



Options for UndocuWorking Presentation

Pros/cons of different income options for undocumented folks, legal implications, and more!

**WHO WE ARE
NYSYLC.ORG**

UNDO CU MEET UP



Agenda


1. Background of Work Authorization
2. Legal Implications of Working Without Work Authorization
3. Options for Working
4. Deep Dive into Independent Contracting



Background of Work Authorization

1. Employers **are required to verify** the identity and **work authorization of** individuals hired as **employees**
2. Employers **don't need to check the work authorization of independent contractors**, unpaid **volunteers**, and workers who provide **infrequent services in private homes**.



 **Employment Eligibility Verification**
Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS Form I-9
OMB No. 1615-0047
Expires 10/31/2022

▶ **START HERE:** Read instructions carefully before completing this form. The instructions must be available, either in paper or electronically, during completion of this form. Employers are liable for errors in the completion of this form.
ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work-authorized individuals. Employers **CANNOT** specify which document(s) an employee may present to establish employment authorization and identify. The refusal to hire or continue to employ an individual because the documentation presented has a future expiration date may also constitute illegal discrimination.

Section 1. Employee Information and Attestation (Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.)

Last Name (Family Name)		First Name (Given Name)		Middle Initial	Other Last Names Used (if any)		
Address (Street Number and Name)			Apt. Number	City or Town		State	ZIP Code
Date of Birth (mm/dd/yyyy)	U.S. Social Security Number		Employee's E-mail Address		Employee's Telephone Number		
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I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

I attest, under penalty of perjury, that I am (check one of the following boxes):

Legal Implications of Working Without Work Authorization

Remember!:

1. It is not illegal to work without authorization.
It is not a crime.
2. Ensuring that someone has authorization to work is the **employer's responsibility**, not the worker's

Legal Implications of Working Without Work Authorization

Immigration Impacts

In general, working without a permit in itself won't make an undocumented ineligible for immigration statuses in the future.

Visas/statuses that some undocumented people can apply for without leaving the US

Examples:

- Green card if you are an “immediate relative” of a U.S. citizen
- Specialized visas (U visa for crime victims; special immigrant juvenile visas for some youth)

Some people can apply for these if they are eligible, **even if they worked without a permit.**

Undocumented people can also **leave the US to apply for visas at US consulates.** However, **there can be serious risks** for undocumented people to leave and re-enter the US.

Legal Implications of Working Without Work Authorization

Regardless of whether you are working with or without authorization:

1. You should pay taxes
2. You should not use someone else's social security number (SSN) or make up a SSN
3. You should not claim to be a US citizen, especially on a form

Questions?



Options for Working

1. Working as an **independent contractor**
 - For different company(ies),
 - By **turning current job** into independent contractor, or
 - By **turning job offer** into independent contractor
2. Creating your **own business**
3. Starting or joining a **workers co-op**
4. Working as an **employee** for a company that doesn't check work authorization
5. **Employment Visas**

1. Working as an independent contractor

What is an Independent Contractor?

Employee / Intern

- Works exclusively for the company
- Company provides tools
- Company controls duties
- Company sets working hours
- Worker must perform services
- Worker has pension / group benefits
- Worker gets paid vacation
- Company pays expenses
- Worker is paid salary or hourly wage

Independent Contractor

- May work for other companies
- Worker provides tools
- Worker decides how the task is completed
- Worker sets own working hours
- Worker may hire someone else to complete the job
- Worker does not get benefits
- Worker gets no paid vacation, and has no restrictions on time off.
- Worker pays own expenses
- Worker is paid by the job on a predetermined basis

Note: These distinctions don't apply to every employee/intern or independent contractor

1. Working as an independent contractor

Because employers **don't have to check the work authorization** of independent contractors, it is a way for people who don't have a work permit to work.

Pros

- IC are their own boss
- Flexibility over their hours, clients, experiences, and earning potential
- Can claim tax deductions

Challenges

- IC don't have the same labor protections as employees
- Many employment relationships provide benefits that IC don't get such as min. wage, overtime, and paid vacation.
- Classification may be more difficult than just changing what forms they fill out.

1. Working as an independent contractor

How?

- **Marketing yourself** as an independent contractor for different compan(ies)
- **Turning your current job** as an employee into independent contracting
- **Turning a job offer** into independent contracting

Want to learn more?

UndocuWorking Workshop

Thursday, April 6, 6 PM

Location: 555 W 57th St 16 Floor New York
NY 10019 (BMW Building)

RSVP:

<https://www.nysylc.org/events/2023/3/10/undocuworking>

Learn how to turn your current job or a job offer into independent contracting and meet others asking these same questions!

2. Creating your own business

There are **no federal or state laws**, immigration or otherwise, that explicitly bars an undocumented immigrant from owning a business

Pros:

- You are your own boss! You have the independence and flexibility to create and grow your business how you want it
- No employer to check your work authorization
- By incorporating as a business, you can
 - Hire employees
 - Create a layer of identity and liability protection
 - Access to financial capital

Challenges:

- Financial risk as it there is a high start-up cost
- Owning your own business is stressful and time consuming

2. Creating your own business resources

Immigrants are **80% more likely** to start businesses in the U.S. than native-born citizens.

