

LEGAL-EASE



Contractors' State License Law vs. Alarm Company Act - Whose Contract?

You are a security company bidding or working on a big job on a new construction site. The general contractor comes to you and says you need to sign "his" subcontract. What do you do?

One problem is that the contractor's contract does not contain a limitation of liability or third party indemnification clause, as does the standard security alarm system agreement. In fact, the standard general contractor's contract usually has provisions requiring the subcontractor to indemnify the contractor for any problems arising out of the subcontractor's work. This could potentially expose you to exactly the types of liability alarm companies attempt to avoid.

From a licensing standpoint, the general contractor is licensed to subcontract to anyone holding a "lesser" (specialty) license under the Contractors' State License Law ("CSLL"). However, Section 7054 of the CSLL provides an exemption for "any person who performs work in the installation, maintenance, monitoring, selling, alteration, or servicing of alarm systems, as defined in [the Alarm Company Act], and who holds an alarm company operator's license issued [under the Alarm Company Act]." Since an ACO license is not governed by the CSLL, the contractor cannot legally subcontract to an ACO. (Note this does not apply to work on fire systems, which does require a C-10 license under the CSLL, and can be subcontracted.)

Furthermore, general contractors and their employees are not subject to the extensive background checks required of alarm companies and their employees. Any felony, misdemeanor or even serious traffic violation(s) may be cause to lose an ACO, ACQ or ACE license. So by attempting to have you sign his contract as a sub, the general is, in effect, "taking responsibility" for the security system, and could be subjecting himself to potential liability if anything went wrong with the system, or to censure by the Contractors State License Board for improperly contracting with a licensee with whom he is not licensed to contract.

The correct answer is for the general contractor to sign the alarm company's contract either as the developer/owner of the project, or as agent for the owner, for all work on the alarm system. *This includes any pre-wiring intended in the future to be used for a security alarm system.*

In practical terms, it may be easier to sign the general contractor's contract also, to make him (and his insurance carrier) "happy." But you may want to inform him that by signing your contract, it may also give him protection in case any of the other tradesmen discloses any confidential information about the design or layout of the security system.

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