



# MarketWise

Ideas for Small Agencies That Don't Want to Remain Small

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## Employee or Independent Contractor?

For most companies, it is easier and cheaper to hire an independent contractor (IC), especially when the work may be temporary. You don't have to provide benefits for ICs and you don't have to collect and pay taxes or contribute company taxes. Problem is, most of the time, these workers are misclassified and should actually be treated as employees. This misclassification is serious and can result in huge penalties and interest on taxes that should have been paid.

There seems to be a misunderstanding among employers regarding ICs. No limits to amounts earned or hours worked requirement exists in the determination of employment status. The determination is made based on what the person is doing for the company, who is giving direction and how the work is getting done. The common law rule for the employment determination is the "right of control." An employer-employee relationship exists when the person for whom the services are performed has the "right to control and direct" the individual performing the service with regard to the results of the work and the measures used to accomplish those goals.

There are three agencies that get involved in employment classification: the IRS, Unemployment,

and Workers Compensation. Each agency has a set of determining factors they use when reviewing employment situations. These factors are not the same for all three agencies. Many times the factors overlap and the agencies agree on determinations, but in some situations one agency may determine one way and another agency determines the opposite. This makes classification even more difficult for an employer.

Unemployment and Workers Compensation agencies have certain conditions for IC determination and a worker must meet a set amount of them to qualify. The IRS has a set of conditions; however, they review substance over form and look at each case and condition individually. In one situation the worker may only meet seven of the twenty conditions, but the IRS could conclude that they are an IC based on the substance of those seven conditions. On the other hand, there may be a situation where a worker meets seventeen of the twenty conditions and is still determined to be an employee. The IRS has broken the twenty conditions into three categories to help in determination. The three categories are behavioral control (who has the right of control), financial control (who has a significant investment) and the relationship of the parties (written contract).

Because of these inconsistencies between agencies and the complexity of identifying an IC, it is often recommended that you consult with your tax

professional or attorney before making a determination.

With the current economic situation, many companies are hesitant to hire employees due to taxes and benefits. Classifying workers as ICs can be very tempting, but beware of the consequences of misclassification. The determining agencies can go back through years of payrolls and IC payments and require you to make good on all taxes, interest, and penalties for improperly classified employees.

Starting in February 2010, the IRS began the process of randomly selecting 6,000 companies for employment audits. One of the areas they will be looking into is employment determination and ICs. These audits will be held over the next three years. You can view the specific conditions for the IRS on their webpage [Independent Contractor \(Self-Employed\) or Employee?](#)

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## Account Management has Changed. Are You Ready for This?

No longer a “relationship” manager, your AEs must be able to recognize and solve client business problems.

For some time now, the position of account executive or manager has been caught in a state of flux. As the market has changed, so have the requirements for top level account executives. We call these people Strategic Account Executives.

Over the last ten or so years we have stressed that client-facing staff be good relationship managers. We want them to get along with the client and be good at managing processes to get the work done on time and within budget.

We wanted our people to get the work from the client and handle it properly for both the client and the agency. We did not ask our account executives to “create business” by looking beyond the immediate assignments. We didn't ask them to look for client business problems the agency could solve.

The game has changed, if an agency wants to continue making good profits and do good work. I know the argument that great creative gets good

prices, but not all clients can appreciate great creative. Now that we’ve entered the “procurement” phase, where non-marketing people buy the work, it is even more difficult to develop good work at the bargain prices clients want to pay.

All too often, these procurement people opt to shop for the lowest price. They have little if any idea how to tell the difference between what will solve and what won't solve the problem. For the most part, they all think that the agency is overcharging them for simple copy and computerized layout / design.

Where our account executives were good relationship and process managers, we now need to supplement the group with strategic account executives that can talk the client's business language, understand their business and contribute to solving key business problems. This is a different person than we are accustomed to having on staff.

I guarantee you that over the next ten years, if not sooner, the strategic account execs will outnumber the tactical ones. Why? Because they will build the agency's business, not just manage the work.

Art Boulay, AMR’s strategic partner from Strategic Talent Management, and I have completed the benchmark profile for Strategic Account Executives based from the top performers we analyzed.

The following characteristics are common to this group:

### Communication

- Strong, confident and assertive
- Very good writers (who are also good with numbers)
- Read body language well
- Good negotiators

### Management Style

- Competitive, entrepreneurial, business and bottom line focused
- Direct, but with strong interpersonal skills
- Lead by example and by making their expectations of others clear (may have a tendency to take on too much or delegate too little)
- Like to be in charge and in control; will accept

responsibility for outcomes

- Have the capacity to be leaders, not just managers

### Skills and Capacity

- Creative problem solving skills; practical and prudent
- Strategic thinkers
- Selling oriented (even if they do not have sales skills or do not think of themselves as sales people)
- High energy; both enjoys and understands their work; future oriented, knows who they are, what they want and where they are going

Re-read the characteristics of the people you will hire as account executives now and in the future.

These people will build your business. You won't need a new business specialist because every strategic account executive you have on the team automatically builds the business.

Does the profile sound familiar? Does it describe a mini-you? It should, because the entrepreneurial characteristic and all the others tend to profile what we find in small- and medium-sized agency owners.

Today, there are many recent (1-3 years) college graduates with a B.S. in business. These folks are your prime target. Sure, they don't have agency experience, but what they do have is knowledge on problem solving, energy, the willingness to learn and the overall desire to see the work they do provide the results the client is looking for.

What you need to take away from this article is this: The AEs we have been working with cannot take you where you want your agency to go. The Strategic AE needs to be on board to expand your business. You don't have to replace your AEs, but you do need to add these new folks that have the knowledge and can-do spirit to build the business.

AMR conducts three AE BootCamp programs each year. The next one is scheduled for Chicago on September 20-21.

To learn more about evaluating candidates, write Art Boulay, Boulay at [aboulay@opi-inc.com](mailto:aboulay@opi-inc.com); Dave Wood at [dave@agencyroundtable.com](mailto:dave@agencyroundtable.com); or Mike Carleton [mwcarlton@carltonassociatesinc.com](mailto:mwcarlton@carltonassociatesinc.com)

## Calling all Nova Scotia lighthouse keepers...

Scottsdale, AZ on October 22-23, 2010

### Success Strategies for Agencies of the Future



This is what you can expect from Success Strategies for Agencies of the Future, an intense two day give-and-take exchange on the realities of successfully operating a company in today's environment. We will examine the impact of technology, global influences, changing business environment, and other factors that make your

business a challenge. We will examine ways to make friends of change and use these changes to our advantage. Success Strategies has been developed for owners and senior management. [Get the full details with an agenda](#)

## You can't grow unless you have good account managers

Chicago, IL - September 20-21, 2010

### Account Management

**BootCamp 4.0** Clients are looking for agencies that have the passion for their (the client's) business. They want account staff that can make decisions and know how to get the results they want. There's no sense losing a client once you have them, but many agencies lose clients through poor client management. This is a MUST meeting for all client-facing staff that are going to be an important part of the agency of the future. [Get the full details with an agenda](#)



## Designed for Small Firms Who Want to Earn More Profits and Get Bigger Results

Scottsdale, AZ on October 14-15, 2010

### Management Roundtable: Financial Firepower



The financial strategies and systems in an agency are the difference between being a financial success and a devastating financial failure. This Financial Firepower Management Roundtable teaches you the simple way to track and adjust the agency's financial performance. There is no question about it.

AMR's proven financial strategies for small and medium-sized agencies have turned around un-profitable companies and taken profitable firms and turned them into profitable juggernauts. The program is designed for owners, general managers and financial managers. [Get the full details with an agenda](#)