



Subcontract Checklist

by Quenda Behler Story

A remodeling company that did not use subcontractors would have quite a large full-time crew: plumbers, electricians, drywallers, masons, excavators, hazardous waste specialists, and so on. Unless the company is very large indeed, those tradesmen will have a great deal of down time.

The solution for most companies is to sub out work that can't be performed by their own forces. But when a contractor subs out work, it's as important to have a written contract with the subcontractor as it is with the customer, and for the same reasons. The purpose of a detailed subcontract agreement is to make it clear who is to do what, and when. Here are the most important issues a subcontract should address.

Schedule. The most common problems with subs center around scheduling, so your subcontract should include both the start and completion dates for the sub's work. This is also a good place to include information about who is responsible for obtaining permits and securing inspections.

If the sub causes a delay, the contract should require the sub to reimburse the contractor for any actual damages caused by that delay. This might include charges for extra supervision or overtime work by your employees, as well as any liquidated damages for which you may be responsible in the main agreement with the owner.

The contract should also describe those delays or failures that would constitute a breach of contract and that would allow you to look for a replacement sub. These might include a failure to complete the work by a certain time, a failure to pass an inspection, or work that does not meet your quality standards.

The subcontract may also set specific work hours for the job — 8 a.m. to 4:30 p.m. weekdays, for example, with

no work on Saturday. This will prevent your sub from showing up unexpectedly and catching your clients off guard.

Payment terms. In addition to the total price for the sub's work, the subcontract should include the payment schedule. Be specific about draw amounts for materials and labor, and the terms of payment, such as the time period between receipt of the sub's invoice and the time you write the check. If draws are triggered by start or completion of work, or by inspections, include that information as well.

Don't assume that a sub will automatically supply all required materials. Some drywall subs, for instance, prefer to hang and tape only — they expect you to supply the drywall. Make sure your subcontract is clear about the materials to be supplied by the sub.

If required, proof of payment for taxes, labor, or materials should also be part of the subcontract. Payment may depend on your receiving a release of lien as well.

Change orders. Since changes in the work will affect both the cost and schedule for the job, your subcontract should be clear about the procedure for authorizing additional work. Subs are often approached directly by owners to make changes to the work that will affect your budget for the job. To avoid this kind of "end run," make sure your contract states that subs need written authorization from you before proceeding with extra work.

Safety standards. Subs should be required to follow all of the prime contractor's safety policies that are relevant to the sub's work. If you have safety policies that your employees must meet, those policies should apply to your subs and to your subs' employees as well.

Licensing and insurance. The subcontract should require the sub to carry insurance. Be sure to check the sub's insurance certificates to see that the

dates of coverage include the time when the sub will be working on your site and that the amounts of coverage are equal to or greater than your own policies.

If your sub is uninsured, make sure your workers comp and liability insurance policies cover uninsured subs, and be sure to check the sub's license — insurance companies think they should not have to pay for injury to, or damage caused by, an unlicensed sub.

Indemnification. The subcontractor should agree to indemnify, or reimburse, the contractor if the contractor has to pay workers comp or liability claims because of injuries or damages caused by the sub's negligence.

Warranties. If a pipe leaks, the customer will call you, not your plumbing sub. Your subcontract should require subs to warrant the work they do for you, because you warrant the job to the customer. Warranty terms and duration should match or exceed those in your main agreement with the owner.

Cleanup. At a minimum, your subcontract should require cleanup of hazardous materials and dangerous debris, including boards with exposed nails, containers for liquids that kids could drink or drown in, and anything else curious homeowners or their children could hurt themselves with.

Your cleanup policy may also extend to everyday cleanup. Don't assume your sub will meet the kind of job-site cleanup standards that makes residential remodeling customers happy. Spell it out: sweeping up debris from sawing and sanding; picking up discarded material wrappings and packaging; collecting empty cigarette packages, bent nails, and all those foam coffee cups.

Special provisions. Depending on your particular circumstances, you may also want to include clauses dealing with arbitration and mediation, as well as restrictions on a third tier of subcontracting. As always, review your contract language with an attorney before putting it into use. ■

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