



SOUTHPOINT

Southpoint Insurance Construction White Paper:

Subcontractor Qualifications, Drug Screening, and Distracted Driving Prevention

Subcontractor Qualification

Introduction

A general contractor working in the fast paced environment has a lot of job responsibilities aside from building to ensure profitability and reputation. An increased awareness of contractors to manage their risk has highlighted a need to select the proper subcontractors to complete construction jobs. By applying some basic risk management principles along with proper subcontractor controls a contractor can eliminate costly OSHA citations, legal intervention, and litigation. It will also ensure that the job is well done, meeting deadlines, specifications, and requirements. The following checklist from The Hartford can be considered when selecting your subcontractor.

Subcontractor Information

- Company Information
 - Name
 - Mailing address
 - Contact Information
- Federal ID and other Numbers (if applicable)
- Business Type
 - Year Founded
 - State of Incorporation (if applicable)
- Officers of the company and length of service
- Trades your company performs
- Business Classification
 - Certifying Agency
 - Certification Number
 - Expiration Date

Licenses

- State licensed
 - Trades perform
 - License number (if applicable)

Work Experience

- How many people does your firm presently employ?
- **Note:** *Yes answers to the following questions require an explanation*
 - Has your surety ever finished one or more of your construction projects?

LOSS CONTROL TIPS

- Has your Company ever petitioned for bankruptcy, failed in a business endeavor, defaulted or been terminated on a contract?
- Has your Company ever been disbarred or precluded from bidding public work?
- Has any entity ever made a claim in a court of law, against your Company for defective, improper or nonconforming work, or for failing to comply with warranty obligations?
- Are there any outstanding Judgments or Claims against your Company?
- Has any entity made a claim in a court of law, against you any other entity?
- Number of contracts completed in the last five years
- Largest contract company has complete – Name of project, Amount, Scope of Work
- Largest contract you expect to complete this year – Name of project, Amount, Scope of Work

Financial Information

- Revenue and Projects – Previous year and projected for this year
- Backlog – Current and previous twelve months
- Current net worth and net working capital
- Bank credit line – Credit Limit and % in Use
- Bonding Capacity – Aggregate and Per Project
- Profitability of the last five years

Work Experience

- Has your company worked for us in the past (provide details)
- Is your company currently working on any of our projects (provide details)
- **Top five (5) major projects**
 - Project Name
 - Location, Owner
 - Architect/Engineer
 - Prime Contractor
 - Contact, Phone
 - Contract Amount
 - Completion date

References

- Major Suppliers (3)
 - Company Name
 - Contact Name
 - Contact Phone
- Prime Contractors (3)
 - Company Name
 - Contact Name
 - Contact Phone
- Banking (3)
 - Company Name
 - Contact Name
 - Contact Phone
- Insurance Broker/Agent
 - Company Name
 - Contact Name
 - Contact Phone
- Surety (not broker/agent)
 - Company Name
 - Contact Name
 - Contact Phone

Insurance

- **Commercial General Liability**
 - Insurance Carrier
 - Expiration Date
 - Limits – Each Occurrence
 - General Aggregate
 - Products/Complete Ops
 - Personal/Advertising Injury
 - Amount of deductible or SIR
 - Fire Damage/Damage to rented premises
 - Medical Expense
- **Excess Liability**
 - Insurance Carrier
 - Expiration Date
 - Limits – Each Occurrence
 - General Aggregate
- **Worker's Compensation and Employer's Liability**
 - Insurance Carrier
 - Expiration Date
 - Limits – Each Accident
 - Disease – Policy
 - Disease – Each Employee

- **Business Auto Liability**
 - Insurance Carrier
 - Expiration Date
 - Limits – Combined Single Limit,
 - Property Damage
 - B.I. Per Person
 - B.I. Per Accident
- **Professional Liability Insurance**
- **Pollution Liability Insurance**

Safety & Health

- **Safety Coordinator**
 - Name
 - Title
 - Phone
 - Qualifications/Experience
- **Substance Abuse Screening**
 - Pre Hire
 - For Cause
 - Post Accident
 - Random
- **Safety & Health Training**
 - Employee initiation
 - Supervisors
 - Managers
 - Tool Box Meetings
- **Recordkeeping**
 - Workers Compensation experience modification over the last five years
 - OSHA Recordable Incident Rate
 - OSHA violations
 - Fatalities over the last five years

For More Information

For information on contract management in construction, refer to The Hartford's Loss Control TIPS S 140.300 *Managing Your Contracts Improves Your Risk Management*.