Immigrant entrepreneurs make up over 20% of all business owners in the U.S.

Guides/ Compilation of Resources

- [NYSYLC's Non-Citizen's Guide to Entrepreneurship](#)
- [Resources](#) from Immigrants Rising
- [Compilation of resources](#) on business education, regulatory assistance, legal assistance, financing assistance, and more.

Training, funding, and services:

- [NYC Business Step-by-Step](#)
- [Building Your Business in New York City](#)
- [Pro Bono Legal Advice for Small Businesses](#)

3. Starting or joining a workers co-op

In a worker's co-op, the workers collectively **own and operate** the business. **Each employee has an equal vote and ownership** over the co-op

Pros:

- A way to start a business with limited resources and experience, and where you share the responsibilities and risks with others
- Workers together determine working conditions: pay, hours, vacation pay, worker benefits
- Solidarity and community



Challenges:

- Democratic management is hard
- It may be harder to set up than a traditional business

3. Starting or joining a workers co-op

Training, funding, and services:

- New York City Worker Cooperative Business Development Initiative:
<https://www.nyc.gov/nycbusiness/article/worker-cooperatives>
- New York City Network of Worker Cooperatives:
<http://www.workercoop.nyc/>

Directory of New York City Worker Co-operatives:

<https://nycworker.coop/business-directory/>

Guides:

- NYSYLC's The Non-Citizen's Guide to Entrepreneurship:
<https://www.nysylc.org/getpaid>
- Co-op Law by the Sustainable Economies Law Center (SELC):
<https://www.co-oplaw.org/>
- Democracy at Work Institute by the U.S. Federation of Worker Co-operatives:
<https://institute.coop/tools/for-worker-coops>

4. Working as an employee for a company that doesn't check work authorization

Remember!:

1. It is not illegal to work without authorization.
It is not a crime.
2. Ensuring that someone has authorization to work is the **employer's responsibility**, not the worker's

5. Employment Visas

Employment visas are a **limited option** because:

- Usually require bachelor's degree and work experience
- Are expensive
- Can take a long time to process
- Require leaving the US to apply, which could trigger the 3 or 10 year bar to re-entry

If you think this may be an option for you, please **speak to an attorney experienced with employment visas.**

Questions?



Deep Dive: Independent Contracting

How to start earning a living as an independent contractor?

Who are Independent Contractors?

36%
of American workers freelance



Truck Drivers



Writers



Yoga/Fitness Instructors



Artist/Designers



Construction Workers



Barbers/Beauticians



Healthcare Workers



Real Estate Agents



30%
of freelancers chose to leave a full time job



How to find work as an independent contractor

1. Look for independent contracting postings!

Where?

- General job postings sites
- Work posting sites specifically for independent contracting
- Community job posting boards

Look for: “independent contractor”, “1099” “contracting”

2. Negotiate a job offer into independent contracting

When? Typically after you get an offer or close to the offer stage

An employer cannot ask about the applicant’s immigration status or citizenship during the hiring process

Evidence of work authorization is not required until after there is an accepted job offer.

Negotiating job offer into independent contracting

Benefits to the worker:

- Be your own boss
- Control over your own work
- Flexibility
- Tax deductions for business expenses
- Gain experience and skills to start your own business

Benefits to the employer:

- Only pay you for the work you do
- Flexibility in staffing
- Don't have to pay employment tax, or other benefits they may provide to employees like health insurance, and vacation pay

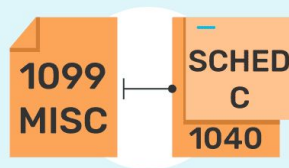


Responsibilities of an Independent Contractor

Independent Contracting and Taxes



Must pay extra self-employment taxes on income for social security and Medicare.



Receives Form 1099-MISC instead of W-2. Fills out Schedule-C in addition to Form 1040.



May be required to divide taxes into quarterly payments.



Can often take deductions like using a car for business purposes.

UndocuWorking Event Series



Options for UndocuWorking Presentation

Monday, March 20 at 7pm

UndocuWorking Workshop

Thursday, April 6, 6 PM

Location: 555 W 57th St 16 Floor New York NY 10019 (BMW Building)

RSVP: <https://www.nysylc.org/events/2023/3/10/undocuworking>

Learn how to turn your current job or a job offer into independent contracting and meet others asking these same questions!

UndocuWorking Panel

TBA - Stay tuned by following @nysylc on Instagram and TikTok



NYU | LAW

Immigrant Rights Clinic

Q&A

Resources:

- [NYSYLC's The Non-Citizen's Guide to Entrepreneurship](#)
- [Freelancer's hub](#): NYC workshop and services for ICs; including a healthcare program
- [Immigrant Rising's A Guide to Working for Yourself](#)
- [Independent Consultant Network, e.g., IQ Workforce](#)
- [How to Become an Independent Contractor: A Step-By-Step Guide](#)

Next Event: UndocuWorking Workshop

Thursday, April 6, 6 PM

Location: 555 W 57th St 16 Floor New York NY 10019 (BMW Building)

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