

Can a recruitment agency force contractors to use its affiliated umbrella company?

Dear Contractor Doctor,

I've realised that my umbrella company, which is an affiliate/sister company of my agency, isn't giving me the best deal and I would like to change.

I contacted my agency, who told me, "The government does not allow you to change during a contract because of tax evasion rules". Another umbrella company told me this was untrue.

The agency have also said that "The client will not allow a contractor to change their umbrella company mid-way through a contract." My project manager has no knowledge of this rule.

Can my agency force me to use their affiliated umbrella company?

Thanks

Alasdair

Contractor Doctor says:

The short answer is, no, an agency cannot force a contractor to use a specified [contractor umbrella company](#). If the agency makes spurious claims about 'government regulations concerning tax evasion' or 'the client will not allow a change', then the contractor is technically within their rights to complain to the Recruitment and Employment Confederation ([REC](#)), the industry body that regulates agencies and their conduct.

Ethical or commercial

However, according to Rob Crossland of umbrella solutions provider [Parasol](#), agencies recommend umbrella companies for different reasons and in some cases these may work in the contractor's favour.

"There are two broad reasons why an agency might urge a contractor to use a particular umbrella company," explains Crossland. "The first reason is what could be called 'ethical'. The agency might have very high professional standards and urge a contractor to use an umbrella company that has equally high standards and is fully compliant in the way it deals with contractors' affairs.

"The other reason is basically commercial and the agency will benefit financially if the contractor uses the umbrella company they recommend. Indeed, there may be a close relationship between agency and umbrella company."

Pressure

If they have an agenda, agencies can place a great deal of pressure on contractors to use the umbrella they recommend, especially if the contractor is a first timer or relatively new to the contracting world.

"Agencies who insist a contractor uses their preferred umbrella company for compliance reasons can explain to the contractor why they are doing this," continues Crossland. "Those agencies who are promoting an umbrella company for their own commercial gain are putting themselves at risk."

Contractors always have the option of making a formal complaint to the recruitment sector's trade body, the REC, but as this may result in their not winning the contract, it might be a hollow victory.

Market forces

The party with the strongest bargaining position depends on market conditions. "Contractors can always call the agency's bluff, if the agency will not award the contract to contractors who won't use their preferred umbrella," says Crossland. "But in a sector like IT, where in many fields there are plenty of available candidates, this could backfire; the agency would just keep working through its candidate list until it finds a contractor who will play ball."

However, in some sectors where there is a real shortage of candidates, the contractor can call the shots.

“Contractors should consider each contract on its own merits and explore [changing umbrella companies](#) if an agency insists, as it could work in their favour,” concludes Crossland. “But if it could seriously disadvantage the contractor, they should think seriously about whether or not they should accept the contract.”

Good luck with your contracting!

Contractor Doctor

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