Sub-contracting: From A to Z
Goals of Workshop

- To give you an overview of the basics of sub-contracting.
- To provide you with some suggestions for perks you can offer to improve sub-contractor’s industry knowledge and keep them happy.
- To give you some ideas on how to improve/strengthen their writing ability.
- To offer you some tips on developing positive long-term relationships with your sub-contractors.

Employee

Freelancer
To give you some advice on how to maximize your subcontractor’s productivity.

To provide you some suggestions on how to set a positive tone/working environment.

To help you decide if using interns or long-distance contracting is right for you.

To teach you about the warning signs of unhappiness.

To convey the pitfalls to avoid when using sub-contractors.
Advantages - Disadvantages of Sub-Contracting

PROS | CONS
Advantages of Sub-Contracting

• Increased productivity/income.
• Cost savings – Don’t pay benefits, vacation, sick days, holidays.
• Don’t need to manage/administer payroll or benefits.
• Can cut back on your hours.
• You can handle more and diverse clients.
• Can perhaps offer clients broader range of skills.
• You work as a team and not solitary.
• Hiring process may be abbreviated.
• Easier to let supplemental workers go.
• Can “test drive” worker prior to hiring them as an employee.
• They can perform lower value work.
• Lifelong friendships.
Disadvantages of Sub-Contracting

- You have the challenges of managing people.
- Accounting.
- Less loyal, less accountable.
- Communication overload.
- Need to plan in advance.
- Might not be available when you need him/her.
- More workers means more work for you.
- Loss of control over quality and quantity of work.
- Not attuned to company values, culture and mission.
- Greater risk of confidential/proprietary information being compromised.
- Demoralized by lack of advancement.
- Limited ability to incentivize.
To Sub-Contract or Not?
Recruiting Sub-Contractors

- Recruitment ads - GPA job listing, local GPA or AFP chapters, local papers, other local nonprofit organizations’ newsletters (e.g. United Way, Nonprofit Westchester) and recruitment sites (e.g. Indeed, Idealist, Nonprofit Times, Nonprofit Jobmarket, nonprofit-jobs.org)
- Your website.
- Social media.
- Networking with your local GPA or AFP chapters.
- Local college/university grant writing professor.
Recruitment Ad

Community Options
Grant Writer

Apply Now

Print Save Share

Description
The Grant Writer is responsible for writing Federal, State, Local and Foundation grant proposals to enhance our mission of housing development and employment for persons with developmental disabilities. The position requires expertise in grant writing, excellent communication skills, experience in needs assessment and analysis.

Location:
- Other locations in the US will be considered.
- Must be available to periodically go into HQ located in Princeton, NJ, if located outside of the Princeton area.

Who We Are:
Community Options, Inc. is a Non-Profit company which develops residential and employment supports for people with severe disabilities, utilizing technology and training. We recognize that people with the most severe disabilities need environments, equipment, clinical and staff support that are tailored to their very specific needs.

What You Will Be Doing:
- Generate proposals and supporting documents in response to solicitations.
- Synthesize complex information into clear and concise letters of inquiry, grant proposals, funder reports and briefing papers.
- Facilitate online grant submissions (e.g., Grants.gov).
- Maintain all grant and contract documents
- Write, develop and prepare proposals and reports for government agencies and offices of government officials.
- Identify funding opportunities and new program areas to match client's priorities, using research tools.
- Ensure compliance and meet reporting requirements for existing agency government grants
- Maintain government grant and contract documents
Mechanics of Recruitment Ad

- Title
- Company description
- Responsibilities
- Requirements including years experience, knowledge of arts, and minimum number of hours
- Writing samples/writing test
- Contact info
For starters:

• Give an overview of your business.

• Tell them upfront what you are seeking in a sub-contractor.
Skill questions:
• Have you done all kinds of grants?
• Do you have experience with The Foundation Center online?
• Do you subscribe to any RFP alerts?
• How do you typically vet a funding source?
• What sources do you use when looking up statistics for a needs statement?
• Do you have experience creating budgets?
• Have you done evaluation reports?
What type of reports have you done?
Work preference questions:

• Are you a more take-charge person and seek answers yourself, or do you prefer to be given all the direction and facts upfront so you have a really clear idea of the scope of the project?
• Do you prefer to use your imagination and make up copy, or do you prefer lots of past grants and client-supplied copy to cut and paste from?
• Do you prefer researching and writing, or do you like more client contact?
• Can you give me an example of a proposal you drafted from scratch?
• Have you had to write a recap report with little tracked outcomes or perhaps poor results?
• Would you be available on occasion to write an emergency grant due the next day?
Interview Questions

Passion questions:
• What do you like about grant writing?
• What is the grant writing success you are most proud of?
• What about grant writing gives you the most professional and personal gratification?
Rejection letters to all
Human Resources Issues

