

# Responsible Contracting: Best practices

*Responsible contracting is important to sustainable companies, employees, and consumers. Complying with labor laws and adopting responsible practices is good business and supports our local and national economies. From 2005 to 2015, the percentage of Americans who were temporary workers, on-call workers, contract workers, or independent contractors or freelancers rose from 10.7 percent to 15.8 percent. During that same time period, workers hired through contract companies rose from 1.4 percent to 3.1 percent.<sup>1</sup> Today, responsible contracting practices are essential to attracting, retaining, and protecting a qualified workforce.*

## Better for Business

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Many companies maintain responsible contracting procedures and business models. These companies appreciate that everyone connected to their supply chain or business operation -- be they full time employees or contractors -- deserves decent wages and basic workplace protections. These companies have decided to:

- contract-out services with above-board contractors with built-in monitoring, clear contractual language, guaranteed payment schedules, and assurances that the contracted jobs provide labor protections;
- refrain from outsourcing at all so as to ensure high quality control and compliance with baseline labor protections throughout their operations or supply chain;
- not call their workers “independent contractors” but rather treat them as [employees](#), some in the fast-growing on-demand economy;<sup>2</sup> and
- develop partnerships with unions or other worker allied organizations to ensure that contracted jobs do not suffer in a wide range of larger contracted worksites like universities and hospitals.

## Responsible Practices

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Businesses can adopt and enforce responsible contracting practices through these four tools that can align a company’s practices with its values.

### **Responsible supply chain or business operations instrument, with enforcement mechanisms**

Businesses can take measures to ensure that, throughout their supply chain or overall business operations, labor standards are upheld. Industries likely to adopt these practices are in garment, technology, logistics and warehousing, fisheries, farming, and other food

supplies. Examples of good practices and resources include:

- Worker Rights Consortium: [Workplace Standards and Factory Obligations](#)<sup>3</sup>
- Equitable Food Initiative: [EFI Labor Standards](#)<sup>4</sup>

### **Responsible contractor policy (RCP)**

Responsible Contractor Policies (RCP) support and encourage fair wages and protections for workers employed by a company's contractors and subcontractors. Industries where these policies can be found are often in janitorial and building services, construction, manufacturing, warehouses, public sector, and hospitals. RCP's can also cover agreements with staffing or temp agencies. Examples of good practices and resources include:

- Bentall Kennedy: [Responsible Contracting Policy](#)<sup>5</sup>
- Panda Power Funds: [Responsible Contractor Policy](#)<sup>6</sup>
- Partnership for Working Families: [Policy & Tools: Responsible Contracting](#)<sup>7</sup>
- Santa Clara Valley Transportation Authority: [Contractor Pre-qualification Pilot Program](#)<sup>8</sup>
- Harvard University: [Wage & Benefit Parity](#)<sup>9</sup>

### **Franchising and franchisee agreements**

Responsible franchisors can play a critical role in informing and enforcing the labor standards of franchisees. This can happen in any franchise relationship, be it fast food, restaurant, home care, or other franchises. An example of a good practices includes:

- US DOL: [Agreement with Subway to Protect Workers](#)<sup>10</sup>

### **Proper employee classification**

Responsible companies should classify their employees as such, and not as independent contractors. In most instances, an individual performing labor or services for another should be covered as an employee under our employment laws, unless the person operates an independent business, with specialized skill, capital investment, and the ability to engage in arms-length negotiations over the terms of a job. Misclassification has been seen in industries such as: transportation, janitorial, logistics, home care and domestic work, construction, tech, and other sectors. Examples of good practices and resources include:

- Hello Alfred: [Company Efforts to Provide Good Jobs in the On-Demand Economy](#)<sup>11</sup>
- Munchery: [Delivery Team](#)<sup>12</sup>
- National Employment Law Project materials:
  - [Independent Contractor Misclassification Imposes Huge Costs on Workers and Federal and State Treasuries](#),<sup>13</sup>
  - [Independent Contractor vs. Employee: Why independent contractor misclassification matters and what we can do to stop it](#),<sup>14</sup>
  - [Independent contractor classification in home care](#).<sup>15</sup>
  - [Employers in the On-Demand Economy](#)<sup>16</sup>

### **Other resources**

- [The Road to Responsible Contracting](#), NELP<sup>17</sup>
- [Contracting that Works](#), NELP<sup>18</sup>
- [The Fissured Workplace: Why Work Became So Bad for So Many and What Can Be Done to Improve It](#), David Weil<sup>19</sup>
- [Administrator's Interpretation No. 2016-1](#), US Department of Labor<sup>20</sup>

## Contacts

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## Endnotes

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