



How important is it for my subcontractors / subconsultants to have insurance?

When a loss occurs, it is likely that everyone will be named in a lawsuit, including you as the primary consultant or contractor, as well as any subs you have hired. As the saying goes, “when in doubt, sue everyone.” With that in mind, it is important to make sure everyone on the project has their own insurance coverage with suitable limits.

A judge will decide who is at fault for the loss, which could be split a number of ways between parties. If it turns out to be the sub, they will have to pay the loss regardless of the limit of insurance they carry. This means that if anyone carries insufficient limits, your client could be left having to pay out of their own pocket, which could jeopardize you and your subs chances of getting future work from that client.

Also keep in mind that while your contract with a client may request you and your subs carry a certain limit of liability coverage, you are still responsible for any damages you may cause that exceed that limit.

You will find that your insurance company will not add your subs to your own insurance policy, for a few reasons which include:

- **They do not want to take on the risk of an unrelated party** to the policy holder (nor should you, as the policy holder, want this risk).
- **They would need to collect quite a bit of information** on that sub in order to underwrite the additional risk they are taking on, and determine what that sub’s claims history is like.

Even if you were able to add subs to your insurance policy, you would probably not want your policy being used to pick up the liability of an unrelated sub, who could incur a large loss in the millions of dollars. Such a loss would sit on your company’s insurance record for a number of years into the future and impact what you pay for coverage. A large loss could also make it difficult to find an insurance carrier willing to provide you with coverage.

Here are a few insurance recommendations to consider when hiring subcontractors or subconsultants:

- **Know their insurance policy limits and deductibles;** if they have large deductibles, it may be because they are a large firm capable of paying such deductibles, or it may indicate a problem with prior claims.
- **Ensure they have listed your company as an Additional Insured** on the policy if possible (this is not something you can do for an E&O policy), and that you will be given 30 days notice of cancellation or material change to any of their policies.
- **Find out what their claims record is like;** this may help you decide whether or not you want to do business with them. If they have open current year claims, be sure to reduce the limit shown on any Certificate of Insurance by the amount that has been paid out on those claims so far.





There may be situations where you are willing to take a chance with a sub that doesn't carry the limits required for some reason, and that is purely a business decision up to you and your company to make.

Also keep in mind that E&O policies are claims-made policies, which means that the moment a claim is made, it applies to the policy and limits currently in effect. If a claim is made 6 months or 6 years after the sub's work for you is done, it will apply to their current coverage which could be a lower limit than you requested they carry initially, or they may in fact no longer carry any coverage. It is worth requesting your subs maintain their E&O policy for a few years beyond completing their work for you, and asking for a Certificate of Insurance from them during those years to confirm the policy is renewed.

Please be aware that the information provided here does not constitute legal advice. You should check with your legal counsel on what limits they suggest you should accept from your subs, how long you should ask them to maintain coverage, and what types of insurance coverage are appropriate for different contracts. Alternatively, your management team may decide what they will or will not accept from subs for insurance coverage.

For clarification or more information, please visit our website at www.hubprofessional.com or contact:

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