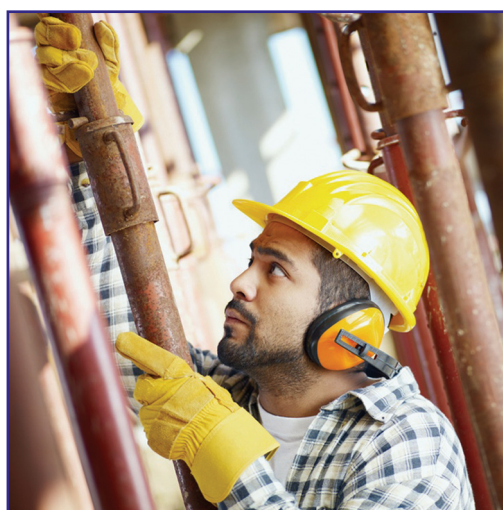




Crackdown on Misclassification

Designating workers as “independent contractors” saves businesses as much as 30% of payroll through the avoidance of unemployment insurance and workers compensation payments. It also helps employers avoid their share of payroll withholding. Escalating insurance costs are a driving factor behind misclassification’s frequency in the construction industry.

While employers see savings, the misclassification of independent contractors costs federal and state governments billions in lost revenue and can leave employees without workers compensation insurance if they are injured and without benefits if they lose their job.



For these reasons, the IRS and 37 states are cracking down on companies attempting to skirt the rules by illegally classifying workers as independent contractors. Misclassification of independent contractors can result in hefty financial penalties and significant premium charges upon audit – and that’s only if a contractor is caught before an accident injures or kills an employee.

If your firm has been misclassifying employees, now is the time to make things right. Whenever you have changes in personnel or duties, alert your insurer and your agent. If you have any questions, don’t hesitate to call.

Changing Your Firm’s Focus

Non-residential construction continues to experience significantly higher job losses than the residential sector. In February 2010, 53,500 non-residential construction jobs were lost vs. 10,600 in residential.

These conditions are causing many contractors to consider changing their focus to boost sagging revenues. Some are trying to help recently laid-off workers by hiring them in a limited capacity on

a contract basis. If you are one of those firms, take caution: your liability insurance may include restrictions on the type of work it covers and on who performs the work.

For answers to your liability questions, call our service team. We can help you determine the type of work that is covered under your current liability insurance, and we can show you options for insuring new jobs and new workers.

Contractors Who Provide Professional Services



General liability, workers compensation, equipment and auto insurance have long been required by project owners during the bid selection process.

Now there's a movement gaining steam among project owners who are looking for more assurance that contractors have adequate insurance to cover specific exposures that may not be covered by traditional liability insurance. Many project owners are mandating contractors carry professional liability insurance and are building the requirements into the bidding process.

The intent is to cover:

- Contractors engaged in design-build contracts and/or accepting responsibility for the project's design by contract
- Contractors acting as construction manager and providing advice to project owners or selecting architects, engineers and subcontractors
- Contractors who select and employ the services of design professionals.

Our team can help you in these circumstances. Give us a call if you would like to learn more about your professional liability insurance options.

Secure Heavy Equipment in Transit

Contractors transporting heavy equipment (single pieces over 10,000 lbs.) must adhere to the cargo securement standards set forth by the Federal Motor Carrier Safety Administration (FMCSA). The same securement standards should also be considered by contractors hauling lighter equipment to help lower the risk of a serious accident.

In its *Driver's Handbook on Cargo Securement*, FMCSA directs contractors transporting heavy equipment to these important steps:

Secure – Make sure all accessory equipment, such as hydraulic shovels and booms, are lowered and secured to the equipment.

Restrain – Jointed equipment should also be restrained to prevent bending or

whipping in transit.

Brake – Set the parking brake on all equipment before hauling it.

Tie Down – Restrain your equipment with at least four tie-downs that have a working load limit of at least 5,000 lbs. each. Attach them to the front and rear of the equipment or at the points on the equipment designed to accommodate tie-downs. General cargo securement requirements state, "The sum of the working load limits from all tie-downs must be at least 50% of the weight of the cargo." Depending on the type of equipment hauled, more than four tie downs may be required to satisfy this requirement.

For more information on securing your heavy equipment for transit, visit www.fmcsa.dot.gov.