For more information, contact your local Hartford agent or your Hartford Loss Control Consultant. Visit The Hartford's Loss Control web site at www.thehartford.com/losscontrol

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Drug Screening and Testing in Construction

According to the National Institute of Drug Abuse, nearly 75 percent of all adult illicit drug users are employed, as are most binge and heavy alcohol users. Studies show that when compared with non-substance abusers, substance-abusing employees are more likely to:

- *Change jobs frequently*
- *Be late to or absent from work*
- *Be less productive employees*
- *Be involved in a workplace accident*
- *File a workers' compensation claim*

Employers who have implemented drug-free workplace programs have important experiences to share:

- *Improvements in morale and productivity, and decrease in absenteeism, accidents, downtime, turnover and theft.*
- *Better health status among employees and family members and decreased use of medical benefits by these same groups.*

In this Best Practice, The Hartford will summarize what you'll need to know to evaluate, develop and implement a drug testing program. This information is based on our experience with contractors, unions, medical professionals and our investigations of substance abuse accidents. Our program can help your business create a more productive work place.

The Problem

According to OSHA, the construction industry has some of the highest rates of alcohol and drug abuse. Among full-time construction workers between the ages of 18 and 49:

- More than 12 percent report illicit drug use during the past 30 days.
- Almost 21 percent report illicit drug use during the past year.
- Approximately 13 percent admit to heavy alcohol use.

Which drugs are being abused? The list of dangerous drugs includes marijuana, cocaine, crack, phencyclidine (PCP), heroin and other stimulants, depressants,

narcotics, hallucinogens and inhalants. The list of abused substances also includes alcohol, prescription and over-the-counter medications, such as cough syrup. When used improperly, these drugs and substances are as dangerous as illegal drugs.

A Drug Testing Program Can Help

Construction work demands that an employee be able to make sound decisions. Employees who are under the influence of drugs pose safety risks to themselves or others. Substance abuse reduces coordination, slows reaction and decision-making time, and impacts an employee's memory and ability to concentrate. A well-thought-out drug testing program can help create a safe working environment.

Before implementing any drug testing program, we recommend that you seek legal counsel. Although a testing program makes good business sense for many employers, it doesn't make sense for all. For example, the approach to public versus private employees may differ.

The issue of drug testing and screening also evokes strong public sentiment. There are many instances of employees challenging these programs under the U.S. Constitution and other laws related to wrongful termination or invasion of privacy.

Deciding Whether to Test

When deciding whether to test, your company should examine its own circumstances and not arbitrarily adopt another employer's program. You'll need to consider the potential benefits and drawbacks, including the expense, employee reaction, the possible impact on the workforce if users are identified and/or removed and your company's potential liability for violating workers' rights. Other key considerations include:

- **Whether the employer is in the public or private sector.** Unlike private employees, public employees have a constitutional right to privacy and the right to be free of unreasonable search and seizure at work. This right is normally not afforded to non-union, private employees.

- **Unionized and non-unionized workforces.** Normally, unionized employers are required to establish an objective standard regarding employee testing. This standard is often part of a collective bargaining agreement.
- **Employee morale.** A drug testing program may generate the perception of mistrust. Often, perceptions that are not effectively addressed diminish an employee's loyalty and dedication.
- **Safety risk.** Generally, the higher the safety risk, the more comprehensive a drug testing program needs to be. The validity of this policy will hinge upon its reasonableness. In addition, employers may need to consider a hybrid policy – incorporating different approaches for different groups of employees.
- **Rampant drug problem.** A documented work place problem will justify a more aggressive and comprehensive program than simply a desire to implement one based on ungrounded fear or perception.
- **State or local legislation.** The legislative climate is not stagnant and also differs from state to state. What worked in the past or in a neighboring state, may now be inappropriate.
- **Cost.** A useful, fully defensible drug-screening program can be costly. Once you make the decision to implement a program, do it properly. A program that cuts corners is flawed and may lead to successful employee challenges. In our experience though, drug testing programs often pay for themselves through increased productivity, lower turnover and reduced claim costs.

Drug Testing Guidelines and Considerations

The overall goal of employee drug testing is to improve workplace safety, productivity and product integrity so the company will have an improved fiscal bottom line. When deciding whether or not to test, we suggest employers carefully consider the following:

State and Federal Statutes. In addition to complying with relevant federal statutes, you'll need to comply with state laws as well. As you might expect, the states do not uniformly approach drug testing. For example, some states have laws supporting drug testing, others opposing it and still others are neutral on testing. Even when the states agree on the issue of testing, they can differ in implementation. By understanding the differences, you can appropriately address them.

