

# Play it safe: Don't start a job without a contract

BY VICKIE ELMER

Jennifer Schaus has worked as an independent contractor for years, running her own K Street consulting firm, which helps companies navigate the federal government's maze of opportunities. So when it's time to sign a new agreement with a client, she takes time to make sure the contract works for herself and the other company. "I go through a couple of revisions until both parties are happy," she said.

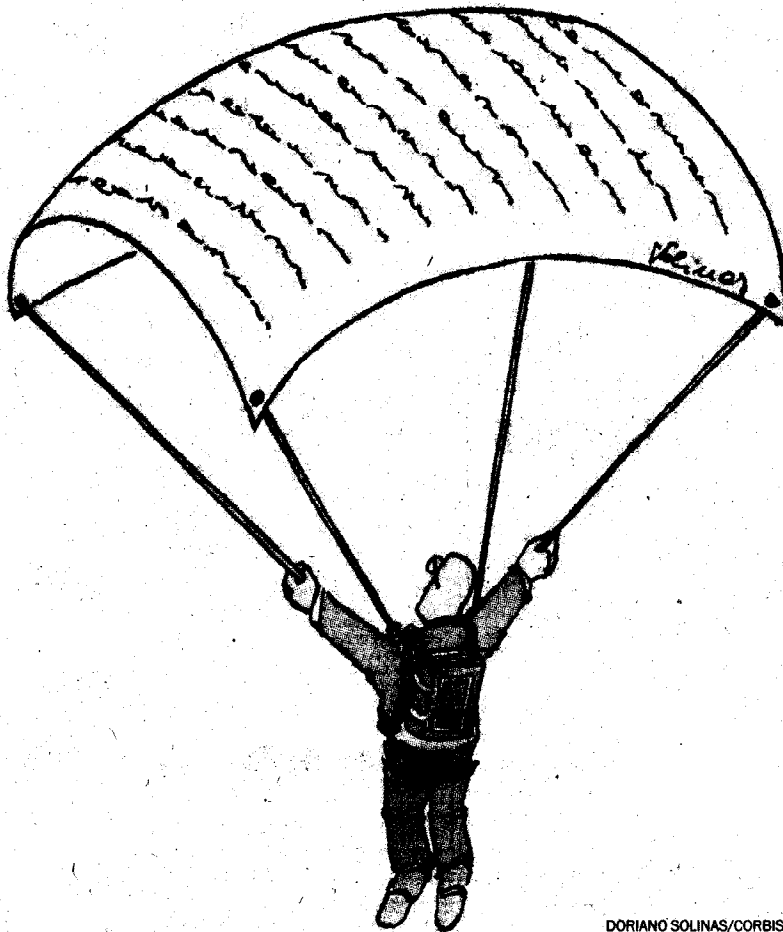
Working without a contract is fraught with peril. Independent contractors are not covered by most federal labor laws and protections; there's no overtime, no discrimination protection, and, most of the time, no severance or unemployment insurance. Contractors need to put their protections into written agreements before they start work.

"Do your homework before you begin negotiations," said Sara Horowitz, founder and executive director of the Freelancers Union, an organization that provides information and health insurance to 135,000 independent workers nationwide. Gather information from others in your field or join a professional organization to learn what the standards are for your sector and the work you're about to undertake.

Even if you are starting with someone you trust, it's worthwhile to sum up your agreement in an e-mail. That creates a record of some details on how you're paid, the pay rate and more, Horowitz said.

"The most important thing is to get a real clear idea what the project is about. ... That's your best safeguard to not having problems," Horowitz said. Then consider the final work product and determine whether you can retain any rights to it — whether it's a white paper, an original illustration or a software code.

If you're offered work as an independent contractor from your former



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employer, it may expect to have all rights to whatever you create, the same as it did when you worked there with benefits and vacation time. Make

sure you're not signing away rights that could prove valuable, she advised.

Schaus suggests working on-site for some, but not all, of your billable

hours. Being on-site can give you a greater understanding of the organization, its processes and its plans, which could lead to more contract work. Yet you'll want flexibility so you can work from home or a vacation cabin in Cape Cod this summer.

Two of the keys to a good contract are milestones that trigger payment and the terms of payment. Milestones will vary by the project, but they need to be clear and obtainable. Payment terms may need to include a collection provision or a clause that allows for late fees. Forty percent of independent contractors had trouble collecting their payments last year, according to a Freelancers Union survey of 3,000 people.

Many independent contractors barely eke out a living. Eighty-one percent reported they did not have enough work last year in the Freelancers Union survey.

Some contractors will ask you to sign non-compete and nondisclosure agreements before you begin. Review those carefully and limit their scope and duration. A non-compete agreement should last only until the project is over, according to "Working for Yourself," a NOLO book aimed at freelancers and consultants.

Schaus has other suggestions:

- Choose clients carefully. Try to have two to four clients you actively work for so if one drops you, you still have income.

- Find an objective third party, such as a lawyer or veteran contractor, to review the contract before you sign.

- Don't let work creep up. "If they throw more responsibilities on you, you need to amend the terms and scope of your contract," she said.

- Include a renewal clause. If you build renewal into the contract, consider adding a 2 percent increase to your fee upon renewal.

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## More resources

- "Making a Living Without a Job" by Barbara Winter (Bantam, \$16) has great advice and inspiration; "Working for Yourself," 7th Edition by Stephen Fishman (NOLO, \$39.99), offers information on pricing, taxes and client agreements.

- FreelanceSwitch has a "monster list" of job sites and more. [freelanceswitch.com](http://freelanceswitch.com).

- The Freelancers Union has various resources and is asking members to out companies that failed to pay them, and share stories and advice on getting paid. [freelancersunion.org/advocacy/disqus](http://freelancersunion.org/advocacy/disqus).

- The IRS has small business information online at [irs.gov/businesses/small/index.html](http://irs.gov/businesses/small/index.html)