Defective Workmanship

Defective workmanship (commonly called "construction defect") claims are a frequent source of frustration for contractors. The source of the frustration is the language found in most general liability policies regarding defect claims. Most policies say that in order for a claim to be covered, the defective workmanship must first constitute an "occurrence" as defined in the policy. Further, the type of work and resulting damage must not be excluded by the policy.



The interpretation of these factors has been the source of great confusion through the years, usually defaulting to state-specific case law in search of the answer. That means the results vary depending on the state where the case has been brought.

Construction defect claims can pop up years after you've completed a project. There is simply no substitute for consulting with a professional insurance agent regarding coverage for your workmanship. Your agent will be able to guide you to insurance options that best address the projects you work on and the specific requirements and interpretations in your state.

Reducing Tool Theft

Over \$1 billion of tools, materials and equipment is stolen from job sites annually, according to the National Association of Home Builders and the National Equipment Register.

Whether it's copper wiring, pipes, tools or other items typically found on new building and renovation project sites, theft costs contractors and building owners dearly in money and lost time. Contractors should consider the following tips that will help minimize the risk of job site theft:

Eliminate darkness

Flood lights with motion detectors help eliminate shadows that provide a safe haven to thieves.



Secure tools and materials

Lock toolboxes on trucks and in storage sheds.

Plan delivery of materials accordingly

Careful planning can ensure that materials are delivered in the proper sequence. For example, ordering the windows before the walls are up means they'll have to sit around a

while, creating a theft risk. The organization recommends not accepting deliveries for items that can't be installed within one day. Also, carefully schedule the day and hours for delivery. For example, many contractors don't take deliveries on Fridays because the risk of theft significantly increases over the weekend.

Get help

Consider giving a neighbor a contact number to report suspicious activity.

Keep records

Take pictures or video of materials and equipment. Write down serial numbers, if applicable. The more information you have, the better off you will be if the items are stolen.

Don't Get Careless on Additional Insureds

Additional insured endorsements have become second nature to contractors, but that doesn't mean they should be treated routinely. Contractors must avoid forming habits when requesting or granting additional insured status. Complacency can, and does, cause costly mistakes.

There are several different types of additional insured endorsements, so contractors must be sure to request and grant the specific kinds that fulfill their contractual agreements. For example, many versions state that additional insured status expires when the job is completed. Such an endorsement seeks to eliminate coverage for the additional insured under a completed operations claim. The stan-

dard endorsement covers the additional insured only if the loss is "caused by" the named insured, but what if the additional insured wants coverage for losses that arise out of the named insured's work?

Weak language can result in poor coverage.

If there is no other insurance that will apply, there might be a coverage gap that could need to be closed. There might be a need for a custom endorsement, also known as a "manuscript" endorsement to be written to clarify the details of coverage specific

to a certain project or contract. Further complicating the process are differences in state laws and the need, based on some court decisions, for explicit language in endorsements to include coverage for insured contracts.

Also affected by endorsement language is the insurer's duty to defend; in other words, to pay for certain legal costs. Weak language can result in poor coverage.

When dealing with additional insured coverage, whether you are the named insured or the potential additional insured, you most likely need the attention of an insurance professional. Give our office a call to discuss endorsements available to you under each of your contracts.



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Distinction Between Temps and Leased Help

A surge in the hiring of temporary workers generates insurance needs that your business might not have considered. The employment-related actions of your temps, day laborers, or other forms of non-permanent workers might not be covered by your firm's general liability insurance. Most general liability policies will, however, extend coverage for the actions of leased employees.

It is essential for employers that utilize a labor service or temp agency to review contractual language for specific information concerning the status of the furnished workers. Further, employers should review the agreement for the details of insurance coverage—specifically, who is responsible for providing liability insurance for the workers?

For more information on the coverage available under your liability policy or for getting liability insurance for uncovered employees, contact our service team.



Have we got you covered?

Fill out this form and fax it in.

Or give us a call today.



We'd like to provide you with further information about your business insurance needs and other special coverages. And don't forget your friends! We'd be happy to provide them with the same great service.

Name of someone you'd like us to contact:

Name: _____

Phone: _____

E-mail: _____

Construction

My name: _____

E-mail: _____

My preferred number: (____) _____

Best time to call: _____

Please call me about:

- Builders risk coverage
- General liability insurance
- Employment practices liability insurance
- Safety and risk management issues
- A free appraisal of my insurance situation
- Other: _____