

# Independent Contractors

Independent Contractor Definition s. 102.07(8), Wis. Stats.

From WI DWD:

[http://www.dwd.state.wi.us/wc/employers/independent\\_contractors.htm](http://www.dwd.state.wi.us/wc/employers/independent_contractors.htm)

Under s. 102.07(8), Wis. Stats., a person is required to meet a nine-part test before he or she is considered an independent contractor rather than an employee. A person is not an independent contractor for worker's compensation purposes just because the person says they are, or because the contractor over them says so, or because they both say so, or even if other regulators (including the federal government and other state agencies) say so.

To be considered an independent contractor and not an employee, an individual must meet and maintain **all nine** of the following conditions:

1. Maintain a separate business
2. Obtain a Federal Employer Identification number from the Federal Internal Revenue Service (IRS) or have filed business or self-employment income tax returns with the IRS based on the work or service in the previous year.  
(See note below)
3. Operate under specific contracts.
4. Be responsible for operating expenses under the contracts.
5. Be responsible for satisfactory performance of the work under the contracts.
6. Be paid per contract, per job, by commission or by competitive bid.
7. Be subject to profit or loss in performing the work under the contracts.
8. Have recurring business liabilities and obligations.
9. Be in a position to succeed or fail if business expense exceeds income.

**Note:** When requesting a Federal Employee Identification Number (FEIN) from the IRS, the independent contractor inform the IRS of the **requirement by Wisconsin Worker's Compensation law to obtain a FEIN**. A social security number cannot be substituted for a FEIN and does not meet the legal burden of s. 102.07(8).