COVERAGE FOR CONTRACT WORKERS

Under *The Workers Compensation Act*, the Workers Compensation Board of Manitoba (WCB) has the responsibility to provide compensation coverage for workers in most industries in Manitoba. This can include individuals who work on a contract basis in mandatory industries.

In the case of contract services, the WCB must determine if they are employers, independent contractors or your workers using a business test. If they are deemed your workers, you need to report the labour portion of their contract payments (excluding GST) as worker's payroll.

What are my responsibilities if I hire contract workers?

1) to provide compensation coverage for sub-contractors and their workers who do not qualify for their own compensation coverag

2) to ensure qualifying sub-contractors and any workers they employ are registered and in good standing with the WCB

What industries does this apply to?

If your business is engaged in a contract-based industry (such as construction, trucking, logging, janitorial, oil and gas wells, tow trucks, etc.), service providers hired on contract that adds value to your products or services will be deemed your workers if they are not registered with the WCB as an employer or independent contractor with personal coverage.

If your business is not in a contract-based industry as described above, and you engage service providers on a contract basis, you need to contact the WCB to determine whether they are an independent business or if they are a worker for whom you should be including earnings in your payroll calculations.

What is the business test?

Generally, if the individual employs workers over the annual minimum earnings level of $30,140 in 2025 or works primarily within their own business establishment, they will not be considered your worker.

If they do not meet the above criteria, as determined by the WCB, the WCB will use the independent business test to determine their status. The following are examples of factors used:

- employs workers

- has multiple customers
- owns or leases a major piece of equipment
- controls their work and payment schedule

If they don't meet this test, they are your worker regardless of your business industry.

If you operate a business in a contract-based industry (as described earlier), and the WCB determines that your sub-contractor passes the business test, they then have the option of purchasing Personal Coverage. However, if they do not purchase Personal Coverage in this case, they, and their workers, will be deemed your worker(s).

If you operate a business in a non-contract-based industry, and the WCB determines that your contractor is independent, they will not be deemed your worker. They can apply for Personal Coverage and must cover any workers they have if they are operating in a mandatory industry.

How and when can I determine my contractor's status with the WCB?

You can determine this 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 businesses considered to be your workers.

The WCB Clearance Request System operates 24 hours a day, seven days a week. The system can be accessed through the online directory at www.wcb.mb.ca/clearances. The system has two types of access, as follows:

1. **General Public Access:** You can search a comprehensive list of businesses by account number, company or trade style name and immediately see their standing with the WCB. Enter as many names or account numbers as you want and get immediate information on each one.

2. **Registered User Access:** Using a secure Internet connection, registered users can create customized, interactive lists of businesses 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 (204) 954-4573 or toll free in Canada 1-855-954-4321, ext. 4573.

Please note:
If you see the status "deemed worker" or cannot find your contractor in the system and are in a non-contract-based industry, you will need to contact the WCB to verify their status.

You should obtain a clearance before making the final payment on any contract because if the sub-contractor owes the WCB money, you will be liable to withhold the premiums on the labour portion of the contract.

Sometimes, final decisions on contracts are made outside of regular business hours. As a principal contractor, if a subcontractor tells me that they have compensation coverage and I find out later that they did not, can I hold them financially responsible?

No, you cannot. *The Workers Compensation Act* states that principal contractors are not to deduct monies paid to sub-contractors to offset WCB premiums the principal pays for the labour portion of the sub-contractor payments.

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

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

The WCB only charges you premiums based on the amount of the labour portion of the contract.

The WCB has a schedule that provides standard labour percentages based on the type of work being performed. These percentages can be applied to establish the amount of labour in contracts where the price includes materials and/or equipment. You can obtain a copy of the Assessment Schedule for Contract Labour at https://www.wcb.mb.ca/assessment-schedule-for-contract-labour-faq.

For further information on contract workers, contact Assessment Services at (204) 954-4505 or toll-free in Canada and the United States at 1-855-954-4321, ext. 4505 or fax (204) 954-4900 or toll-free in Canada and the United States at 1-866-245-0796, or email at assessmentservices@wcb.mb.ca, or you can write to us at:

Workers Compensation Board of Manitoba
Assessment Services
333 Broadway
Winnipeg, Manitoba R3C 4W3

This publication is provided for general information. It is not intended to be legal advice and should not be relied on as such. See *The Workers Compensation Act and Regulations* and WCB Policies for more specific information. These documents are available on the WCB website at wcb.mb.ca.