

## Testimony Regarding Worker Classification and Independent Contractors

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Control Technologies is a Vermont based company that was founded 30 years ago in South Burlington, VT. Today they employ over 200 people in 5 states. Our primary business is the design, installation and service of Building Automation and Energy Management systems for commercial, institutional and industrial customers. Our labor force is divided into two main groups, Electrical Installation Labor and Technical Labor. Our Electricians work exclusively on location installing the wire, conduit and hardware required for our systems. Our Technicians spend some of their time on location but most of their time working at our offices on the software that will operate these buildings. Below are a couple examples of where worker misclassification has become an issue with our operations.

- Example 1: Training on Obsolete Technologies
  - We are a tech business and have to deal with rapidly changing hardware and software platforms. Over the past 30 years, we have installed and integrated with generations of different hardware and software. Because of the large quantity of these systems we may only have one or two employees that has the training to service them. If the employee chooses to leave the organization, we completely lose our ability to service that product. Some of these systems are so old that there is no available training for us to purchase. We had this exact situation last year. Luckily, the former employee, who now was employed in a different industry, offered to come in and do a training class for our current workforce and we offered to compensate them for their time. We thought that hiring the former employee as an independent contractor was the best approach for both parties as the person already had benefits from their current employer and did not have any plans for continuing working for Control Technologies beyond the one-time contract. During a Department of Labor Audit, we were informed that this person needed to be hired as a part-time employee and didn't qualify as an independent contractor. We were told by a Department of Labor representative that a good rule of thumb is "Once an Employee always an Employee".
- Example 2: Grant Writing assistance
  - Last year, we were introduced to the Vermont Training Program at a Vermont Technology Alliance luncheon. After having a brief conversation with a VEDA employee it was determined that we should pursue applying for a Training program grant for a large sum of training we needed to provide our Vermont Technical Staff. Unfortunately, no one at our Control Technologies has experience with this kind of application. I happened to have a personal relationship with someone who had taken a grant writing class and had successfully applied to the same program when working for another employer. The person offered to contract their services for the specific application. However, based on our feedback on our last audit we decided that because this person was not "Customarily Engaged" in grant writing we would have to hire the person as an employee. The person that they didn't want to deal with the hassle and decided to not move forward with the arrangement.

In both of the examples above, having to classify these individuals as employees was an encumbrance to both employer and contractor/employee. Had we been able to hire both of these people as

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independent contractors, the cost to them employer would have been lower, the contractor would have been able to receive more competitive compensation. Additionally, because in both these examples both people were already engaged in full time employment with another employer, they had no interest in the benefits of full time employment with Control Technologies. I would ask that the committee take into consideration these situations. Possible solutions may be to exempt contracts with amount to very small amounts of work hours, especially where the labor is very low risk for injury like Training, Programming or Clerical work.