

Construction Contractors: Steps for Success

A guide to help new contractors navigate the laws and rules, save time and avoid the most common problems that construction businesses face.



On the cover: Andy Gruhn, (left) a registered contractor in Olympia, talks with Dale Partin, a construction compliance inspector with the Washington State Department of Labor & Industries.



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Save time by renewing online

Go to www.Lni.wa.gov/ContractorRenew.

Violations cost money

Penalty for working outside your specialty, breaking advertising rules or working while your registration is expired or suspended: \$1,000 fine on the first offense.

General guidance for construction contractors

Keep your registration current

- Know your registration renewal date.
- Make sure your insurance and bond carriers give L&I your company's current proof of insurance and proof of bonding. You can't renew your registration without them.
- Remember, you must be a registered contractor to perform, advertise, offer or submit a bid to:
 - Construct, alter or repair structures.
 - Consult or serve as a superintendent on construction projects.
 - Add to or subtract from real property.
 - Improve, move or demolish real property.
 - Develop residential property to sell.
 - Install cabinets.
 - Remove trees.
 - Flip homes (buy, fix up and sell property) without occupying or using them for one year after renovation is complete. (Registration is not required if you are the property owner and hire a registered general contractor to manage and superintend the project.)

Specialty contractor? Know your restrictions

- Do not bid to provide services you're not registered to provide.
- Do not subcontract to others unless your specialty job makes it necessary. Examples of proper subcontracting by a specialty contractor:
 - An electrician moves an outlet when the cabinets you install block the outlet.
 - A plumber reinstalls a toilet after you tile the bathroom.
- Understand what's included in your specialty. See specialty descriptions at www.Lni.wa.gov/Contractors and click on "Registering as a Contractor," or search the Washington Administrative Code for WAC 296-200A-016.

Follow contractor advertising rules

- The business name in your advertising **must** match your contractor registration name. For instance, if you're registered as *Jane Doe Construction*, you must advertise as *Jane Doe Construction*, NOT as *Jane Doe Homes*. If you want to advertise under different names, you must register each company.
- You must display your contractor registration number on any item you use to solicit business from a consumer. Items could include business cards, brochures, websites, pens, magnets, flyers, ads, bids and contracts.
- Signs on motor vehicles and premises do not require your contractor registration number.
- Don't say you're licensed, bonded and insured in ads. All legal contractors are!
- Your website and ads should include only the services you're registered to provide.

**JANE DOE
CONSTRUCTION**

- New construction
- Renovations
- Repairs

111-234-5678

123 Anystreet Rd, Anytown, WA

License: janedoe12345

Bonded and Insured

www.janedoeconst.com

Call today for an estimate!

**Washington State
legal requirements
for construction
contractor ads**

MUST INCLUDE:

- Registered name
- Registered address
- Valid registration number

NOT ALLOWED:

- Words "Bonded" and "Insured" not allowed



It's just good business. Resolve disputes with customers, subcontractors and suppliers quickly.

Lawsuits against contractors and their bonds, whether valid or not, are posted on L&I's website where potential customers can see them.

If you can't reach an agreement, consider using dispute resolution.

It's a free or low-cost alternative to going to court. For information, go to: www.Lni.wa.gov/ContractorDisputeResolution.

Be aware: Subcontractors can file lawsuits against the general contractor's bond, but generals can't file against a subcontractor's bond.

Tools to help consumers make informed hiring choices

Free contractor marketing cards

This card helps legitimate contractors educate consumers on Washington registration requirements to help them hire smart.

Download it for free by going to www.Lni.wa.gov/ContractorCard. Fill it out on your desktop or mobile device and hit print.

I'm a registered contractor with the State of Washington. 

Registered business name _____

Contractor Registration # _____

WA Business License # (UBI) _____

Washington state law requires contractors to be registered.

Check me out! ProtectMyHome.net  Washington State Department of Labor & Industries
Or call L&I: 1-800-647-0982

Consumer education tools

L&I produces publications to help consumers hire smart. Get copies for free to distribute to potential customers. Publications include:

- *Hiring a Contractor, Remodeler or Handyman* (F625-084-000)
- *Hire Smart Worksheet* (F625-111-000)
- *Hire Smart Plumber Worksheet* (F627-044-000)
- *Facts About Construction Liens* (F625-017-000)

Find these and more resources at www.ProtectMyHome.net or go to www.Lni.wa.gov/Forms and search for these publications.

