

2008

WCB facts

Workers Compensation Board of Manitoba

CONSTRUCTION INDUSTRY COVERAGE FOR CONTRACT LABOUR

Under *The Workers Compensation Act*, the Workers Compensation Board has the responsibility to provide compensation coverage for workers in the construction industry. Most construction activity is performed on a contract basis. Accordingly, the WCB has an Independent Contractor Policy, which determines responsibility for workers' compensation coverage in construction contract relationships.

What services does the WCB provide?

- a) The WCB provides a no-fault insurance program in which workers cannot sue their employers for loss of income due to workplace injuries. In return, the WCB provides workers with wage loss benefits, benefits for permanent impairment, benefits to dependents in the event of a fatal injury, payment of medical expenses related to the injury and reimbursement for loss of certain personal effects.
- b) The WCB also ensures competing employers have compensation coverage for their workers.

Who is considered a worker, and are there other categories?

A person or firm is considered a worker for WCB purposes unless registered with the WCB as an employer or labour contractor as defined by the Independent Contractor Policy.

To register with the WCB the person or firm must be able to demonstrate they operate a bona fide business enterprise and is:

**CONSTRUCTION INDUSTRY
COVERAGE FOR CONTRACT LABOUR
PAGE 2**

- a) An **employer**: employs and pays workers more than \$18,934 in total in 2008; or
- b) A **labour contractor**: obtains personal or director coverage with the WCB, covers any workers that may be hired throughout the year, and works for more than one person or firm in a season/year.

Generally, a person or firm working for only one firm in a construction season is not considered to be operating a business. He/she and any workers hired are deemed workers of the principal for whom they are working.

The principal is responsible for paying the assessment on the labour portion of a deemed worker's contract. Deductions from a deemed worker's earnings to offset WCB premiums are prohibited by *The Workers Compensation Act*.

What are my responsibilities as a contractor?

- a) To provide compensation coverage for sub-contractors and their workers who do not qualify for their own compensation coverage.
- b) To ensure qualifying sub-contractors and any workers they employ are registered, and in good standing with the WCB.

How and when can I determine who is properly registered with the WCB?

By obtaining a clearance from the WCB **Clearance Request System** before hiring the contractor. Otherwise, you may be liable for the assessment for any individuals or firms considered to be your workers. **See the example on page 4.**

The WCB Clearance Request System operates 24 hours a day, seven days a week. The system can be accessed three different ways:

**CONSTRUCTION INDUSTRY
COVERAGE FOR CONTRACT LABOUR
PAGE 3**

1. **Online Directory:** Search a comprehensive list of businesses by firm number, company or trade style name and immediately see their standing with the WCB. Enter as many names as you want and get immediate information on each one. The Online Directory is available at www.wcb.mb.ca.
2. **Interactive Online List:** Using a secure Internet connection, registered users can create customized, interactive lists of firms and sub-contractors. If a company's status changes, the Clearance Request System will automatically flag the company's name in your file and email you about the change in status the next business day. To register, call **954-4803** or toll free **1-866-751-9245**.
3. **Automated Phone and Fax Back Service:** Use your phone to get clearance information on a single company or firm by dialing **954-4988** or toll-free **1-800-362-3340**. Enter the seven digit firm number for the business you want clearance information on. You'll also be given the option of entering a fax number to receive confirmation.

Please note: Every day there are employers who open a new registration, cancel an old registration or do not pay their assessment. Therefore, you should obtain a clearance **before** making final payment on any contract. Otherwise, if the sub-contractor is not registered or owes the WCB money, you will be liable for the assessment on the labour portion of the contract.

Sometimes final decisions on contracts are made outside of regular business hours. If a sub-contractor tells me that he has compensation coverage and I find out later that he did not, can I hold him financially responsible?

No, you cannot. *The Workers Compensation Act* states that contractors are not to deduct monies to offset WCB premiums.

**CONSTRUCTION INDUSTRY
COVERAGE FOR CONTRACT LABOUR
PAGE 4**

Therefore, it is in your best interest to delay final decisions until you have verified the sub-contractor's status with the WCB.

If a firm is deemed my worker, am I assessed on the entire contract value?

No. The WCB will charge you on the labour portion of the contract. You will not be assessed for the supply of materials and/or equipment.

The WCB has a schedule for contract labour which sets out a standard labour percentage of the total contract or piecework price for various industries and types of equipment. The labour percentage reflects an average for the industry or the type of equipment. Where a contract reasonably identifies the labour cost of the contract price, the WCB and/or the employer may use these amounts, and not the contract labour schedule. If an employer disagrees with a labour percentage used, the WCB will consider documentation provided from the (sub)contractor to support a different labour cost.

Example:

A drywall sub-contractor is awarded a contract to provide all materials and tools for installation. The total contract value is \$2,000.00

a. Determine labour portion of contract =

$$\begin{array}{rclcl} \$2,000.00 & \times & 40\% & = & \$800.00 \\ \text{(Contract Value)} & & \text{(Labour Percentage)} & & \text{(Labour Portion)} \end{array}$$

b. Use formula as follows:

$$\begin{array}{rclcl} \$800.00 & \times & \$3.80/\text{per } 100 & = & \$30.40 \\ \text{(Labour Portion)} & & \text{(Rate)} & & \text{(Assessment)} \end{array}$$

**CONSTRUCTION INDUSTRY
COVERAGE FOR CONTRACT LABOUR
PAGE 5**

- c. If the sub-contractor is deemed your worker, his earnings of \$800.00 must be reported to the WCB at year-end with your other workers' earnings. You would be billed \$30.40 on the \$800.00 reported.
- d. If the sub-contractor is properly registered and in good standing with the WCB, at your request you will receive a clearance letter.
- e. If the sub-contractor is registered but not in good standing, you will be informed how much of the contract to hold back.

For further information on the Independent Contractor Policy, contact Employer Services Division at 954-4505 or toll-free 1-800-362-3340; or fax 954-4900 or toll-free fax 1-866-245-0796.

This publication is provided for general information. For more specific information see *The Workers Compensation Act of Manitoba and Regulations*, available through Statutory Publications by calling (204)-945-3101. WCB Policies are available by calling (204)-954-4655. These documents are also on the WCB web site at www.wcb.mb.ca.