

## ***THE INDEPENDENT CONTRACTOR RELATIONSHIP***

An independent contractor is a person or entity whose services you obtain on an independent basis other than as an employee. The assumption is that the service provider is a self-directed, separate legal entity with a distinct occupation, which performs work under an agreement with you. If you sublet any part of the work you are performing for others, the independent contractor is called a subcontractor.

The concern arising out of these relationships is the subcontractor may be considered your employee because of the control or direction you exercise over his work. There is no guaranteed way to determine whether a person is an employee or an independent contractor; there are at least twenty factors to be considered (we can provide a list). The point is, if the independent/subcontractor is determined to be your employee, you are liable for his injuries arising out of his employment by you. Further, if you engage in the construction industry, you are responsible for injuries to the subcontractor's employees when they work for you. Therefore, **it is always advisable to obtain a certificate of workers compensation from independent contractors/ subcontractors that you hire.**

## ***DOING BUSINESS WITH SUBCONTRACTORS WITHOUT WORKER'S COMPENSATION COVERAGE***

Because you must pay claims made by injured employees of subcontractors who have no workers' compensation insurance, you will be charged a premium for covering the subcontractor under your policy unless you can produce a certificate of insurance from the subcontractor's carrier. However, the subcontractor who has no employees is not required by law to purchase workers' compensation. In such a case, you may avoid having to pay premiums if you obtain from the subcontractor the following documents: 1) a copy of the BCM-250 Exemption Notice filed with the Department of Insurance. 2) a copy of the subcontractor's occupational license; 3) a certificate of general liability insurance; 4) a signed, notarized statement by the subcontractor that his services are performed as an independent contractor, not as an employee; 5) a signed, notarized statement by the subcontractor that he has no employees. It is our recommendation that you require all subcontractors to carry workers compensation insurance. **Caution: exemptions may not be accepted for subcontractors to whom you pay in excess of \$50,000 annually. They may be included as employees and a premium charge made.**

## ***INDEPENDENT CONTRACTORS or SUBCONTRACTORS who use EMPLOYEE LEASING SERVICES***

Many Independent Contractors or Subcontractors provides you with a certificate of Workers' Compensation from their employee leasing company. In addition you should require they provide you with a separate certificate of insurance reflecting Workers' Compensation coverage in the name of the Subcontractor. We encourage this because many of our clients have had to pay claims from injured employees of the subcontractor whose claim was denied by the employee leasing company because the employee was never reported to (or employed by) the leasing company. See recommended "Leased Employee Affidavit" to be used for all Independent Contractors who provide leasing certificates:

This is only a summary of insurance coverage's and does not constitute a policy, contract or legal evidence of insurance. For complete policy terms, conditions, limitations and exclusions refer to the policy. I acknowledge these coverages offered.

Initials \_\_\_\_\_

Date: \_\_\_\_\_

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