

## Who are the Incentive Federation's members?

The Incentive Federation is the only organization whose membership and leadership includes all the industry's national trade associations, as well as individual industry companies. It is under The Incentive Federation umbrella that the collective interests of the Incentive Marketing Association (IMA), the Promotional Products Association International (PPAI), The Incentive Research Foundation (IRF), and the Society for Incentive Travel Excellence (SITE) are advanced.

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## **Final Rule: Independent Contractor Status Rule Under the Fair Labor Standards Act is Withdrawn**

On May 5, 2021, the Department of Labor announced a final rule withdrawing the "Independent Contractor Status Under the Fair Labor Standards Act" final rule (Independent Contractor Rule). The withdrawal will be effective immediately upon publication in the Federal Register on May 6, 2021.

On March 12, 2021, the Department issued a notice of proposed rulemaking (NPRM) proposing to withdraw the Independent Contractor Rule. After reviewing the approximately 1,000 comments submitted in response to the NPRM, the Department has decided to finalize the withdrawal of the Independent Contractor Rule. As explained in the final rule, the Department believes that the Rule is inconsistent with the FLSA's text and purpose and would have a confusing and disruptive effect on workers and businesses alike due to its departure from longstanding judicial precedent.

On January 6, 2021, the Department of Labor under the previous administration announced a final rule clarifying the standard for employee versus independent contractor under the Fair Labor Standards Act (FLSA). The effective date of the final rule was to be March 8, 2021.

The National Law Review reported that the January rule identified "the nature and degree of control over the work" and "the worker's opportunity for profit or loss based on imitative and/or investment" as two "core factors" that would have been the most probative to determine whether a worker was an independent contractor. The rule also identified three additional factors and would have provided that "the actual practice of the worker and the potential employer is more relevant than what may be contractually or theoretically possible."

According to the Department's press release, the withdrawal was intended to help "preserve essential workers' rights." The Department cited as reasons for the withdrawal the independent contractor rule's "tension" with the FLSA's text and purpose, as well as judicial precedent, to argue that the rule's emphasis on two "core factors" "undermined" the more holistic analysis of the employment relationship provided by the economic realities test. The Department contended that the January rule would lead to workers losing statutory protections.

The rule withdrawal is the latest action by the Federal government to address an ongoing debate about the status of independent contractors, of which there are thousands working in the promotional products and incentive industry.

As reported in the March and April 2021 IFI Bulletins legislation was introduced in Congress that would effectively ban independent contractor classifications under federal labor law. PPAI, IMA and IMRA are concerned as many promotional products salespeople and IMRA reps would be adversely affected by the law.

The bill was passed by the House of Representatives on March 9, 2021 and has been forwarded to the Senate for consideration. The legislation has been referred to the Senate's Committee on Health, Education, Labor and Pensions. The committee is chaired by Patty Murray (D) from WA. The ranking minority member is Richard Burr ® from NC. The full committee membership can be obtained at [www.senate.gov](http://www.senate.gov).

The Protecting the Right to Organize (PRO) Act, H.R. 842, amends the National Labor Relations Act to establish a new definition of employees which expressly eliminates independent contractors in the U.S. The new legislation makes a broad presumption that all workers in the U.S. are employees unless each element of a newly established "ABC" test can be demonstrated. PPAI and IMA are opposed to the PRO Act because, if signed into law, it would significantly change how thousands of promotional products companies and incentive reps interact with each other, and it will eliminate jobs in the industry. Specifically, the PRO Act would abolish independent contractor agreements, enforce government control over private employment contracts and significantly broaden risk exposure to joint employer liability.

The legislation also sets new criteria for determining occupational status as an independent contractor instead of an employee. The proposed new criteria entail a three-pronged test for which each of the requirements must be proven if an independent contractor wants to retain his or her status under federal labor law.

For a complete analysis of the impact H.R. 842 might have on the industry, read the IFI's [March 2021 Washington Update](#) written by IFI's Legal Counsel, George Delta, Esq.

## **Incentive Research Foundation Releases Latest Study on Safety and Privacy for Meetings**

The IRF's study on *Health Information & Attendee Privacy: Getting Back to Meetings and Incentives Safely* was released in late April. The health and safety of event attendees has always been an important consideration for meeting professionals. However, the COVID-19 outbreak brought health and safety into focus like never before. As many organizations consider resuming incentive group travel programs, health and safety is the most talked about element and an area of uncertainty as COVID protocols rapidly evolve and organizations work to understand the lines between privacy and duty of care. Questions regarding policies, privacy, and onsite procedures all need to be addressed to help set incentive travel programs up for success.

To see the complete report, click [here](#).

### ***Things to Know and Think About***

#### **NorthStar Meetings: Women in Leadership Meetings + Incentive – May 17 – 19, 2021 Miami, FL**

WILMI (Women in Leadership Meetings + Incentives) is an exclusive conference for executive-level women in the industry – by women, for women. At WILMI, leading female meetings and incentives buyers and suppliers will join to network, engage in dialogue on present and future challenges and opportunities, and plan and do business together.