Before you start the job

Notify customers of your bond and your right to file a lien.

- Before you begin jobs valued at more than \$1,000 (including materials and labor), you must provide your customers a *Disclosure Statement Notice to Customer* (F625-030-000). This gives customers notice of your bond and your right to file a lien. Failure to do so can result in a \$500 fine on the first offense. See Page 9 for a sample form or download a fillable copy by going to www.Lni.wa.gov/ModelDisclosureStatement.
- If you don't get paid, you can place a lien on a customer's property.
- You must keep a signed copy for your records for three years. You may scan and keep it as an electronic file if you like.
- For more information on liens, read *Facts About Construction Liens* (F625-017-000) at www.Lni.wa.gov/IPUB/625-017-000.pdf. Learn more about the lien laws in Washington by reading and understanding RCW 60.04.

You're a boss if you hire workers

Register as an employer

It's simple to do through Washington's Business Licensing Service at www.bls.dor.wa.gov/file.aspx. Registration will lead to creation of a workers' compensation insurance account and a state unemployment insurance account.

If you noted that you would be hiring employees when you applied for your Washington Business License, L&I will give you information about your workers' compensation insurance account and Employment Security will give you information about your unemployment insurance account.

Learn and follow wage and hour requirements

Know the employment regulations, including overtime, breaks and requirements to display workplace posters. For details, see www.bizguide.wa.gov, "Start your business" chapter.

- Pay workers at least minimum wage, and time-and-a-half for hours in excess of 40 in a workweek (see www.Lni.wa.gov/Wages).
- Provide at least one paid 10-minute break for every four hours of work, and at least a 30-minute meal period for every five hours of work. Meal periods can be unpaid if the employee is completely relieved of duty.
- Beginning Jan. 1, 2018, all employers must provide paid sick leave to their employees. Employees will earn one hour of paid sick leave for every 40 hours they work. Employers will need to provide their employees a statement of earned, used and available paid sick leave at least once per month. This information can be provided on the employee's regular pay statements. Learn more at: www.Lni.wa.gov/SickLeave.
- If you have workers under the age of 18, learn the work restrictions related to your industry, get a minor work permit endorsement through the Business Licensing Service, and obtain a completed authorization form for each worker (see www.Lni.wa.gov/TeenWorkers).
- Don't deduct anything from paychecks that isn't authorized by law or requested in writing by your employee.
- Know the additional wage and hour requirements if your job is a public works project.

Required posters

L&I's workplace posters are *free* at any L&I office or available for download at www.Lni.wa.gov/RequiredPosters. All posters are also available in Spanish.

Consider anyone who works for you an employee – even if it's just for a few hours.

This includes friends, family and casual labor, whether you pay them in cash or in trade. You must register as an employer and follow employment laws. See www.bizguide.wa.gov, "Start your business" chapter.

Exceptions: Spouses of sole proprietors don't have to be covered for workers' compensation insurance. (Rules are different for spouses of owners of corporations or limited liability companies [LLC].) People you hire through a registered employment agency such as Labor Ready, Kelly Services, etc., are not considered your employees for unemployment or workers' compensation purposes, but you are still required to provide a safe workplace.



Did you know?

Definitions of an independent contractor vary by state agency and the federal government. The Internal Revenue Service (IRS) might consider a subcontractor to be an independent contractor, but laws governing L&I could consider the same subcontractor to be your worker.

You will likely be required to have other written safety plans such as a:

- Fall protection plan if there are fall hazards at your job site.
- Hazard communication plan if there are chemicals at your job site.

Are they your workers or independent contractors?

Why it's important to know the difference

When you hire individuals, even those whose businesses are licensed or registered, you must provide workers' compensation insurance for them unless they meet L&I's independent contractor test.

Here's the first part of the test. You're likely **not required** to provide workers' compensation insurance if your subcontractors:

- Bring their own employees to the job.
or
- Bring heavy equipment that they operate.

If they meet one of those conditions, keep the verifying documents for at least four years.

And remember, you are legally required to keep your job site safe for employees (yours or those of a temporary employment agency), subcontractors and independent contractors.

What if your subcontractors don't bring employees or heavy equipment to the job? You **must cover** them for workers' comp insurance unless they meet a strict legal test. This seven-part test includes such conditions as whether your contractor is an established business, works without your direction, works in an independent location, and files federal business income tax. Read more about this test at www.Lni.wa.gov/IndependentContractor.

