




Best Practices:

INDEPENDENT CONTRACTORS IN THE AV INDUSTRY



Audiovisual and Integrated Experience
Association





As the AV industry continues to scale up through acquisitions and positive economic growth,

the chances are high that you are relying on independent contractors to keep up with demand. While every region has its own laws and regulations to pay attention to, it's important that as an integrator you understand some of the challenges facing you and some good questions to consider when beginning to work with independent contractors.

This document is meant to be used as a springboard for better communication between parties, and this information is not intended to constitute legal advice and should not be relied upon in lieu of consultation with appropriate legal advisors in your own jurisdiction. It may not be current as the laws in this area change frequently, and we do not warrant that such information is or will be always up-to-date or accurate.

PEOPLE ARE PEOPLE, NOT ASSETS

The first concept to consider when crafting a relationship with independent contractors is to remember they are people, not assets. Contracts exist to fully define how you expect to work together, but at the end of the day understanding their value, respecting their personal rights, and working together to take care of client's needs are the main objectives. Making sure that work gets done right and ensuring fair and equal treatment of outside contractors is the ideal outcome from contracts and agreements.

WHY CONTRACTS?

Contracts exist to ensure that two people or groups understand what is expected going into an agreement. In other words, they help foster healthy communication by setting the tone up front for how work will happen as a team. Contracts are not bad or scary but are very necessary.

CLASSIFICATION

Another important determination to make up front is if someone is classified as an employee or an independent contractor and how that can shape the working relationship. If an employer treats an independent contractor like a paid employee, they open themselves up to lawsuits and financial woes! In the United States the IRS states the three categories that help determine control and independence are behavioral, financial, and the type of relationship. Things to consider when trying to decide:

- **BEHAVIORAL**
Does the company control or have the right to control what the worker does and how the worker does his or her job?
- **FINANCIAL**
Are the business aspects of the worker's job controlled by the payer? (these include things like how the worker is paid, whether expenses are reimbursed, who provides tools/supplies).
- **TYPES OF RELATIONSHIPS**
If you treat an independent contractor like an employee, they can bring a case against you that could result in providing due benefits and compensation.

WHAT'S THE DIFFERENCE?

The reason classification is important is because it affects what you provide throughout the working relationship (vacation, medical benefits, tax compensation, etc...) and what you provide when it's time to part ways. Understanding the differences between an employee and an independent contractor and how to protect both parties when agreeing to work together is critical.

Typical considerations can include dress code, wages, tips, working hours, benefits, and more. Regulations and policies often differ by region and change over time, so be sure to check with the appropriate authority to determine the right classification for each worker.

A photograph showing two men in business suits. The man in the foreground is smiling and pointing at a laptop screen. The man in the background is wearing glasses and looking at the screen. The image is partially obscured by a white diagonal shape that contains text.

CONTRACTS ARE YOUR FRIEND

The best policy is one that is put in place before you need it. Waiting for a crisis to determine what you should have done exposes an integrator to financial risk and a hurt reputation. Taking the time to define what an ideal relationship between you and your independent contractors looks like will not only help avoid conflicts and disputes but will allow you to find independent contractors who share your values and are willing to work within the parameters of the contract. One recommendation is to create a high-level agreement that covers basic assumptions and parameters. A separate contract should be provided on a per-project basis discussing the particulars of that project. A third recommendation is to create a guide for independent contractors that gives them an understanding of how they can best work with the integrator with the goal of a mutually beneficial relationship in mind.



HIGH-LEVEL AGREEMENT

The high-level agreement exists to cover assumptions and common agreements that don't need to be redefined every project. Things to consider when drafting this contract are salary and payment terms, insurance requirements if needed to comply with state and federal regulations, how to handle ownership of intellectual property, how warranty work is defined and handled, agreements regarding non-solicitation to clients and partners involved on projects, licensing requirements to be provided by the independent contractor, and non-disclosure agreements to name a few.

Taking the time to define what is preferred as an integrator and putting those needs into writing with a high-level agreement will save time, money, and frustration when a dispute arises. It also sets the foundation for working together before a labor agreement is finalized so if an independent contractor is not able or willing to work under the defined conditions, the problem is avoided beforehand. Finding contractors that fit well within your organization is always worth the wait.

PER-PROJECT AGREEMENT

A recommendation to complement the high-level agreement is a per-project contract that defines the relationship between the integrator and independent contractor on a specific project. A project is a temporary endeavor that has a specific start date, finish date, and purpose. Once the project is considered to be completed, the specific project agreement is terminated and is not to be referred to or used for future work.

The scope of work of the project and the specific role the independent contractor will play should be defined. When a change order occurs that creates work not outlined in this contract, it should be treated as an addendum that is added on to the project agreement and agreed upon by both parties. Any changes in payment or other expectations from the high-level agreement should be outlined and defined as they pertain to the project.

COORDINATION AND COMMUNICATION

Ideally a point of contact from the integration side will be appointed to coordinate with all independent contractors, both on the contract side and on project coordination. Training should be provided for this individual so that knowledge of do's and don'ts are considered, and the company is not put at risk for mishandled policies.

GUIDELINE FOR HEALTHY RELATIONSHIPS

The third recommended document to consider is a guideline for working together well and should be understood by both parties. Understanding the culture, attitudes, recommended practices, and brand of the company is important for any independent contractor who joins the team.

While the company has little influence over the actions of the independent contractor, it is important to outline and agree on expectations going into a joint effort. For the integrator, it is important that they consider the individualities of their partners and the needs they may have, and how to cater to and understand them.