For more information, click [here](#).

#### **PPAI: SPARK 2021 Direct-2-You (Virtual Event) – May 20, 2021 Noon – 5:00 PM**

SPARK is a year-round program for young professionals in the promotional products industry. Attendees have typically been between the ages of 19-36 years old with industry experience ranging from 1 week to 6+ years. Conversations take place throughout the year through educational sessions and networking events. SPARK

combines actionable takeaways and professional development opportunities to help further careers while engaging industry peers.

For more information, click [here](#)

### **SITE Webinar: What Are U.S. Corporations Saying About Incentive Travel? – May 21, 2021 10:00 AM CDT**

Research conducted during the pandemic by SITE Foundation and others has revealed a lot about the changing face of incentive travel

The Incentive Travel Industry Index, a joint initiative of SITE Foundation, IRF and FICP, with over 2500 responses from the global incentive travel industry, provided a September 2020 snapshot of the changing face of incentive travel, as we battled with the impact of Covid-19 and wondered where it might all end?

Corporate inSites, a qualitative study undertaken by SITE Foundation in late April 2021, gathered responses exclusively from professionals in corporations whose remit includes the approval, oversight, design, planning, execution or delivery of incentive travel programs, too

For our first Business Case for Incentive travel webinar, in partnership with Destination Canada, we're bringing you a high level discussion of these recent surveys. Join moderator and Chief Marketing Officer of SITE, Pádraic Gilligan, CIS, CIP for an engaging dialogue on the takeaways from these surveys with global experts.

For more information, click [here](#).

### **IMA Webinar: The Multiplier Effect: How Supply Chain Disruption is Impacting the Incentives Industry - May 26, 2021 12:00 - 1:00 PM CDT**

For more information, click [here](#)

### **The IRF 2021 Education Invitational – June 2-5 at the JW Marriott Marco Island Beach Resort, FL**

For more information and registration click [here](#).

### **ASI: fASI500 – June 7-10, 2021, Embassy Suites - Austin TX and June 21 – 24, 2021 Embassy Suites, Denver, CO**

fASI500, launched in 2019, is an executive-level, invitation-only hosted buyer event created exclusively for ASI® distributor members who personally sell \$500,000+ annually in promotional products and are looking to take their business to the next level.

For more information, click [here](#).

### **IMRA Marketing Conference – June 13-15, 2021, Union Station Hotel, St. Louis, MO**

Join top manufacturers and reps for IMRA's three-day conference featuring networking events and company sales meetings designed to elevate industry professionals. Register today and get ready to discover strategic tools & tips to advance your programs while expanding your business network.

For more information, click [here](#).

### **PPAI: Virtual Legislative Education and Action Day – June 16 – 17, 2021**

PPAI's annual Legislative Education and Action Day (L.E.A.D.) is a legislative fly-in where volunteers from the promotional products industry hold meetings with legislators and their staffers to discuss issues that are important to the industry. This year, the congressional meetings will occur virtually, and the conversation topics

will include small business concerns, labor rights issues, trade policy and more. There will also be opportunities forthcoming for PPAI members to participate in this event without taking meetings with Congress. For more information, click [here](#).

## PPAI: Women's Leadership Conference Direct-2-You Virtual – June 21-23, 2021

The vision of the PPAI Women's Leadership Conference is to create an engaging, collaborative community that enables diverse women in the promotional products industry to be authentic, learn together and from each other, and build relationships that will grow throughout the year.

Throughout the year, look for WLC-sponsored webinars that feature content specifically for women in our industry, as well as other opportunities to connect with the Women's Leadership Conference community.

For more information, click [here](#).

To find other important meetings, trade events and educational offerings in the coming weeks and months, check the Incentive Industry Calendar [here](#). Provided exclusively by the Incentive Federation, Inc.

## IMA Podcast: Motivation Insiders

Everyone wants high performing teams and loyal customers, but how do we know what motivators will drive performance and engagement? [Motivation Insiders](#) is a podcast that brings together incentive industry and behavioral science experts to share their insider knowledge.

Created by the [Incentive & Engagement Solution Providers \(IESP\)](#) in collaboration with host Tim Houlihan, the founder and chief behavioral strategist of Behavior Alchemy, each episode features experts who discuss different aspects of behavioral science and how you can use them to improve your incentive and recognition programs.

Look out for episode 1, "4 Fantastic Hacks to Improve the Design of Incentive Program Rules" available to members later this month!

## Robin Report

Some of you are familiar with the **Robin Report**, a newsletter that includes a lot of articles related to retail, brands, and consumer behavior. Given the relationship between retail and special markets, you may find the articles below thought provoking or at least interesting.

### [Retail As it Was, Destroyed in One Decade](#)

### [Off-Price is Dead-On When It Comes to Store Expansion](#)

## 2021 IFI Board of Directors

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If you have questions, advice for the Board, or want to raise issues for the Board to think about, please contact Steve Slagle at [steves3309@gmail.com](mailto:steves3309@gmail.com) or 864-710-6739.