



5 tips to bear in mind when sub-contracting

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Sub-contracting is the delegation by one party (the main contractor) of some or all of its obligations under a contract between it and a customer to a third party.

As a main contractor it is imperative to adhere to the following tips when sub-contracting:

1 Read through the contract entered into with the customer to establish if sub-contracting is expressly prohibited or if allowed, the terms by which it is allowed.

2 If a contract is silent on whether sub-contracting is permitted or not, then it is necessary to consider whether an obligation is "personal" in which case sub-contracting its performance is not permitted.

3 Should the consent of your customer be required to the sub-contracting also inquire whether he wishes to prescribe to the contractual form of the sub-contract.

4 Understand that you remain liable to the customer under the main contract for the non-performance by the sub-contractor..

5 Ensure to pass down all the relevant obligations under the main contract with the customer to the sub-contractor to avoid any gaps in your ability to recover from the sub-contractor in the event that the customer makes a claim against you for defective performance by a sub-contractor..