Keep your workplace safe

Whether you have employees, temporary agency employees or subcontractors, you must keep your job site free from recognized hazards that may cause injury or death. Know the occupational safety and health rules that apply to your workplace, including requirements for:

- A written safety plan — also called an accident prevention plan — tailored to your business.
- Safety training and protective equipment for employees.
- A safety meeting before starting each construction project and weekly meetings once the project begins.
- Sign-in sheets at safety meetings to document staff attendance.
- Keeping meeting agendas, notes and attendance records for one year.

For safety information, resources and to arrange a free workplace safety consultation, go to www.Lni.wa.gov/Safety and click on "Get started with safety & health."

Keep your workers' comp insurance costs low

Workers' compensation insurance: Tips to improve recordkeeping and lower your rates

Ensure the risk classifications that L&I assigns your business accurately reflect your workers' actual job activities. Check your risk classes at www.Lni.wa.gov/Verify. If your risk classes aren't accurate, contact your L&I account manager. Here are more tips:

- Create good employee and payroll records. Time sheets should show dates, times and worker activities (if your business has more than one risk class).
- Keep time sheets and other payroll records for at least four years.
- Encourage injured employees to get medical care for injuries. It's against the law to discourage an employee from filing a workers' comp claim.
- Operate a safe workplace and bring injured workers back to work as soon as medically appropriate.

Learn how to keep your rates as low as possible at www.Lni.wa.gov/ControlMyRates.

What is prime contractor liability?

If your subcontractors meet the independent contractor test because they bring workers to the job, but they fail to pay workers' comp premiums on those workers, you still could be held liable for those premiums.

How can you avoid getting stuck with your subcontractors' workers' comp premiums? At a minimum, go to www.Lni.wa.gov/Verify and do the following:

- Verify your subcontractors' contractor registrations are current and active.
- Before hiring subcontractors, confirm they have a workers' comp account in good standing.
- If their account is in good standing, print and keep the "Certificate of Workers' Compensation Coverage" and other documentation for four years.
- Submit a "Track this contractor" request on the site. This will track their workers' comp and registration status for you for one year.
- Before making final payments, check your subcontractors' workers' comp accounts to ensure their accounts are still current.
- For more tips, go to www.Lni.wa.gov and search for "Prime Contractor Liability."



What's a risk class?

It's a category of employers grouped together by common job operations and the hazards their employees face in the workplace. L&I sets the base rate of how much employers in a risk class will pay for workers' compensation insurance. That rate is based on the hours and claims reported in the class.



Planning to bid on public works projects?

Learn the requirements for paying the prevailing wage

Contractors and subcontractors on state- or local government-funded projects must pay employees at least the “prevailing rate of wage” that’s been calculated for the applicable trade or occupation in that county. State or local government projects with federal funding are subject to both state prevailing wage law and the federal Davis-Bacon Act.

Contractors and subcontractors on public works projects must file, and obtain L&I approval of, a “Statement of Intent to Pay Prevailing Wages” (an Intent) to get paid for their work. When the work is complete, they must file an “Affidavit of Wages Paid” (an Affidavit).

Overtime on public work can include daily, weekly and special prevailing overtime requirements.

Questions? Contact a prevailing wage technical specialist at pw1@Lni.wa.gov or 360-902-5335. Learn the requirements and rates for paying prevailing wage on public works projects at www.Lni.wa.gov/PrevailingWage.

Free prevailing wage workshops with basic and advanced classes are offered as part of L&I’s Contractor Training Days. For information, go to www.Lni.wa.gov/Contractors, and click on “Training and Workshops.”

Free education and training opportunities – L&I wants your business to be a success

Our agency partners with other state and local governments, business industry associations, not-for-profit entities and consumer groups to provide free all-day training courses across the state called **Contractor Training Days**. You will learn:

- How to create the accident prevention plan that all contractors must have.
- How to properly pay and collect sales and other state taxes.
- About workers’ comp insurance and what to do if a worker is hurt on the job.
- About registration requirements and special certifications, such as lead and asbestos abatement.
- How to bid effectively, market your business, and include the right type of information in your construction contract.
- And a whole lot more!

To get registration information and the list of upcoming classes, go to www.Lni.wa.gov/Contractors, and click on “Training and Workshops.”



