



# SUBCONTRACTOR MANAGEMENT PLAN



**Provided by: Huckaby & Associates**

P.O. Box 21154 Columbia, SC 29221

Tel: (803) 772-3773

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## Insurance Considerations

### Certificate of Insurance

Prior to the beginning of the project, the subcontractor should provide two certificates of insurance to the primary contractor showing that the subcontractor has coverage for him- or herself and his or her employees, agents and subcontractors. The subcontractor's insurance must provide adequate coverage for any workers' compensation obligations, employer's liability and automobile liability. If any of these policies are terminated, the subcontractor should provide certificates of insurance showing replacement coverage. All coverage must be placed with insurance companies duly admitted in the state or in the desired licensing jurisdiction in which the work is being done, and all coverage must be reasonably acceptable to the primary contractor. All of the subcontractor's insurance carriers must maintain an A.M. Best rating of "A-" or better.

The certificate of insurance should provide that the insurer give the contractor a written notice of cancellation and termination of the contractor's coverage at least 30 days prior.

### Additional Insureds

The subcontractor's policy must name the contractor as an additional insured. Coverage must be afforded to the contractor as an additional insured whether or not a claim is in litigation. Additional insured coverage must apply as primary insurance with respect to any other insurance afforded to the owner and contractor.

### Insurance Coverages Subcontractors Should Possess

#### Workers' Compensation

- The subcontractor should secure a workers' compensation insurance policy. The workers' compensation policy must cover all of the subcontractor's work and performance and provide coverage for all employees, executive officers, sole proprietors, and partners and members of a limited liability company, in the amounts required by all applicable laws.
- In addition, the subcontractor should secure an employers' liability insurance policy (part II of the standard workers' compensation policy). This type of coverage covers the damages that become due in case of bodily injury, occupational sickness or disease or death of subcontractor employees that are not covered by the workers' compensation policy.
- If a subcontractor does not have his or her own work comp insurance, you may see your work comp premium rise during an audit. This is why it is so important that the subcontractors you hire provide proof of insurance before any work is done.

#### Commercial General Liability (CGL)

- Subcontractors should secure a CGL insurance policy to cover the damages that become due in case of bodily injury, property damage and personal or advertising injury arising out of or related

to:

- All of the subcontractor's operations and premises;
  - All of the subcontractor's products and completed operations;
  - All liability or responsibility assumed by the subcontractor;
  - All liability assumed in a business contract;
  - The contractor as an additional insured; and
  - Defense expenses paid in addition to the policy limits.
- There should be no endorsement or modification of the CGL for risks arising from pollution, explosion, collapse, underground property damage or work performed by the subcontractor.

#### Auto Liability

- The subcontractor should secure an automobile liability insurance policy to cover the damages that become due in case of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of any motor vehicle or trailer owned, hired, leased, used on behalf of or borrowed by the subcontractor. The policy must also include coverage for any equipment subject to motor vehicle laws, contractor and owner (if different than the contractor) and any subcontractor liability or responsibility.

#### Umbrella (Excess Liability) Coverage

- The subcontractor should secure an umbrella liability insurance policy to cover the damages that become due in case of bodily injury, property damage and personal and advertising injury, with at least the same terms and conditions as the policies mentioned above.

#### **Completed Operations Liability and Obligations**

Even quality workmanship is not immune to potential claims of property damage or bodily injury. All operations carry the risk that injury or damage may occur as a result of the work, leading to costly lawsuits. Considering the complicated mix of contractors and subcontractors that contributes to each project, who is liable for this risk?

In insurance terms, "your work" as used in an insurance policy is a broadly defined term that includes operations performed by the policyholder or on the policyholder's behalf, including material, parts or equipment in connection with the operations. Operations or work performed on behalf of the policyholder means work done by a subcontractor is considered the contractor's work. Therefore, faulty electrical work performed by an electrician that causes a fire or other damage could be considered the contractor's liability, but would be covered under a standard CGL policy.

Because a contractor or other involved party could be held liable for defects in a subcontractor's work, years after it has been completed, and filing the claim under the contractor's CGL policy could cause the premium to rise, many construction contracts require subcontractors to provide insurance coverage for

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claims resulting from their completed work for a finite period of time, typically the one- to five-year range. Typical contracts also require that the subcontractor name the owner, the architect, the general contractor and other third parties as “additional insured” parties, entitled to coverage under the insured subcontractor’s CGL policy. Naming additional insured parties requires a separate endorsement to that policy.

This means that subcontractors can be held liable for claims of property damage or bodily injury resulting from a defect in a contractor’s work. It is also critical to maintain this coverage into the future; failure to do so could lead to a breach-of-contract lawsuit brought by the contractor or other party.

It is important for subcontractors to understand this commitment when signing the contract—the insurance commitment doesn’t end with the project. Further, in the event of a large claim, subcontractors could be faced with a substantial increase in premiums on the policy.

What can subcontractors do to reduce the risk of a claim being filed against them for a defect in their completed work? To avoid litigation, it is crucial to know local regulations and adequately document proper performance. Subcontractors must know their company’s documentation practices relative to each subcontract, and carefully keep records of all processes.