

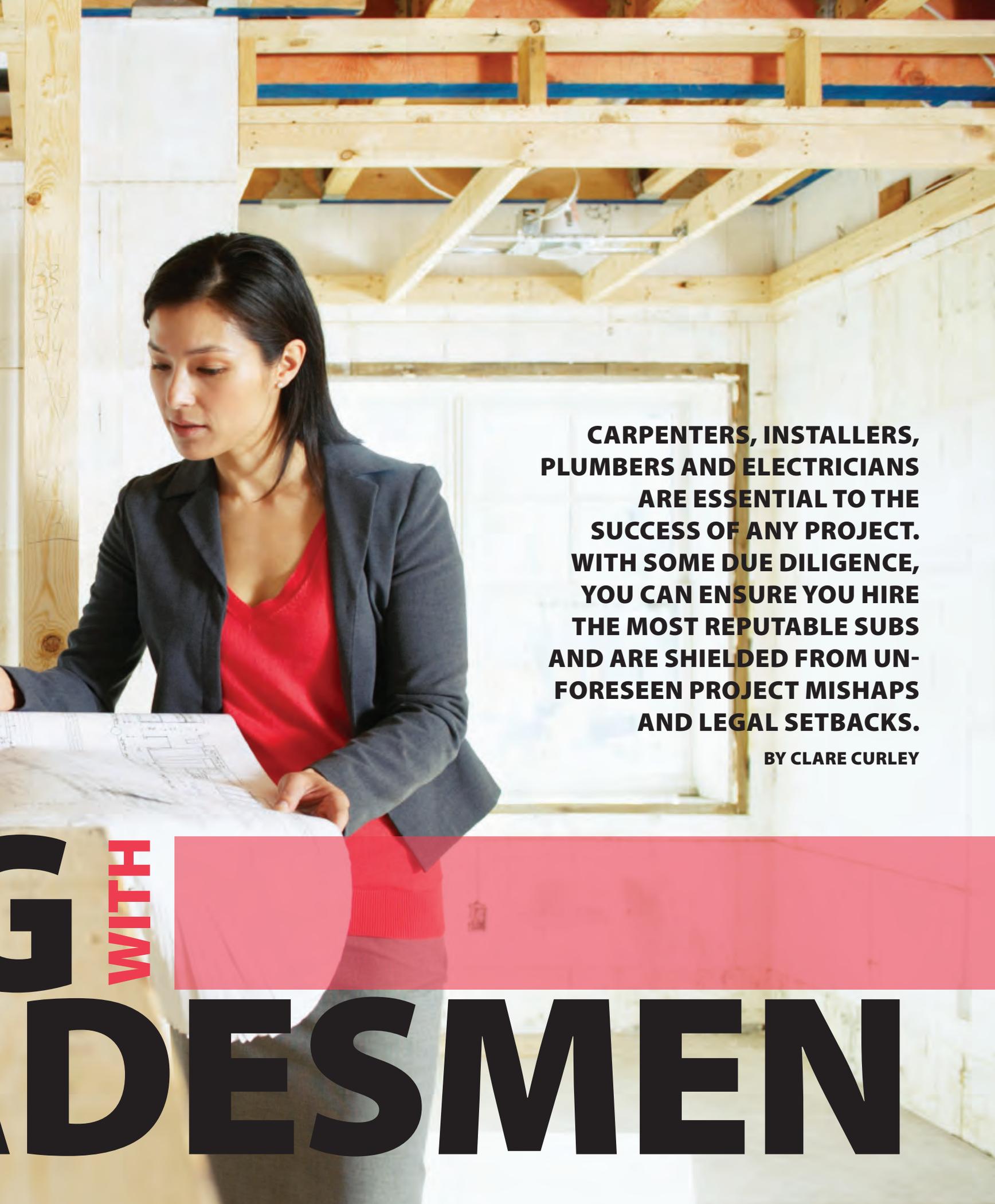


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WORKING TRA

A woman with dark hair, wearing a grey blazer over a red top, is looking down at a set of blueprints spread out on a table. She is in a construction site, with wooden framing and a window visible in the background. The lighting is bright, suggesting an indoor setting with natural light from the window.

**CARPENTERS, INSTALLERS,
PLUMBERS AND ELECTRICIANS
ARE ESSENTIAL TO THE
SUCCESS OF ANY PROJECT.
WITH SOME DUE DILIGENCE,
YOU CAN ENSURE YOU HIRE
THE MOST REPUTABLE SUBS
AND ARE SHIELDED FROM UN-
FORESEEN PROJECT MISHAPS
AND LEGAL SETBACKS.**

BY CLARE CURLEY

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TRADES PEOPLE—FROM CARPENTERS AND INSTALLERS, TO PLUMBERS AND ELECTRICIANS—OFTEN CAN MAKE OR BREAK A KITCHEN AND BATH PROJECT. IF YOUR BUSINESS PROVIDES INSTALLATION SERVICES, THE STAKES ARE EVEN HIGHER.