Disclosure Statement Notice to Customers

Contractor Name: _____

This contractor is registered with the state of Washington, registration no. _____ has posted with the state a bond or deposit of \$_____ for the purpose of satisfying claims against the contractor for breach of contract including negligent or improper work in the conduct of the contractor's business. The expiration date of this contractor's registration is _____.

THIS BOND OR DEPOSIT MIGHT NOT BE SUFFICIENT TO COVER A CLAIM THAT MIGHT ARISE FROM THE WORK DONE UNDER YOUR CONTRACT.

This bond or deposit is not for your exclusive use because it covers all work performed by this contractor. The bond or deposit is intended to pay valid claims up to \$_____ that you and other customers, suppliers, subcontractors, or taxing authorities may have.

FOR GREATER PROTECTION YOU MAY WITHHOLD A PERCENTAGE OF YOUR CONTRACT.

You may withhold a contractually defined percentage of your construction contract as retainage for a stated period of time to provide protection to you and help insure that your project will be completed as required by your contract.

YOUR PROPERTY MAY BE LIENED.

If a supplier of materials used in your construction project or an employee or subcontractor of your contractor or subcontractors is not paid, your property may be liened to payment and you could pay twice for the same work.

FOR ADDITIONAL PROTECTION, YOU MAY REQUEST THE CONTRACTOR TO PROVIDE YOU WITH ORIGINAL "LIEN RELEASE" DOCUMENTS FROM EACH SUPPLIER OR SUBCONTRACTOR ON YOUR PROJECT.

The contractor is required to provide you with further information about lien release documents if you request it. General information is also available from the state Department of Labor and Industries.

I have received a copy of this disclosure statement.

Dated this _____ day of _____ of the year _____.

Signature of Customer

The contractor must retain a signed copy of this disclosure statement in his or her files for a minimum of three years and produce a signed or electronic signature copy of the disclosure statement to the department upon request.

For more information, please refer to RCW 18.27.114.

Still have questions?

Check out these websites:

Report fraud — www.Lni.wa.gov/Fraud or call toll-free at 1-888-811-5974.

Washington Small Business Guide — www.bizguide.wa.gov. Learn the essentials for starting and operating a business in Washington State.

Required workplace posters — www.Lni.wa.gov/RequiredPosters or from any L&I office. All posters are also available in Spanish.

Contractor registration law — www.Lni.wa.gov. Click on “Find a Law or Rule,” and search for RCW 18.27, or call L&I toll-free at 1-800-647-0982.

Contractor information at L&I — www.Lni.wa.gov/Contractors or call L&I toll-free at 1-800-647-0982.

Prevailing wage — www.Lni.wa.gov/PrevailingWage. Requirements for paying prevailing wage on public works projects.

Workers’ basic workplace rights — www.Lni.wa.gov/WorkPlaceRights. Covers minimum wage, meal and rest breaks and overtime requirements.

Work restrictions for teens under age 18 — www.Lni.wa.gov/TeenWorkers. Certain jobs, especially in construction, cannot be performed by minors.

Employment Security Department — www.esd.wa.gov or call toll-free at 1-855-829-9243.

Department of Revenue — www.dor.wa.gov or call toll-free at 1-800-647-7706.

Secretary of State — www.secstate.wa.gov or call 360-725-0377.

L&I, Employment Security, and Revenue departments’ anti-fraud campaign — www.SuspectFraud.com.

Contacting local L&I offices

For maps and directions, visit www.Lni.wa.gov/Offices.

Region 1

Northwest Washington

Bellingham 360-647-7300
Everett..... 425-290-1300
Mount Vernon..... 360-416-3000

Region 3

Pierce County/Peninsula

Sequim..... 360-417-2700
Silverdale..... 360-308-2800
Tacoma 253-596-3800

Region 5

Central Washington

East Wenatchee..... 509-886-6500
Kennewick..... 509-735-0100
Moses Lake..... 509-764-6900
Yakima..... 509-454-3700

Region 2

King County

Bellevue..... 425-990-1400
Tukwila..... 206-835-1000

Region 4

Southwest Washington

Aberdeen..... 360-533-8200
Kelso..... 360-575-6900
Tumwater..... 360-902-5799
Vancouver 360-896-2300

Region 6

Eastern Washington

Pullman 509-334-5296
Spokane..... 509-324-2600