Independent contractor versus employee
Three-category test based on:

• Behavioral control
• Financial control
• The relationship of the parties
Behavioral Control

Amount of control of where, when and how the job is done

- No instruction.
- No demands on equipment.
- No training.
- No evaluation system.
Financial Control

No control over pay, facility, and expenses

- Compensation package.
- Significant investment.
- Expenses.
- Multiple clients.
- Opportunity for profit or loss.
Written agreements, benefits, and length of relationship

- Employee benefits.
- Written contracts.
- Separately incorporated.
- On-going or project.
- Core work of the contractor’s service.
Employee vs Independent Contractor

**Indicia of an Employee**
- Company decides when, where and how they perform services.
- Uses company facilities, equipment, tools and supplies.
- Is supervised.
- Company sets the work hours.
- Services are exclusive to company.
- Company sets the rate of pay.
- Attendance at meetings/training sessions is required.
- Company requires oral/written reports.
- Company reserves the right to review and approve work product.
- Performance is evaluated.
- Permission required for absences.
- Company has right to hire and fire.

**Indicia of an Independent Contractor**
- Free from supervision and control.
- Sets their own schedule.
- Has own business, facilities, equipment and supplies.
- Pays own expenses and taxes.
- Assumes risk for profit and loss.
- Offers services to others.
- Advertises.
- Use business cards, stationery, etc.
- Carries insurance.
- Sets/negotiates own pay rate.
- Free to refuse work offers.
- May choose to hire help.
Legal Risks of Worker Misclassification

**Employment taxes**
- Past federal payroll taxes (3 years back or more)
- State payroll taxes
- Interest on unpaid taxes
- Penalties

**Minimum wage and overtime**
- Minimum wage overtime (up to 6 years)
- Liquidated damages (100% penalty)
- Application of damage model to all workers in same job not just individual worker
- DOL supervision over payment of wages
- Attorney’s fees and costs

**Unfair labor practices liability**

**Violation of terms of government contracts as to prevailing wage, etc.**

**Immigration liability**

**Employee benefit plan operational failures**
- Tax liability for disqualification of plan or discriminatory plan
- Liability for pension or welfare benefits
Additional Human Resources Issues

Requiring sub-contractors to be companies with EIN numbers vs. individual with SS numbers

Additional Human Resources Issues

Part-time vs full-time
Additional Human Resources Issues

Use of Releases and Contracts

Releases

- Not effective method of addressing independent contractor status.
- Not enforceable under FLSA.
- Probably not enforceable under Title VII, the ADEA and ADA.
- Not any help in an IRS audit.
- Evidence that employee misclassification was both knowing and intentional.
Use of Releases and Contracts

Contracts

- Worker is an independent contractor free from supervision, to offer services to others, set own rate, hire employees, etc.
- Worker operates own business, owns own equipment, pays own expenses, not obliged to attend meetings/trainings, participate in performance appraisals, etc.
- Workers pays own taxes and complies with taxing and insurance, and shall notify you of inquiries from employment or tax authorities regarding your relationship.
- Worker maintains all proprietary and/or confidential information.
Use of Releases and Contracts

Contracts continued

- Worker’s responsibilities (e.g. services to be provided, supply bill on last day of month).
- Company’s responsibilities (e.g. secure business, legal, accounting, marketing).
- Compensation arrangements (e.g. rate, expenses, travel, bonus for new business).
- Termination
  - Indemnification
  - Arbitration
  - Applicable law
Additional Human Resources Issues

Issuing 1099s

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Ports</td>
<td>$</td>
</tr>
<tr>
<td>2. Royalties</td>
<td>$</td>
</tr>
<tr>
<td>3. Other income</td>
<td>$</td>
</tr>
<tr>
<td>4. Federal income tax withheld</td>
<td>$</td>
</tr>
<tr>
<td>5. Fishing boat proceeds</td>
<td>$</td>
</tr>
<tr>
<td>6. Medical and health care payments</td>
<td>$</td>
</tr>
<tr>
<td>7. Nonemployee compensation</td>
<td>$</td>
</tr>
<tr>
<td>8. Substitute payments in lieu of dividends or interest</td>
<td>$</td>
</tr>
<tr>
<td>9. Payer made direct sales of $5,000 or more of consumer products to a buyer (recipient) for resale</td>
<td>$</td>
</tr>
<tr>
<td>10. Crop insurance proceeds</td>
<td>$</td>
</tr>
<tr>
<td>11. Excess golden parachute payments</td>
<td>$</td>
</tr>
<tr>
<td>12. Gross proceeds paid to an attorney</td>
<td>$</td>
</tr>
<tr>
<td>13. State tax withheld</td>
<td>$</td>
</tr>
<tr>
<td>15a Section 409A deferred</td>
<td>$</td>
</tr>
<tr>
<td>15b Section 409A income</td>
<td>$</td>
</tr>
<tr>
<td>16. State income</td>
<td>$</td>
</tr>
</tbody>
</table>

