ESS <input type="checkbox"/> Job JSS <input type="checkbox"/> Skilled Nursing SNS <input type="checkbox"/> Transportation <input type="checkbox"/> Relationship RSS TSS		<b>x</b>	=	\$



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I am waiving the Criminal History Check requirement. I have completed the attached Waiver of Liability form. I understand that even if CHC is waived Contractor cannot receive Medicaid dollars if he is on a federal or state Medicaid exclusion list.

The provisions of this agreement represent the entirety of the agreement between the parties. It may be amended only in writing with both parties consenting by their signatures. It is mutually understood that this is employment at will. Either party may terminate the employment relationship without cause upon two weeks notice. This agreement may be terminated at any time by the Participant due to unsatisfactory worker or Contractor performance.

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PARTICIPANT

Date

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LEGAL GUARDIAN (IF APPLICABLE)

Date

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INDEPENDENT CONTACTOR

Date

# Request for Taxpayer Identification Number and Certification

**Give Form to the  
requester. Do not  
send to the IRS.**

Print or type  
See Specific Instructions on page 2.

Name (as shown on your income tax return)	
Business name/disregarded entity name, if different from above	
Check appropriate box for federal tax classification: <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate  <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____  <input type="checkbox"/> Other (see instructions) ▶ _____	Exemptions (see instructions):  Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____
Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
City, state, and ZIP code	
List account number(s) here (optional)	

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number									

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Employer identification number									

## Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below), and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶
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## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** The IRS has created a page on [www.irs.gov/w9](http://www.irs.gov/w9) for information about Form W-9, at [www.irs.gov/w9](http://www.irs.gov/w9). Information about any future developments affecting Form W-9 (such as legislation enacted after we release it) will be posted on that page.

### Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, payments made to you in settlement of payment card and third party network transactions, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the

withholding tax on foreign partners' share of effectively connected income, and

4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct.

**Note.** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.