



- The extent to which the services rendered by the worker are repetitive, rote tasks requiring skills that are acquired with relatively little training
- Whether the work performed is an integral part of the overall business operation of the [grower]
- Whether the work is performed on the [grower's] property
- Whether the responsibilities performed by the [grower] are the type normally performed by employers, such as maintaining payroll records, preparing and/or issuing pay records, paying FICA taxes, providing workers' compensation insurance, or providing field sanitation

Use of FLCs and other contractors also may carry reporting and income tax consequences and payroll withholding obligations for the client business.

### Before Getting Started

The importance of growers' carefully selecting the contractors they do business with and clarifying and sticking by the terms of agreement, especially the payment schedule, cannot be overstated. While growers may be primarily concerned about the fees they will have to pay for various services, ignoring the legitimacy or business practices of contractors leaves them at risk of incurring additional costs. There are documents to check and things to ask about from any FLC before shaking hands or signing on the dotted line.

Most critical is to verify that the contractor has (1) a current certificate of federal registration, with specific authorization for transportation and/or housing if he or she provides it, (2) a current state license, and (3) proof of workers' compensation coverage (in most western states). Keeping a copy of the state license is now required in California, and obtaining copies of all these documents is a good idea everywhere. Other items to consider bringing into pre-contract negotiations with contractors, depending on the circumstances, are:

- Federal registration as "FLC employees" of those who hire and supervise for the contractor
- Current registration, safety certification, and liability insurance coverage of vehicles used to transport workers
- Verification of FLC workers' eligibility for employment in the United States, on federal form I-9
- Written disclosure to workers of terms of employment;
- Posting of rights specified by MSAWPA
- Itemized statements with all paychecks showing wage calculation and any deductions
- Provision and maintenance for three years of payroll records
- Posting of pay rates for FLC employees (in some states)

For both legal and operational purposes, growers and FLCs are wise to put their agreements in writing, to help avoid misunderstandings and to manifest the independence of the two entities. One example of a fairly extensive written agreement is online at *AgHelpWanted.org*.



## Personnel Records

Accurate personnel records can inform day-to-day administration, as well as longer term planning decisions. Contents of a full file for each employee would document pre-employment and on-the-job events. A file could include all of the following:

- Completed application or new employee information form
- Report of selection interview and/or test results
- Reference check findings
- Documentation of job offer, with terms, conditions, and acceptance
- History of jobs performed and salary adjustments in this business
- Job description of current position
- Tax exemptions and deductions
- Performance evaluations
- Record of education and training (certificates, independent study, etc.)
- Disciplinary actions
- Suggestions and grievances filed
- Notice of resignation
- Dismissal notice
- Exit interview report
- Other confidential information

Good payroll management is vital to maintaining good relationships with both employees and government agencies. Payroll service firms are equipped to efficiently generate checks, stubs detailing deductions, and records and to keep up with any changes in reporting and withholding rules. Most agricultural employers find it worthwhile to use such services. Computer programs are available to simplify payroll preparation for those who prefer to keep the function in-house.

Most laws that require creation of employee records also set minimum periods of time to retain them on file. A summary of federal requirements for retention of various documents can be found at *AgHelpWanted.org*.