

Walker-Poole Insurance, Inc.

VILLAGE QUARTERS
19502 CLUB HOUSE ROAD
MONTGOMERY VILLAGE, MD 20886
(301) 258-2602 or (800) 258-5833
(301) 330-8903 FAX

Subcontractor?

Independent Contractor?

Employee?

BEWARE!!!

When we insure a business that uses subs/independents we look at the ways that operation can affect our policyholder, both in premium and in exposure.

Injury or damage caused by subcontractors who do not have Liability insurance and injury to the sub or their workers who do not have Workers' Compensation becomes the responsibility of your business. So, it is both for your business protection and for minimizing premium that Certificates of Insurance should be required of any subcontractor prior to the start of work.

In the absence of that business having General Liability insurance, if there are claims arising from their work or the work of their helpers, damage to property of others or injury to others, that claim will be filed against your business.

Therefore, since you and The Erie carry the exposure, Erie will apply premium increase to your Liability policy. Like, if this same business does not have workers' compensation, there is nothing to prevent them from filing claim against you for work-related injuries to the business owner or helpers.

In both cases, depending on claim frequency or severity, there will likely be a premium increase with the business for a 3-year period, in addition to the above charges. These rates are only based on the direct compensation. Additional premium can be applied if that sub has helpers whose actions or injuries would again be your exposure. Of greater concern is the impact the claim can have on your business from a litigation standpoint.

In a very few situations in Maryland, state-created forms excluding sole proprietors from general contractor's workers' compensation policies are acceptable documents for determining independent contractor status. However, the subcontractor business must be a sole proprietor, operating with no employees, day labor, or helpers. As long as the appropriate forms are filed in these states, The ERIE will accept them and exclude the subcontractor from your premium audit. For further information, contact Maryland Workers Compensation Commission, (410) 864-5100 for a "Sole Proprietor Status" form.

For a person to be paid as an independent is great because the compensation is generally higher since no taxes are withheld. However, that person is declaring themselves as their own business and should, therefore, follow the same licensing, insurance, and state filing obligations as you. As mentioned, when a business agrees to carry the sub's overhead but still treats the sub as "independent" in compensation, Maryland has been active in pursuing employment audits against that business.

Due to the increased use of subs and do to the number of subs who are ignoring carrying insurance, insurance carriers are finding they are paying claims for unknown and unrated exposures. Therefore, continued use of uninsured subcontractors can jeopardize continuation of your coverage.

As you continue to work with your use of subs, please don't hesitate to contact me if you have questions.

Thank you.

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