Larger companies often bring trades people in house as full-time employees, but many smaller kitchen and bath businesses choose to hire them on a contract basis, says Ashley Baron, an attorney who represents several kitchen and bath dealers in Orange County, Calif. Keeping trades people as subcontractors rather than employees can help cut costs and increase profits, but only if you protect yourself and ensure critical steps are taken in the documentation process.

Even if you only bring in a sub now and then, simple due diligence and lining up the right processes will result in more reputable workers. Plus, it will help ensure better jobs and happier clients.

What's at Stake?

The fact that many kitchen and bath businesses rely heavily on subs is a good thing, says Hawthorne, N.J.-based Peter Lamont, an attorney who



represents clients in the kitchen and bath design industry.

That said, bringing trade professionals on as employees does have some benefits. Full-time employees' availability makes them easier to schedule your business' overall services package. Plus, their hourly pay typically is lower than what a sub would charge.

But if an employee gets hurt, your workers compensation policy is triggered. Moreover, there's the greater danger of putting all eggs in one basket, since fewer people would be taking on more work. In one of his cases, Lamont says, a kitchen and bath business was sued by four separate clients after the head installer unexpectedly passed away and the projects could not be finished as promised.

Still, there are challenges unique to working with subs. But you can help avoid many of them by making sure subs carry general liability insurance, which covers them for negligence that results in injury or property damage. Failing to confirm a sub's insurance coverage only creates more liability for your business, Lamont says.

But regulations regarding things like workers compensation vary greatly state to state. Many states exempt certain small businesses from the requirement, so some subs might not have their own coverage for themselves and/or their employees. If you work in a state that exempts some small businesses, it might be a good idea to double check that all contract workers are covered even if they aren't required by law.

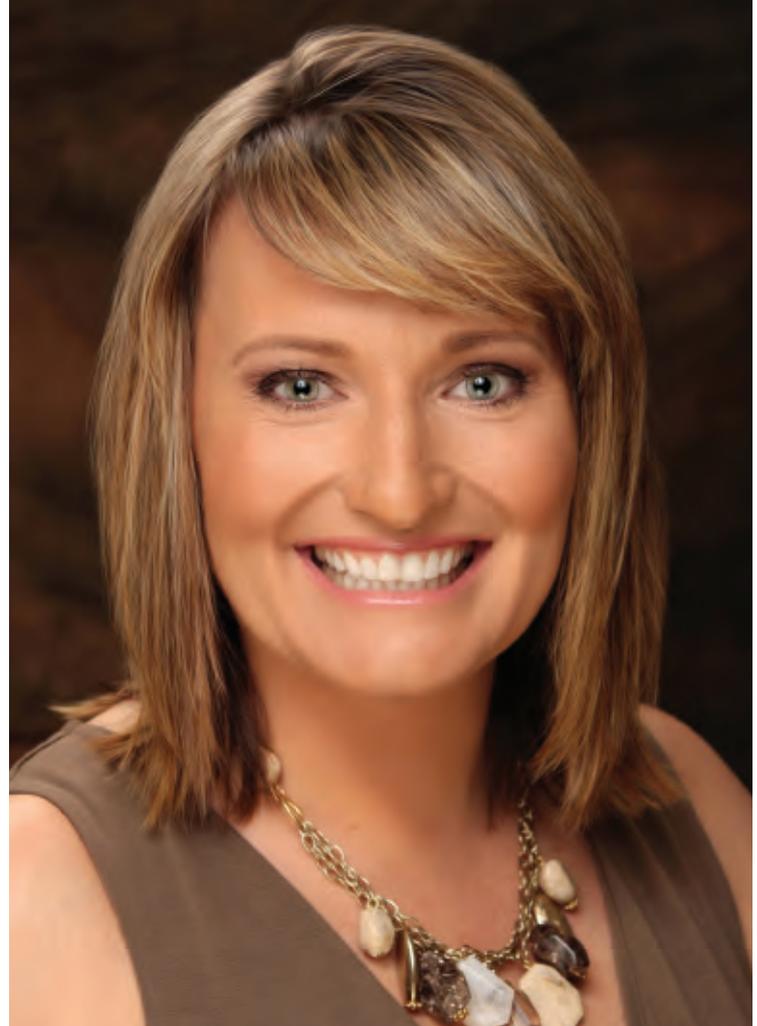
First Line of Defense: Finding Good People

Hiring someone with a reputation for quality craftsmanship and strong work ethic is a great way to protect your business. Natalie Beach, owner of Kitchen Envy Inc. in Ponte Vedra Beach, Fla., got to know local subs working as a project manager for an established remodeler. So when she started her business, she had a good idea of whom to use and whom to avoid.

