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WORKERS COMPENSATION INSURANCE FOR OWNERS

When you, an employer or business owner, are entering into a contract to perform work for a general contractor, be aware that the contract may require you to carry workers' compensation coverage even if you have no employees. This is to protect the general contractor from liability exposures not contemplated by them, and is also to prevent the general contractor from being charged premium on a portion of the cost of your contract, by his workers' compensation carrier, if he is audited by them. This may mean that you may have to buy coverage for yourself, even though Oregon law generally does not require business owners to cover themselves. The question is, what type of policy to buy? If you do not have any employees, there are two possibilities: the "**If Any**" policy and the "**Personal Election**" policy.

Sometimes the general contractor is concerned that the subcontractor might bring in workers to help finish the project. If the subcontractor does not have his own workers compensation policy and he brings the workers in *on the day the work begins*, and one gets injured, responsibility *could* fall back to the general contractor if the subcontractor was not insured. If this is all the general contractor might be concerned with, it is possible that an "if any" policy might suffice.

The "**If Any**" policy would **not** cover the subcontractor/owner themselves, but it would provide protection to the subcontractor's business, should anyone file a claim against him, alleging themselves to be the subcontractor's employee. It would also provide protection for the general contractor, by allowing the "buck" to stop with the subcontractor. The term, "if any" refers to the fact that the policy is written without *any* contemplation of employees or payroll. However, *if it turned out there was any payroll*, the insurer with whom the policy is written would step in and take over from there. In the event that it was found that the worker **was** an employee of the subcontractor, the policy would become a regular worker's compensation policy and the subcontractor would be required to pay premium on the worker's wage. This policy is sold **exclusively** in the Oregon worker's compensation insurance plan, commonly known as the **assigned risk pool**. The yearly cost of this policy is equivalent to the risk pool's minimum premium for your classification, from approximately \$300 to over \$500.

The "**Personal Election**" policy is what is purchased when the contract or contractor requires the business owner to cover *him or herself*. This policy, unlike a "regular" insurance policy, is *not necessarily* based on the actual gross wages of the owner/worker, but rather on an insurance filing for "**assumed wage**." In the **Basic Manual for Worker's Compensation** published by the National Council on Compensation, assumed wage for sole proprietors and partners is \$20,800 per year, and for executive officers is from \$300 to \$1900 per week. (The minimum or maximum is used if the officer's wage falls outside of the range.) This means that for all owners, no matter how much you make, you will pay premium based strictly on assumed wages, not your *actual* wage. In the event you are injured, you will receive benefits based solely on that amount. This type of policy is usually much more expensive than the "if any" policy.

There are two inherent problems with the "**Personal Election**" policy. First, it is very difficult to find an insurer who will write this type of policy if you don't have any employees. Only the **assigned risk pool** is a guaranteed market for this policy. Second, **ORS 656.128** requires that **corroborative evidence, besides that which is provided by the claimant**, be provided in order for a "personal election" claim to be allowed. If an owner is working alone, **who will provide this evidence?** Most business owners who are not required by contract to cover themselves, purchase good health, life, accident, and long and short-term disability policies, in lieu of workers' compensation. You'll be money ahead, and there won't be a question as to whether the policy will provide coverage when you need it. **The contract or contractor should be able to give you some idea of which type of policy you'll need.**