

Hiring a subcontractor? Get it right and in writing.

Hiring subcontractors takes care of your extra work and adds scalability to your business – but only if you protect your business with a written agreement.

By Jim Peduto

Don't do windows? Need some help with stone floor care? If so, it might be time to look into hiring a subcontractor or two.

Even the largest building service contractors do not always have on staff the skilled technicians necessary to handle the many special service tasks of our industry. Subcontractor experts in specialty areas bring that expertise to your business.

Moreover, if you have any regional and national contracts, you might have certain accounts that extend outside of your business's geographic capability. Subcontractors can provide the extra coverage needed in those remote locations to secure more business.

Understanding how subcontractors can help you create a more scalable business is the easy part. The hard part is hiring a quality, reliable, honest individual or business. Keep in mind that the subcontractor is representing you and your business to your customer.

To protect your business and the subcontractor's business, the working relationship mustn't begin without a comprehensive, detailed written agreement.

Why a written agreement?

A written agreement should protect your business (and the subcontractor) in many ways. It goes far beyond the simple agreement to perform the work. First, you need to specify in writing that your subcontractors (whether they're individuals or other businesses) aren't employees and that they're responsible for paying their own taxes and benefits.

Second, the agreement must spell out the scope of work, including the subcontractor's responsibilities, and the payment rate (project or hourly) and deadlines. The agreement document also should contain a provision allowing your company or the contractor to terminate the contract within a certain amount of notice – 30 days, for example. Additionally, the agreement should include provisions in the event of non-payment or incomplete or substandard work. Also determine which party would be responsible for correction of substandard work.

Addendums to the agreement

The written agreement is the foundation of the subcontractor agreement. It is the base document in the file of documentation you will need to keep on each

subcontractor you hire. There are three more key pieces necessary to obtain from subcontractors prior to the start of work.

- 1. Certificates of insurance.** Include a provision in the agreement that requires subcontractors to obtain and maintain worker's compensation, general liability and automobile liability insurance. Ask for a certificate of insurance, which is a form issued by the subcontractor's insurer that details the coverages, expiration dates and limits of their policies. Requesting a certificate of insurance does not transfer any risk, but it does tell the contractor whether the subcontractor has adequate coverage.
- 2. Indemnification.** Require subcontractors to sign a "hold-harmless" or indemnity agreement, which are non-insurance, contractual agreements used to transfer risk from one party to another. This basically means the subcontractor agrees to take responsibility in the case of a lawsuit against your business as a result of an incident related to the subcontractor.
- 3. Compliance with immigration laws.** The third document to be obtained in tandem with the written agreement is a certificate of compliance with immigration laws and regulations. When signed, the subcontractor is disclosing that workers are legally allowed to work in the United States.

With a written agreement in place, including certificates of insurance, indemnity agreement and certificate of compliance with immigration laws, you can trust that you will not be risking your business to do business with subcontractors.

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