"The installers are the most important part of my job," Beach says. So she does not mind spending a little extra money when hiring subs to do installation and the occasional light construction. "I figured out quickly it wasn't worth it to hire the cheapest guy."

QUICK TAKE

- Bringing on trade professionals as employees makes them easier to schedule your overall services package. Plus, their hourly pay is typically lower than what a sub would charge.
- If an employee gets hurt, your workers compensation policy is triggered. If a sub has his or her own policy, your policy is insulated.
- When working with subcontractors, make sure they carry workers comp and general liability insurance, which covers them for negligence that results in injury or property damage.
- All subs should be able to provide their business' legal name, their legal status in the country, current business license and other relevant licensing.
- The subcontractor's agreement should spell out the details of the job, as well as include an insurance provision and indemnification provision.



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—Natalie Beach, Kitchen Envy Inc.



It also may help to set up a hiring process to protect you from common threats. Lamont recommends sending a checklist of your requirements to subs under consideration—if any of the following does not check out, consider it a major red flag:

- Business' legal name
- Legal status in the country
- Current business license
- Other relevant licensing status
- Proof of workers comp coverage
- Background check
- Bankruptcy search
- Pending lawsuits or past complaints lodged against them

You also can ensure subs carry liability insurance even if it is not a state requirement, as well as ask to have your business listed as an additional insured on the policy. Some policies exclude certain types of construction

work, so ask to see a copy of the policy to verify the sub is covered for the type of work he or she will be doing.

Major problems like a history of bankruptcies are easy to spot, as that information is available to the public through bankruptcy records—and those subs are easy to eliminate. But if you find minor complaints against a sub, you may have to use your discretion to determine if it is a deal breaker.

Tricks of the Trade

An often overlooked step is the subcontractor's agreement. It should spell out the details of the job and include both an insurance provision and indemnification provision in the contract.

"A common misconception is that [the insurance provision and the indemnification provision] are one and the same," Lamont says. The insurance provision requires that the kitchen and bath business be named as an additional insured party on the sub's insurance policy; the indemnification provision stipulates that the sub will indemnify, or cover, and defend the kitchen and bath business with respect to any negligence on the job. Indemnification shifts liability onto the sub in the event that a client sues you for negligent acts or omissions, even if the sub disputes negligence.

In general, if a sub insists on using his or her own contract, an attorney can review it and help negotiate for something that better protects your business.

What's in a License?

From general contracting and home improvement licenses to the new lead removal certification laws, licensing rules are increasingly complicated and vary by state. In states like New York, for instance, anyone who does remodeling or home improvements must have a Home Improvement Contractor License and renew it every other year. The rule also applies to plumbers, electricians and landscapers.

"As a dealer, you need to know what your state requires, as well as any other state in which you do projects," Lamont says.

Verifying the status of subs is worth the hassle. Consider the case of one of Baron's clients. A stairway was installed in the home without the proper licensing. Even though the homeowner had no complaints with the work, she reported Baron's client to the contractors licensing board and demanded that he return the \$30,000 she paid. "Lack of proper licensing is a complete defense to any lawsuit, and [the homeowner] can ask for the money back and refuse to pay anything for the work or materials," Baron says.

Penalties in the construction industry often are stiff. In New Jersey, someone caught performing home improvement without the proper license(s) could be fined \$10,000 for the first offense. In California, unlicensed contractors are subject to jail time.

Walking a Straight Line

Fortunately, there are many safeguards available to your business. In some states, you can look up complaint disclosures and licensing status at: <https://www2.cslb.ca.gov/OnlineServices/CheckLicenseII/CheckLicense.aspx>.



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Baron advises clients to have subs sign an agreement that they will notify them if there is any change in their status.

When Beach hires a sub for the first time, he or she must provide her with the proper paperwork before starting the job. If the paperwork is not collected beforehand, the sub will not get paid until it's received. "It saves me from running around later if I have an audit," she says.

She also heavily trusts her gut. "When you're in construction, a subcontractor may bring in people who seem sketchy," she says. She urges kitchen and bath businesses to trust their instincts when it comes to working with such subcontractors.

Nearly five years into her business, Beach has not had any incidents. Still, she admits she could be more stringent when it comes to documentation and is rethinking her hiring processes.

While experienced trades people are a boon to any remodeling business, consider your ties to them as something that needs regular upkeep. Builders associations and attorneys can help you stay informed on the changing landscape.

When it comes to education, remember the professional community, as well. "You do the best you can with the kind of information you have," Beach says. "I'm friends with a lot of kitchen and bath designers. We look out for each other." WP