Demonstrated Need. If a drug abuse problem exists in your workplace, demonstrate its need by documenting the relationship between job performance and substance abuse. Programs that are objectively established are generally more successful than those that are arbitrary.

Unions. If your firm works with unions, it is important to solicit their support early on in the process. Even for non-union programs, we suggest that management get employee input. In our experience, programs that are collaboratively developed are generally more effective.

How the Policy is Developed. You'll need to involve senior management, legal advisors, human resource managers, risk managers, security staff and possibly OSHA personnel. Once the policy has been agreed to, it should become part of your company's written rules and procedures. In developing the policy, carefully evaluate each position within the company to understand the potential safety hazards.

Communicating the Policy. Before implementing the program, explain why you are testing for drugs. Clearly explain the policy, including the penalties. The objective is to solicit support for, not resistance to the program. Once implemented, occasionally remind employees about the program.

Establish Procedures for Suspected Drug Use

When you uncover an instance of drug abuse, you should:

- Document the physical signs that led to your suspicion (e.g., slurred speech, weaving, dilated pupils, disorientation).
- Require the employee to immediately undergo urinalysis or blood test to confirm drug use.
- Send a supervisor to accompany the suspected user to the lab to prevent a "friend" from taking the test.

Be Prepared for Legal Challenges

Employees may decide to challenge your decision, particularly if your program is flawed. However, there are many examples of well-thought out programs that have withstood a challenge. Again, the quality of the program is the key.

Implementing the Program

Once you've decided to implement a program, determine which employees will be tested and then establish a timetable for testing. Establish procedures for collecting urine samples and then be certain that they're adhered to. With regards to the initial testing, we recommend that you provide 60 days notice, then a reminder at 30 days and one week. Implementing a new program without notifying your employees is fraught with problems.

As part of the testing program, employers should:

- Train supervisors on policy implementation, chain-of-custody and testing procedures, confidentiality and legal implications.

- Designate specific personnel to receive the processing results.
- Provide your employees with a procedure for contesting positive test results, and explaining a positive test result. All initial positive tests should be followed up with a confirming test.
- Mandate participation in an employee assistance program, if one is offered, as a condition on continued employment. Also establish random testing requirements for up to one year thereafter.
- Apply the rules consistently to eliminate any possibility of discrimination.

The National Institute of Drug Abuse has recommended three tiers of drug testing. The three tiers are:

1. Incident-related testing, in which employees are tested only after an accident or other incident.
2. Scheduled testing of high risk or safety sensitive occupations.
3. Random, unannounced sampling for screening within hazardous occupations.

Pre-employment testing. This is probably the most popular and effective type of drug testing, with the least liability to the employer. With this type of program, the intent is to avoid hiring potential employees with drug or alcohol problems. To withstand legal challenges on common law grounds, a pre-employment drug screening must be:

- Carried out under a carefully developed, written policy that is explained to all applicants at the time of application.
- Presented to the applicants in the context of job safety, employee health and public welfare, rather than profit and loss.
- Applied to all applicants in a non-discriminatory manner.

Probable cause testing. This program requires reasonable suspicion that a person is using or is affected by drugs. This is useful in proving the presumption of drug use when poor performance is observed, when evidence of intoxication is witnessed, or when accidents are thought to result from drug intoxication.

Random testing. This is the most comprehensive form of employee testing. It's also the least popular approach, and can increase tension between management and labor. One way to lessen tension, especially in a union-

ized workplace, is for the union delegate to work with management to develop periodic random name lists to ensure that the lists are developed without prejudice.

OSHA Provides Resources

For more information, contact the OSHA Consultation Program. Not all states offer this program but those that do will provide free onsite assistance in identifying and correcting hazards or setting up safety and health programs. You can also contact the OSHA Area Office nearest you to speak to the compliance assistance specialist about training and education in job safety and health issues. Another option is OSHA Advisors, interactive software that walks you through specific OSHA standards or helps identify potential hazards. You can also find information on specific topics on the OSHA Web Site at www.OSHA.gov.

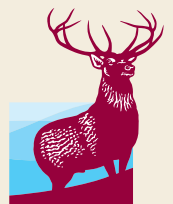
In addition, a summary of state and territory laws related to substance abuse and drug testing is included in the Substance Abuse Information Database provided by Working Partners for an Alcohol and Drug-Free Workplace (Department of Labor) (<http://www.dol.gov/asp/programs/drugs/workingpartners/resource.html>).

