



Fire Marshal's Notice

January 2013

State Fire Marshal Announces Clarifications to Fire Sprinkler Rules Related to Independent Contractors as Employees

It has come to the attention of the State Fire Marshal's Office that some fire protection sprinkler contractors may be hiring individuals acting as independent contractors and considering them to be employees. The following questions and responses are offered to help provide a better understanding of the fire protection sprinkler statute and rules.

Frequently Asked Question:

Can a registered fire protection sprinkler contractor hire individuals acting as independent contractors and consider them to be regular employees under TIC 6003.002.(a)(7)? For example, hire individuals to install or service sprinkler systems, or act as a responsible managing employee (RME) and report their payment on a 1099 wage form as independent contractors?

Response:

No: the 1099-based worker is not considered an employee for purposes of the fire protection sprinkler statute and rules.

References:

28 TAC 34.710(a), Texas Attorney General Opinion JM-689

Frequently Asked Question:

Is it acceptable for a registered fire protection sprinkler contractor to pay its workers through a staff leasing company? Are the workers considered to be employees for purposes of the requirements in the fire protection sprinkler statute and rules?

Response:

Yes: a licensed responsible managing employee (RME) or other worker hired through a staff leasing service is considered to be an employee of the fire protection sprinkler contractor as required by TIC 6003.153.(a). In addition, unlicensed workers hired through a staff leasing service are considered to be regular employees of the registered contractor for the purposes of TIC 6003.002.(a)(7).

References:

Labor Code Section 91.004(b) provides: "An employee who is licensed, registered, or certified under law and who is assigned to a client company is considered to be an employee of the client company for the purpose of that license, registration, or certification."

FMLicensing@tdi.texas.gov (e-mail)

<http://www.tdi.texas.gov/fire/fmli.html> (website)