



Everest Insurance® Loss Control Best Practices

THE PERILS OF USING UNLICENSED SUBCONTRACTORS

*All employers in the State of California that use employee labor **must** purchase and maintain Workers' Compensation insurance. This requirement extends to contracting with and hiring subcontractors. Here are some steps you can take to better manage your insurance and safety program when it comes to working with subcontractors.*

Selecting a Subcontractor

Before a subcontractor begins work, confirm they are licensed and insured. **You should only contract with licensed and insured subcontractors.** Not having valid Workers' Compensation coverage renders a subcontractor's license VOID. (Business and Profession Code 7152.2)

- **Verify the subcontractors license.** Contact the Contractors State License Board (CSLB). Visit <http://www.cslb.ca.gov> or call (800) 321-CSLB (2752).
- **Verify the subcontractor is insured.** Request a copy of their Certificate of Insurance that demonstrates Workers' Compensation (WC) and General Liability (GL) insurance is current and active.
- **Read the Certificate of Insurance** and confirm the following:
 - **Named Insured:** Verify the certificate shows the subcontractors company as the named insured.
 - **Types of Insurance Coverage:** At a minimum they should have WC and GL coverage with limits of liability that adhere to the state minimum.
 - **Dates of Coverage:** Make sure the policy is active, that the policy has not lapsed, and the dates extend through to the end of the project or contract.
 - **Confirm Coverage:** Call the subcontractor's agent or the insurance company to confirm information.
 - **Request Updated Certificates or Insurance:** If you work with the same subcontractors from year to year, mark your calendar to request updated certificates annually.
- **What if a subcontractor is unlicensed and not insured?**
 - **"I'm a sole owner and exempt from insurance."** If this owner is working for you, most of the time they become a statutory employee and they would be covered under your Workers' Compensation policy.
 - Also, CA Labor Code 2750.5 presumes that an unlicensed person who performs work requiring a license is an employee and not an Independent contractor. **Verify licensing and insurance coverage!**

What an Uninsured Subcontractor Can Cost You

- **Legal Costs:** The CSLB may initiate disciplinary action which may require you to hire legal counsel.
- **Increase in Insurance Premiums:** As the uninsured subcontractor may be considered an employee, payments made to the uninsured subcontractor will be identified when your WC policy is audited resulting in additional premium.
- **Claims Experience and Increased Costs:** Your WC insurance will be responsible for any injury to the subcontractor and their employees. Any claims paid under your policy will negatively affect your claims experience and all claims paid will apply to your experience modification factor for three years, which can increase your insurance costs.
- **Increase in Employment Taxes:** You may be liable to the Employment Development Department for any unpaid contributions and tax withholdings for the uninsured subcontractor's employees.
- **Loss of Coverage:** Under the California Insurance Code Sections 331 and 359, when an insured has misrepresented or concealed facts that are material to the application for insurance, **the underwriter may rescind coverage or cancel the policy.** Review your WC policy application, did you say yes or no to the use of subcontractors or sublet of work without certificates of insurance?

Everest Insurance® offers loss control information to improve your loss prevention efforts. If you would like to review these publications, visit our web site at www.everestregroup.com.

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