For More Information

For more information, contact your local Hartford agent, Hartford Loss Control Consultant, or Underwriter. You may also visit our Web site at www.thehartford.com/corporate/losscontrol or contact us directly at construction.group@thehartford.com.

Best Practices for Your Business

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Distracted Driving – A Growing Problem

Using cell phones or smart phones while driving is common practice today, for both personal and business use. And, more and more businesses expect their employees to be accessible via cell or smart phone at all times. As a result, distracted driving can be a serious problem on our roadways.

Consider these statistics from www.distraction.gov, a website devoted to the issue of distracted driving:

- Using a cell phone while driving, whether it's hand-held or hands-free, delays a driver's reactions as much as having a blood alcohol concentration at the legal limit of .08 percent. (Source: University of Utah)
- In 2009, an estimated 448,000 people were injured in motor vehicle crashes that were reported to have involved distracted driving. (FARS and GES)
- Drivers who use hand-held devices are four times as likely to get into crashes serious enough to injure themselves. (Source: Insurance Institute for Highway Safety)
- The proportion of fatalities reportedly associated with driver distraction increased from 10 percent in 2005 to 16 percent in 2009. During that time, fatal crashes with reported driver distraction also increased from 10 percent to 16 percent. (FARS and the National Automotive Sampling)

According to the National Highway Traffic and Safety Association (NHTSA), every minute of the day over 800,000 vehicles are being driven by someone using a hand-held cell phone. Some of your employees may be among this number. If those employees cause an accident while driving on company business, you could be responsible not just for workers' compensation and disability claims, but also for liability judgments. Taking action to help ensure that your employees exercise good judgment behind the wheel can help save lives and money.

A Serious Threat

Distracted driving, alcohol, and speeding are the leading factors in fatal and serious injury crashes. Many of the most publicized accidents attributed to distracted driving have involved youthful drivers and texting, but young adults aren't the only ones putting themselves and others at risk on our roads.

In fact, almost all of us are guilty of distracted driving to some degree. Talking with a passenger, leaning over to pick up a fallen object, changing the radio station, checking a GPS, or using a cell phone all take the driver's attention off the road.

In the Blink of an Eye

A crash can occur within seconds of a driver taking his or her eyes off the road. In fact, a naturalistic driving study conducted by the NHTSA and the Virginia Tech Transportation Institute, which used sophisticated technology to track drivers in their own vehicles, found that 80% of crashes and 65% of near crashes involving driver inattention occurred within three seconds of the distracted behavior. The study also found that some behaviors increase the risk of an accident more than others.

Driver behavior (cars and light vehicles)	Risk of crash or near crash compared to non-distracted driving crash
Reaching for moving object	9 times
Driving drowsy	4 times
Looking for external object	3.7 times
Reading	3.4 times
Dialing a phone	2.8 times
Applying makeup	3 times
Eating	1.6 times
Reaching for a non-moving object	1.4 times
Talking on a hand-held phone	1.3 times

Source: Virginia Tech Transportation Institute Naturalistic Driving Study, Relative Risk Estimates for Crash/Near Crash Inattention Events

Texting, reading or writing while driving significantly increases the risk associated with cell phone use. A study using driving simulations found that texting drivers were six times more likely to be involved in collisions. The Virginia Tech Transportation Institute found that the risk increased 23 times for drivers of trucks and heavy vehicles.

Dispelling Myths

The National Safety Council in a white paper, **Understanding the distracted brain: Why driving while using hands-free cell phones is risky behavior** (March 2010), drew upon dozens of research papers to examine and explain the dangers of drivers' use of cell phones.

Their conclusion: Multitasking is a myth. Our brains don't perform two tasks at the same time. Rather, our brains process tasks sequentially, switching between tasks. This happens so fast, we believe that we're doing two tasks simultaneously. Research also shows that drivers using cell phones suffer from inattention blindness and don't really "see" as much as 50 percent of what is going on in their driving environment. The effect is similar to tunnel vision and results in drivers who are unable to access, process, and react to what is happening on the road.

There is a commonly held belief that we can reduce risk and drive more safely by using hands-free phones or headsets. That may be another myth. Hands-free phones don't eliminate the cognitive distraction of conversation. What's more, the majority of "hands-free" phones sold today aren't operationally hands-free. Unless they are voice activated, dialing and answering require drivers to take their eyes off the road and a hand off the wheel. Employees who use their cell phones for business while driving may appear to be more productive, but they are putting themselves and others at risk – and your business at financial risk.

Calling for Action

According to the NHTSA, driver distraction is a factor in 80% of crashes. This kind of data – and the continued proliferation of cell phones for personal and business

use – has been a call to action for organizations and legislators to address the problem.

