



When Small Contractors Face Big Claims

The construction industry continues to evolve, shaped by economic pressures, shifting risk dynamics and rising litigation. For small and mid-sized contractors, this environment can be especially challenging. Between construction defect claims, social inflation and the growing use of uninsured subcontractors, the potential for costly claims has never been higher. When claim activity increases, it's often the smaller insureds, those with limited internal resources or risk management practices, who are left most vulnerable.

Understanding the risks and structuring policies appropriately on the front end can be the difference between smooth claims handling and major financial setbacks.

CONTACT

To learn more about how Amwins can help you place coverage for your clients, reach out to your local Amwins broker.

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A shifting risk landscape

Several converging trends are putting added pressure on contractors, particularly those in residential construction.



Rising defect claims – Construction defect litigation has been on the rise, especially in the residential sector, where smaller budgets and tighter timelines increase the temptation to cut corners. Higher material and labor costs, alongside elevated interest rates, only magnify this pressure.



Social inflation – The social inflation trend is being fueled by public attitude and public sentiment. There is a notion that insurers can afford big payouts. Further, litigation funding prolongs cases while social media outlets can exaggerate small matters and in both cases the cost of claim are driven up. In addition, bodily injury claims are becoming more expensive to resolve. Plaintiffs' attorneys are often involved earlier, and juries are issuing higher awards. This trend has also triggered a rise in workers' compensation claims, especially when uninsured subcontractors report injuries under a general contractor's general liability (GL) policy.



Risk transfer gaps – Smaller contractors are increasingly being asked to shoulder complex risk transfer obligations, often without fully understanding the downstream liability they're taking on.



Details matter

A clear and accurate picture of the insured's operations is critical, and understanding the differences between general contractors (GCs) and artisan contractors (subcontractors) is central to assessing liability.

- General Contractors are responsible for overseeing the entire project, managing subcontractors, and ensuring contractual obligations are met. Their liability extends beyond their own work to the performance and safety of others on the jobsite.
- Artisan contractors (or subcontractors) handle specialized tasks under the direction of the GC. If their work is faulty or delayed, the subcontractor typically bears that liability, but if their insurance is insufficient, the GC may be pulled into the claim.

Many claim complications can be traced back to how the policy was written, often reflecting what wasn't disclosed during underwriting.



When evaluating risks, it's important to consider:

Type of work – Roofing, excavation or work performed at height (e.g., over three stories) often comes with exclusions or higher scrutiny. Being specific about the work being performed helps avoid unintended gaps in coverage.

Project scope – Is it new construction or a remodel? Residential, commercial or industrial construction? Is the GC or subcontractor part of a bespoke, higher end remodel, a new build or part of a larger tract project. These distinctions affect not just rating, but which forms may be added and how the policy ultimately responds to claims and the propensity for claim size.

Use of subcontractors – If subcontractors are not disclosed up front, some carriers may sublimit liability as a result of their work or exclude it altogether. Knowing whether work is self-performed or subbed out is critical.

Disputes between parties can lead to extended coverage investigations and legal complexity. Carriers will often look at the insured's role in project oversight, contract language, and documentation practices to determine how a claim is handled.



Risk transfer best practices

For general contractors (GCs) and artisan contractors alike, managing subcontractor risk is one of the most important parts of a solid insurance strategy.

It's important to verify who's in control. Is the insured hiring, firing, and paying subcontractors? If not, they may not be considered the "true" GC—something that matters in a claim.

You will also want to outline subcontractor requirements:

- Ensure subcontractors carry equal or greater limits than the GC
- Confirm that both GL and workers' compensation policies are in force
- Watch for policy terms such as hammer clauses or sublimits related to uninsured subs
- Collect and retain certificates of insurance (COIs) for at least 5–8 years
- Require hold harmless and indemnification language in all contracts

Incomplete or outdated documentation can jeopardize coverage, especially in high-severity claims involving multiple parties.

Helping contractors stay ahead of claims

Insurance professionals can bring real value by helping contractors strengthen their risk posture before issues arise.

That starts by asking the right questions:

- What type of work do you perform?
- What percentage is self-performed vs. subbed out?
- Do your subs carry adequate insurance—and can you prove it?
- Are your contracts strong enough to support indemnification?

By drilling down into the operational realities and structuring the policy accordingly, brokers can position smaller contractors to better withstand the increasing frequency and severity of claims in today's construction environment.



Takeaway

As the construction industry evolves, so too does the environment for controlled insurance programs. Retail agents and brokers need to stay current, mastering how policies are applied and adjudicated so they can help clients understand coverages and make adjustments as needed.

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We help you win.

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