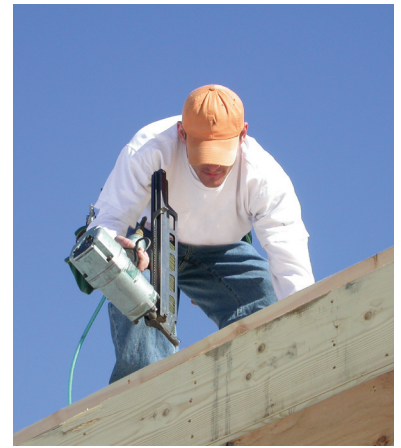


Are Subcontractors Putting You At Risk?

Under Utah law, you may be responsible for workplace injuries and illnesses suffered by your independent contractors (and their employees) who do not have valid workers' compensation insurance.



Many companies hire outside subcontractors to help with business needs. Examples include:

- A general contractor hiring a framing crew,
- A trucking company hiring independently licensed truck owners,
- A delivery service hiring someone to deliver on a non-traditional route, and/or
- An appliance-installation person hired by a big-box store.

But before contracts are signed or agreements made, employers should take a moment to consider how to best reduce their risk regarding workers compensation exposure.

In Utah, employers/general contractors are liable for their own employees and not the employees of their subcontractors for workers' compensation purposes. However, if a subcontractor fails to obtain workers' compensation insurance coverage for its employees, the law can provide that the employer/general contractor is the "statutory employer" of the subcontractor and his/her

employees. The employee or subcontractor can then recoup all the rights and benefits he/she would have had if he/she were the employee of the general contractor.

For example, a general contractor is building 10 homes in a subdivision. The general contractor hires a subcontractor to do the framing and drywall. Both the general contractor and the subcontractors have workers' compensation insurance covering their employees. The subcontractor is running behind schedule and brings in a sub-subcontractor to help with the mudding and taping. The sub-subcontractor has no workers' compensation insurance. One of the employees of the sub-subcontractor is injured and files with the Utah Labor Commission seeking benefits. The sub-subcontractor will be pursued by the Uninsured Employers Fund (UEF). At the same time, the UEF will pursue at least the subcontractor and possibly the general contractor for benefits for the injured worker under the "statutory employee" theory. Most likely the subcontractor will be found to be the statutory employer of the injured worker.

TO DECREASE YOUR RISK

- Require subcontractors to provide proof of coverage showing workers' compensation coverage. Confirm the policy is current.

_____ or _____

- Require subcontractors to provide a valid Workers' Compensation Coverage Waiver (WCCW) showing that the subcontractor is an independent contractor who has elected not to have workers' compensation coverage.
- Look at the insurance coverage of all sub-subcontractors hired by the subcontractor as liability may come up the employment ladder to the general contractor.

Common Questions Regarding Workers' Compensation Coverage for Subcontractors:

Q. Who is considered a subcontractor?

A. A subcontractor is someone who is awarded a portion of an existing contract by a contractor.

Q. Must all subcontractors have a workers' compensation insurance policy?

A. Anyone who employs one or more employees must have a workers' compensation policy. A subcontractor with no employees may be eligible for a WCCW, which allows them to waive their entitlement to workers' compensation and occupational disease benefits. The WCCW provides no coverage.