

Licensing Reform Task Force Construction Subcommittee

SUMMARY RECOMMENDATION: PLAIN LANGUAGE ICEC APPLICATION INSTRUCTIONS

Recommendation

The **Construction Subcommittee** recommends that the Licensing Reform Task Force request that the Department of Labor & Industry direct the Independent Contractor Central Unit (**ICCU**) to review and revise the Independent Contractor Exemption Certificate (**ICEC**) application process. The revised materials should use plain language, be written at no more than an 8th grade reading level, and include clearer instructions, checklists, deficiency notices, denial notices, examples, and applicant guidance.

The purpose of the recommendation is to reduce avoidable ICEC denials caused by incomplete applications, missing documentation, or applicant misunderstanding. The Subcommittee's review indicates that most ICEC denials are not based on a final determination that the applicant cannot qualify as an independent contractor. Instead, most denials arise from routine application issues, including failure to provide requested information or sufficient proof of an independently established business within the required timeframe.

The current process already gives applicants opportunities to cure deficiencies before denial, and applications may later be approved if the applicant satisfies the requirements within the available cure period. This suggests that many denials are preventable through clearer front-end guidance and more understandable notices.

Executive Order No. 1-2026 Report Elements Addressed

This recommendation addresses several report elements identified in Executive Order No. 1-2026.

Most directly, it addresses whether **unnecessary barriers to entry exist for applicants**. The denial data show that many ICEC denials result from routine application issues rather than substantive ineligibility, suggesting that unclear instructions and avoidable documentation problems may operate as procedural barriers to entry.

The recommendation also supports the report element concerning whether licensing requirements **significantly increase the cost of service to the public**. Although the recommendation does not propose changing the legal standard for ICEC approval, reducing avoidable denials and repeat submissions may lower administrative friction for applicants and hiring agents, which can help reduce compliance burdens associated with obtaining authorization to work as an independent contractor.

The recommendation is relevant to whether existing licensing or regulatory requirements contribute to **workforce shortages or access constraints in rural and frontier communities**. ICEC applicants may include construction trades and other service providers whose availability affects local access to services. Clearer application materials could help qualified applicants complete the process successfully, supporting broader access to services without weakening public-protection standards.

Finally, the recommendation supports the Executive Order's directive that the Task Force provide **recommendations and strategies for proposed legislation** for the 2027 Montana Legislative Session. At this stage, the recommendation is primarily administrative and process oriented. However, implementation data could inform whether statutory or rule changes are later needed to simplify the ICEC process, clarify documentation requirements, or improve applicant notice and cure procedures.

Policy Assessment

The denial data reviewed by the Subcommittee strongly supports a process-improvement recommendation. Routine application issues accounted for nearly all reported denials in each reviewed year: 734 in CY 2023, 661 in CY 2024, 647 in CY 2025, and 113 in CY 2026. By contrast, denials based on control or lack of business were rare. Control-based denials ranged from 1 to 6 per year and lack-of-business denials ranged from 1 to 10 per year.

This pattern shows that the main problem is not necessarily applicant ineligibility. The more common problem is that applicants do not understand what information is needed, how to document independent-contractor status, or how to respond to deficiency notices. Plain language instructions, practical examples, and clearer notices are well tailored to address those routine application issues while preserving ICCU's authority to deny applications that do not meet the legal standard.

The recommendation is appropriately limited: it does not change the statutory or regulatory standard for ICEC approval, and it does not require ICCU to approve applicants who fail to meet the requirements. Instead, it improves the application process so applicants can better understand what is required and provide complete, accurate information the first time.

Motion

The **Construction Subcommittee** moves to advance the recommendation that the Department of Labor & Industry direct the Independent Contractor Central Unit to review the ICEC application process and develop plain language instructions, forms, checklists, notices, and applicant guidance written at no more than an 8th grade reading level. The review should focus on helping applicants understand what information is required, what documents may support an application, how to respond to deficiency notices, and how to avoid common errors that lead to denial.