

## **Insurance Q & A for Program Sponsors and Contractors Participating in Home Performance with ENERGY STAR**

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### **What insurance do contractors participating in Home Performance with ENERGY STAR programs need?**

The Energy Star program does not require insurance as a condition of participating in the program. However, proof of insurance is a common requirement under state or local laws for obtaining a contracting license.

Types of insurance policies include:

- Commercial General Liability
  - Property Insurance
- Worker's Compensation
- Professional Liability (e.g. Errors and Omissions)
- Key Person
- Pollution Liability
- Commercial Vehicle

Contracting businesses typically have a Commercial General Liability Insurance policy and a Worker's Compensation Insurance policy if they have employees. A Commercial General Liability insurance policy provides protection against claims of bodily injury or property damage for which the business may be liable. Property Insurance is typically bundled with General Liability Insurance.

A Worker's Compensation Insurance policy provides medical and disability coverage for employees who sustain job-related injuries. At a minimum, it will cover an employee's medical expenses and reimburse him or her for some percentage of lost wages.

Commercial General Liability and Worker's Compensation Insurance do not typically cover professional liability resulting from errors or

omissions in the work performed by the business. A Professional Liability Insurance (or Errors & Omissions Insurance) policy protects the business owner and company when a client alleges a financial loss as a result of an error or an omission committed by the business in the delivery of professional services. The diagnostic services and professional recommendations made by contractors that participate in Home Performance with ENERGY STAR are considered professional services.

Key person insurance is a life insurance policy that the company takes out on key employees. Home performance companies often rely heavily on the expertise of one or a few key personnel and may want to consider this type of additional insurance.

Pollution Liability Insurance is a type of insurance contracting businesses may want to consider. Contractors face many pollution risks stemming from operations at their job sites. Environmental pollution related to job-site operations could include lead-based paint, asbestos, radon, carbon monoxide and mold. Pollution Liability insurance is designed to address environmental liabilities associated with the job-site operations.

Commercial vehicle insurance is a common auto insurance policy many businesses obtain to cover their fleet of vehicles.

### **Why would a contractor need Professional Liability Insurance?**

Contractors need to consult with their attorney or an insurance professional to decide whether to purchase Professional Liability Insurance. Contractors participating in a Home Performance with ENERGY STAR program provide professional services when they test and analyze homes and recommend technical solutions. The services they provide are similar to a home energy rater, energy auditor, home inspector, and in some cases building engineer.

Professionals are expected to have extensive technical knowledge or training in their particular area of expertise. They are also expected to perform the services for which they were hired, according to the standards of conduct in their profession. If they fail to use the degree of skill expected of them, they may be held responsible in a court of law for any harm they cause to another person or business.

### **How can contractors obtain Professional Liability Insurance that fits their business?**

Many small business contractors have decided to not purchase a Professional Liability Insurance policy because of the cost. To address this problem, some professional organizations have worked with an insurance broker to negotiate special rates for their members. Contractors often contact the professional organizations they are members of to find out what is available.

For example, in the past RESNET members faced challenges obtaining insurance coverage for their businesses. RESNET worked with an insurance broker to negotiate a special rate for their members. Today, RESNET encourages its members to obtain general liability, professional liability and property insurance through the program it established. Many home performance contractors have become members of RESNET and have obtained insurance through their program.

### **Does General Liability and Workers Compensation Insurance exclude some work hazards that contractors encounter?**

Contractors that participate in Home Performance with ENERGY STAR work in older homes that may have lead based paint, mold, asbestos, radon, carbon monoxide, or other environmental pollutants. Any home improvement contractor faces these same hazards. Some General Liability, Professional Liability, and Workers Compensation Insurance policies do not cover claims related to some environmental pollutants.

### **Can program sponsors be added to a participating contractor's general, and professional liability insurance policies?**

Owners, contractors, and subcontractors often require that companies performing work for them not only provide proof of insurance (i.e., provide a Certificate of Insurance), but also list them as *Additional Insured*. Listing an organization as *Additional Insured* reinforces the risk transfer and provides the additionally insured organization with direct rights under the policy. The additionally insured organization is also more likely to be notified if the insurance has been cancelled. However, to ensure that a cancellation notification is sent by the insurance company, organizations may request *Certificate Holder Status*. Program sponsors may want to discuss matters with their legal counsel and insurance provider to determine how best to indemnify and hold harmless their organization.