Entity Questionnaire Flowchart

If the entity's identity cannot be verified with a TWC tax ID, an existing WorkInTexas.com Employer ID, or a Federal Employer Identification Number, begin investigating to find out if there is a bona fide employer-employee relationship as set forth in 20 CFR §651.10.

If the entity provides Form 1099, refer to the Internal Revenue Service *Employer's Supplemental Tax Guide* to determine if the entity is an independent contractor or a contract labor employer (http://www.irs.gov/pub/irs-pdf/p15a.pdf).

If the answer is *no* to any of the following questions, then there is *no* employer-employee relationship as set forth in 20 CFR §651.10.

- Do your job openings represent immediate openings, i.e., can an applicant start work right now?
- Do you hire, pay, fire, supervise, or control the work assigned to your employees?
- Do you provide facilities, tools, equipment, and/or supplies for your employees?
- Do you determine the hours your employees work, or the details of the work they perform?
- Do you determine what price is billed to the customer?
- Do you pay unemployment insurance taxes for your employees?
- Do you distribute paychecks to your employees based on standard periods of time, i.e., weekly or biweekly?
- ~~Do you distribute W-2 forms to your employees at the end of each tax year?~~

If the answer is yes to the questions above and no to the questions below, then there IS an employer-employee relationship as set forth in 20 CFR §651.10.

If the answer is *yes* to any of the following questions, then there is *no* employer-employee relationship as set forth in 20 CFR §651.10.

- Do you pay by the job?
- Is this a business opportunity or a multilevel marketing opportunity? (See term definitions in Attachment 1.)
- To help someone start up a new business, do you sell or lease your products, services, equipment, etc.?
- Are your workers considered to be independent contractors or self-employed?
- Have your employees made a financial investment in your business?
- Do your employees experience a financial profit or suffer a financial loss when your business experiences a profit or loss?
- ~~Do you provide your employees with 1099 forms at the end of the tax year?~~