SUMMER HIRING COMPLIANCE CHECKLIST FOR TEXAS SMBS

A solveHR Guide for Classifying Seasonal Workers, Interns, and Temps Correctly

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Why This Checklist Matters

Summer hiring brings a wave of new workers—seasonal staff, interns, and temporary help—into growing Texas businesses. It also brings one of the highest rates of worker misclassification among small and medium-sized businesses.

Here's the problem: seasonal roles, internships, and temporary positions are frequently treated as 1099 contractors when the working relationship legally qualifies them as W-2 employees. The IRS and Department of Labor (DOL) apply the same classification standards regardless of how long someone works for you. A worker hired for eight weeks is held to the same test as a worker hired for eight years.

Get it wrong, and the consequences outlast the season: audits, back pay obligations, and penalties.

The risk isn't how many people you hire this summer. It's whether you have a documented process to classify each one correctly from day one. This checklist gives you that process.

Part 1: The Worker Classification Guide

Before you onboard anyone, answer one question: Is this person an employee or an independent contractor?

The answer depends on the working relationship—not the job title, not the length of employment, and not whether the worker agrees to be a contractor. Federal agencies look at three categories of control.

The 3-Factor Classification Test

1. Behavioral Control

Does your business control how the work gets done?

- [ ] Do you set the worker's hours or schedule?
- [ ] Do you provide tools, equipment, or a workspace?
- [ ] Do you train the worker on your methods?
- [ ] Do you supervise or direct the work in progress?

More boxes checked = more likely a W-2 employee.

2. Financial Control

Does your business control the economic side of the work?

- [ ] Do you pay an hourly wage or salary (rather than per project)?
- [ ] Do you reimburse business expenses?
- [ ] Does the worker rely on you as their primary source of income?
- [ ] Is the worker unable to offer the same services to other clients?

More boxes checked = more likely a W-2 employee.

3. Relationship Type

How do both parties define the working relationship?

- [ ] Is the work a core part of your regular business?
- [ ] Is there an expectation the relationship continues beyond a single project?
- [ ] Do you provide any employee-type benefits?
- [ ] Is there no written contract establishing independent contractor status?

More boxes checked = more likely a W-2 employee.

Rule of thumb: If you control when, where, and how the work is done, you are almost certainly looking at a W-2 employee—even if the role is temporary.

Part 2: The Worker Type Matrix

Use this matrix to compare the most common summer roles at a glance.

Worker Type	Typical Classification	Overtime Eligible?	Key Risk
Seasonal employee	W-2 employee	Yes, if non-exempt	Treated as 1099 to skip payroll taxes
Paid intern	W-2 employee (in most for-profit settings)	Yes, if non-exempt	Misclassified as "unpaid" or contractor
Unpaid intern	Not an employee only if the program meets the DOL "primary beneficiary" test	No	Intern does productive work that benefits the business
Temporary worker (direct hire)	W-2 employee	Yes, if non-exempt	Treated as contractor due to short duration
Staffing agency temp	W-2 employee of the agency	Handled by agency	Joint-employer liability if you direct the work
Independent contractor	1099 contractor	No	Misclassified when you control the work

Two reminders that catch Texas SMBs off guard:

- 1099 workers do not get overtime. But if you've misclassified a W-2 employee as a 1099 contractor, you may owe back overtime pay—plus penalties.
- "Temporary" is not a classification. Length of employment has no bearing on whether someone is an employee or a contractor.

Part 3: The Onboarding Documentation Checklist

A correct classification means little without the paperwork to prove it. Complete this checklist for every new summer hire.

For Every W-2 Employee

- Signed offer letter stating role, pay rate, and employment dates
- Form W-4 (federal tax withholding)
- Form I-9 with verified documents (within 3 business days of start)
- Direct deposit authorization
- State new hire reporting submitted (required in Texas within 20 days)
- Employee handbook acknowledgment
- Job description outlining duties and supervision
- Exempt vs. non-exempt status documented

For Every 1099 Independent Contractor

- Signed independent contractor agreement (scope, deliverables, payment terms)
- Form W-9 collected before first payment
- Documentation showing the contractor controls how work is performed
- Evidence the contractor offers services to other clients (if available)
- No employee benefits, training, or set schedule provided
- Invoices retained for each payment

For Every Intern

- Written agreement defining whether the role is paid or unpaid
- If unpaid: documentation showing the program passes the DOL primary beneficiary test
- Educational or training objectives outlined
- If paid: treat as a W-2 employee and complete that checklist

Keep Your Summer Season Penalty-Free

Classification mistakes are easy to make and expensive to fix. The good news: a documented, consistent process protects your business long after summer ends.

Run every new hire through this checklist before their first day. When a role falls into a gray area—a paid intern doing core business work, or a temp you're directing closely—that's the moment to get expert eyes on the decision.

solveHR helps Texas SMBs build classification processes that hold up to IRS and DOL scrutiny. From onboarding documentation to ongoing compliance, we take the guesswork out of hiring so you can scale with confidence.

Ready to hire with confidence this summer? Contact **solveHR** for a classification review before your next wave of new hires.

Your HR made easy.

This checklist is provided for general informational purposes and does not constitute legal advice. For guidance specific to your business, consult solveHR or a qualified employment law professional.