Form 1099-MISC

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GPA
Grant Professionals Association
Additional Human Resources Issues

Terminating a relationship

You’re Fired
Additional Human Resources Issues

90 day trials

TODAY
90 DAYS
Managing Projects/Hours

Project management applications
(Project management, tasks, time billing and invoicing)

- Harvest Time Tracking
- Paymo
- Wrike
- Mavenlink
- Apptivo
## Sub-contractor invoices

### YMCA of Metro Atlanta

- **Funder:** Atlanta Community Foundation
- **Project name:** Educational Enrichment Program
- **Work description:** Research funder’s guidelines and draft cover letter, proposal and budget
- **Number of hours:** 10hrs
- **Rate of pay:** $50
- **Total:** $500

### Morningside Nature Preserve

- **Funder:** Wells Fargo
- **Project name:** Trail Refurbishment Project
- **Work description:** Prepare online submission; create and upload numerous addendums including project description; make edits; submit
- **Number of hours:** 8hrs
- **Rate of pay:** $50
- **Total:** $450
Attend an HR seminar given by your local pro bono legal group
Sub-contractor Perks

Educational Enrichment

• On-going grants education (e.g. GPA conference, GPA chapter meeting, local AFP seminars, webinars).
• GPC cost.
• Sharing industry news.
• Library of grant resources.
Sub-contractor Perks

Dues & Subscriptions

• GPA membership
• Publications (e.g. Chronicle of Philanthropy)
Improving/strengthening their writing ability/knowledge

- Share your edited copy or client edits.
- Give them sampling of grants with each project.
- Brainstorm on potential objectives or outcomes for a project.
- Pass along articles or a PowerPoint presentation that offers writing tips.
- Encourage them to follow clients on social media.
- Encourage educational enrichment.
Developing a positive long-term relationship

• Pay in a timely manner.
• Provide positive reinforcement.
• Truly appreciate their efforts.
• Ask their opinion.
• Give them client contact.
• Give them holiday gifts and bonuses.
• Provide paid time off – bill you a couple extra hours.
Developing a positive long-term relationship

- Give them access to your resources.
- Share your collective success.
- Share client/funder feedback.
- Share details of your personal life.
- Remember their birthday.
- Place their bios/photos on your website as a consultant.
Developing a positive long-term relationship

- Give credit publically among all your sub-contractors.
- Face-to-face meeting (if possible).
- Be mindful of their personal time.
- Give them hard copies of any marketing work/publications.
Do Not Do

- Give them business cards.
- Buy them a fax or typewriter.
- Give them an “office” cell phone.
- List them as “employees” on your website or promotional kit.
• Be approachable. Never make them feel like they are interrupting.
• Be motivating.
• Make them a priority. Return their emails promptly.
• Be open to learning from your sub-contractors and let them learn from you.
• Maintain an optimistic outlook.
• Make them feel part of the team.
Use of Interns

Positives:
• No or low-cost.
• Test run potential employees.
• Giving back to the industry.
• Can give them mundane or repetitive work.

Negatives:
• Temporary worker.
• Learning curve.
• Quality.
Long-distance sub-contracting

- Interview by phone or Skype.
- Regular contact by email/phone/Skype.
- Meet at GPA conference or chapter meeting.
- May be cost-effective.
Maximizing Productivity

- Know their strengths/skillset.
- Providing clear directions.
- Give them feedback.
- Memorable after action review.
Consulting for Other Clients

- You can’t prevent this or impose restraints.
- Positive outcomes
  - They offer potential funding opportunities.
  - They share their experiences.
Warning Signs of Unhappiness

• Tardiness with turnaround.
• Decline in quality of work.
• Lack of dependability.
• Lack of response to communications.

• *Tips for preventing.*
Pitfalls to Avoid

- Ignorance of legal/tax laws.
- Interviewing poorly.
- Hiring in desperation.
- Treating them like employees.
- Being so wrapped up in your own business that you don’t recognize their contributions.
- Ignoring the warning signs of unhappiness.
Suggestions

- Use a contract.
- Provide orientation/set expectations from start.
- Set up a good system to track hours and projects by client, project and contractor.
- Be clear with project direction.
- Understanding their needs.
- Use of perks.
- Set a good tone / positive work environment.
- Foster a positive long term relationship.
- Consider using interns and long-distance sub-contractors.
- Maximize productivity.
- Try to avoid unhappiness.