KEYS TO FORGING VALUABLE CONTRACTOR RELATIONSHIPS

There are many benefits to using independent contractors to support your business, but if not managed well the results can be stressful, expensive, and short of what the project was designed to be.

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Have your paperwork in order. The most important thing in ensuring satisfaction with a contractor is setting the expectations ahead of time. A solid contract and a very clear scope of work are critical.

Understand how the contractor does business, but do not be afraid to ask them to work outside of their comfort zone if it adds value to you or your client. A great contractor wants to earn your business and one way they can do that is by maintaining the flexibility needed to be helpful in any circumstance. At the same time, understand where the contractor's limits are and try to not push them to a place they are not able to provide exceptional service.

These relationships should be mutually beneficial for you and the contractor and should serve in the best interest of your client. Transactional relationships are no good in this space. You are dependent on these relationships to deliver your own scope of work as promised and turnover wastes time and is costly. Just as we hope our customers will do with us, build lasting relationships with your contractors. Learn what works to make both you and the contractor successful.

Make sure the contractor knows where they have the freedom and flexibility to exercise creativity and also where the hard edges of your business process are. This will keep them travelling the right direction, in the correct lane. Enter contractor relationships strategically.

Be clear about what you consider valuable from the relationship, identify how you will analyze risks and solve problems together, and encourage an environment where communicating honestly about challenges gets the contractor invited back rather than thrown under the bus.

Never speak negatively about your contractors as they are extensions of your own company. They should be treated with the same respect as any other member of your team, and if you experience problems with them, resolve them the way you would with anyone. When selecting contractors, keep in mind that if you would not enthusiastically hire them onto your own team, they probably aren't a good fit, and certainly do not belong in front of your customer. Maintain honest and direct communication in both directions throughout the relationship. Reviews and/or feedback should be common from both sides. If the relationship is no longer working out it is better to terminate the relationship in a professional manner rather than disrespectfully gossip.

Hold up your end of the bargain! It is a great day when you have located a contractor that meets your standards of excellence, makes you look great in the eyes of your customer, and makes your life easier! But as the contractor's customer, we need to contribute to the relationship too. Deliver the information they need to do their job, be available to manage customer expectations, and always pay them on time.

INTERNATIONAL CONTRACTS

Every country in the world has different laws, rules, and regulations in regard to doing business and hiring labor. While the policies and regulations differ, the questions to ask yourself when writing contracts are similar. One recommendation is finding a U.S.-based law firm that has offices in the country you are looking to hire labor in. The appropriate legal counsel should know and understand the labor laws, help you draw up contracts, and ensure that you are in compliance. Occasionally there are issues with local labor pools, and legal counsel can help guide you through this process.

Make sure your contractor is not an employee under applicable foreign labor laws — you are responsible for classifying a contractor's employment status. Again, you will need to do some research and find out the local country's labor laws. Make sure you are clear on the distinction between a contractor and an employee in the country. One thing to keep in mind is that it becomes harder to defend a contractor status when he/she is employed for a long time. A contractor who provides his or her own office and supplies is more likely seen as an independent contractor, instead of an employee.

What are the local laws on taxes in the country you are looking to work in? Initially establishing who is responsible to pay taxes, you or your contractor, makes working together easier in the long run. In some cases, you will be required to withhold payment to the contractor and pay the local government on their behalf. While in other cases, it is up to the contractor to pay taxes to its country's government. Also, your legal counsel can help to determine if you need a license to do work in the country, as you may need to register your business in that country.

Have a written contractor agreement in place and set expectations. Remember, what is reasonable at home may not be reasonable in another country, so taking the time to understand how business is conducted can make the relationship less strained. Also, keep the day-to-day work relationship free of control. Show the contractor that they can work autonomously. After all, they are the ones doing the work!

Another option is using a staffing company instead of working directly with contractors. This makes payment and local labor laws much easier. These agencies also carry the necessary insurance required in that country and provide management services of their staff that you work with. Take the time to explain your values, communication expectations, and details of the project at hand to the staffing company or contractor to make sure they are a good fit for your company. Remember, these contractors are now a representation of your company.



CALL TO ACTION

SO WHERE DO YOU GO FROM HERE?

It's time to "huddle up," get all the stakeholders together to review your current processes and contracts. Not sure who does what when it comes to your independent contractors in your organization? Start by determining who is responsible for finding contractors, negotiating the contracts, handling the accounting & finances, handling the safety training for each client's facilities, project management, and periodic reviews.

As you review your own current operations it is recommended that you use these points as a check list to make sure you are addressing these concerns and are planning accordingly. This is when you may want to get your Human Resources Department involved, having them review the policies to make sure they follow local, state, and federal employment guidelines as well as your own company guidelines.

Any time contracts are being written and used, a key step should always be to have legal counsel review the documents. They may need to be consulted anytime that notes, changes, or caveats are incorporated when negotiating with a specific independent contractor. Remember that while the purpose of the document is to spell out the arrangement between your company and your contractors, it is also a tool to protect you and your clients.

The topics mentioned are some of the accepted best practices for working with independent contractors, but they are definitely not the "be all" and "end all" on how to integrate them into your company's operations. As you review them, keep an open mind that it may lead you to change the way you do business now and in the future.

The key to remember is communication. As mentioned earlier when starting a relationship with independent contractors, remember they are people, not assets. Contracts exist to fully define how you expect to work together while understanding their value and respecting their personal rights. Contracts also state how you plan on working together to take care of our client's needs while protecting both parties as well.



THANK YOU TO OUR AUTHORS:

Luke Jordan, PMP, CTS®-I

Andrew Birkliid, CTS-D

George V. Fournier, Jr., CTS

Kendra Lettau, CTS

Aaron Udler, CTS