- The National Safety Council, for example, has a written policy for its employees that prohibits the use of cell phones (including hands-free) while operating a motor vehicle. The National Safety Council offers a free Cell Phone Policy Kit. The kit contains information on employer policies, cell phone fact sheet, sample employee policy, key research studies, and is available from their website: www.nsc.org/safety_road/Distracted_Driving/Pages/EmployerPolicies.aspx

Distracted driving claims can happen at any time. Recently, a sales rep for a pharmaceutical manufacturer was texting while driving when the car in front came to a stop, signaling a left hand turn. The sales rep was distracted and did not notice that the car had come to a stop. The sales rep hit the vehicle at full speed causing auto and workers' compensation claims that have totaled over one million dollars. This accident may have been prevented if the manufacturer had a cell phone use policy in place.

- The American Society of Safety Engineers (ASSE) view "is that operating a vehicle while distracted is always a potentially unsafe act, and all drivers should be cognizant of the hazards associated with distracted driving." ASSE supports employer rules banning any employee use of electronic devices while driving. For more information visit their website: http://www.asse.org/professionalaffairs_new/positions/ddmv.php

- A growing number of states have passed or are considering laws against hand held cell phone use. Many states are also stepping up both their public education and enforcement efforts around these laws. State laws on cell phone use and text messaging may be obtained from the Insurance Institute for Highway Safety website at: www.iihs.org/laws/cellphonelaws.aspx

Reducing Your Company's Risk

Has your company formally addressed the issue of cell phone usage by your employees? If not, it may be time to do so.

As a fleet manager and employer, your exposure isn't limited to employees who drive company owned vehicles. It can also extend to employee owned vehicles while being used on company business and hired cars. You may want to consider establishing specific company policies regarding cell phone use and investing in voice activated devices.

An employee who is distracted while driving may cause personal tragedy for themselves and others involved in a collision. In addition, your company could be held legally responsible for the actions of your employee. A serious accident could result in a very significant financial claim, so you'll want to consult with your insurance advisor to determine whether your auto and umbrella liability limits are adequate.

More Information:

Additional information and studies on distracted driving may be found at:

http://www.ghsa.org/html/publications/survey/pdf/2010_distraction.pdf

<http://hfs.sagepub.com/content/51/5/762>

[http://www.nsc.org/safety_road/Distracted_Driving/Documents/Dstrct_Drvng_White_Paper_Fnl\(5-25-10\).pdf](http://www.nsc.org/safety_road/Distracted_Driving/Documents/Dstrct_Drvng_White_Paper_Fnl(5-25-10).pdf)

Insuring Innovation

About The Hartford's Technology and Life Science Practice

For more than 25 years, The Hartford has insured technology and life science businesses of all sizes. Our products are flexible enough to grow with a business – from a startup or sole proprietorship to a large, publicly traded company. We also offer services that can help businesses lower their losses, like our series of Technology Best Practices

For more information on how to manage risks for your business, contact your local Hartford agent, or visit www.thehartford.com/info/technology.

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Serving Businesses Of All Sizes

You've invested everything into growing your business, and Southpoint is here to help ensure you're insured from the unknown. Unexpected events such as natural disaster, employee injury, lawsuit, or death of a partner can devastate your business ruining years of hard work overnight.

Depending on your industry some types of insurance are required by law or business associations. These basic insurance requirements don't cover everything and is why you need coverage to protect all aspects of your business.

About Southpoint

For 40 years, professionalism, hard work, and commitment to our clients have fueled our growth. Since our start, we've been independent. This allows us to respond to our clients and their service needs without internal bureaucracy or external shareholder pressures. An unrelenting commitment to superior client service fosters continuous improvements in our products and services.

SouthPoint is among the top 25 privately owned, independent insurance brokers in Illinois. Southpoint delivers world class insurance services to companies of all sizes as well as to individual clients. Southpoint has grown to become one of the largest Professional Liability insurance brokerage firms in Illinois.

Our Resources

Southpoint's long-term relationships with underwriters around the world allow us to negotiate comprehensive coverage at the best price possible. We represent the top insurance companies in the country and will always place your coverage with the carrier that is most able to covers your needs.

Our Commitment

Southpoint's private ownership means that each of our associates has a single-minded focus on serving our clients. Our independence from Wall Street keeps us focused on your needs, not the demands of analysts or stock price. We will never place your coverage with an insurance company based upon our own financial benefit.

How Can We Help?

Questions about insurance and risk protection for your business?

Speak with a Southpoint Professional

708.478.3440

www.sthpoint.com

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