

## **Why is it Important to Get Certificates of Workers' Compensation Insurance from Your Vendors?**

In New York State (like every other state except Texas), with only a few exceptions, Workers' Compensation coverage is mandatory. As a risk management measure and to ensure the vendors you contract with are following the law, it is always important to require a Certificate of Workers' Compensation Insurance from ALL of your Contractors.

### **What if they are a Sole Proprietor?**

In New York, Sole Proprietors are not required to carry Workers' Compensation Insurance if they do not have employees. Typical Sole Proprietor professions include: Attorney, Consultant, Driver, Computer Consultant, Artisans, etc. What if an uninsured contractor is injured while performing work for my organization? The simple answer is: in most instances, your Workers' Compensation policy would have to respond if the uninsured contractor files a claim. Your organization and therefore your organization's WC Insurance Company are responsible for that claim. (Also, the contractor can file a claim directly with the Workers' Compensation Board and you may not know about it until you receive written notice from the WCB.)

### **Wouldn't that be a General Liability claim?**

Depends. Most General Liability policies have exclusions for claims filed by "employees". If the uninsured contractor is determined to be an employee and the injury to the contractor is deemed to fall under Workers' Compensation Law, the General Liability carrier can decline the claim.

### **What does this mean to my insurance premium?**

In these instances, because the Insurance Company has an exposure they are entitled to collect a premium for that exposure. At the time of audit, a

State Insurance Fund auditor will ask for a list of all your vendors and your 1099s. It is the policyholder's responsibility to provide the auditor all Certificates of Insurance associated with the use of vendors for the policy period being audited. If a Certificate of Insurance is not available, the policyholder will be charged the appropriate Workers' Compensation Insurance premium based on the exposure of the work performed and the amount paid based on NY Compensation Rating Board rules.

### **How can I limit additional premium charges due to uninsured contractors?**

The best way to do this is by getting a Certificate of Insurance every time you contract with a vendor and having that information available for the auditor. By doing this, there should not be any additional premium charged for uninsured contractors. In many cases, contracting with a Sole Proprietor without WC coverage is necessary, as long as you understand and weigh the significance of the premium impact and potential exposure to your organization's policy. If the acknowledgment of this risk is established when considering vendors, it should help ensure there are no surprises down the road.

