

COMMUNITY BUILDER

Vendor Insurance: Best Practices for Hiring Service Providers and Protecting Association Interests

Board members have a fiduciary responsibility to act in the best interest of the community they are elected to represent. One crucial area of this responsibility is to understand the importance of employing properly insured vendors and contractors. Therefore, a thorough understanding of the following is necessary when selecting vendors:

Become educated on coverage types and how they protect the association



Worker's Compensation (WC): Worker's Compensation insurance provides coverage for medical bills and lost wages of an employee or owner injured on the job. Worker's Compensation laws differ by state. In most states, the vast majority of employers must carry WC insurance when they hire their first employee. In other states, they only need to obtain insurance when their hiring hits a threshold, usually between two and five employees. If the contractor does not have WC, an injured employee may sue the contractor through a personal injury claim.

Commercial General Liability Insurance (CGL): CGL protects the contractor against claims of liability for bodily injury and property damage resulting from the contractor's business operations.

Association Liability: An association may be exposed to liability brought about by vendor actions and the terms of a vendor contract. If a contractor does not carry required insurance or drops coverage, an injured employee could also bring action against the association. Therefore, boards must understand how to protect the association and minimize risk adequately.

Understand the possible liability towards the association if a vendor is uninsured or underinsured

Vendor insurance acts as a barrier to protect the association if a contractor commits a wrongful act or is injured or killed while working for the association. It defers or deflects any lawsuit to the vendor's insurance carrier instead of the association's insurance policy. It requires the carrier to absorb the cost for any attorney's fees and generally (not in every case) removes personal liability from the association. It also pays for medical expenses and lost wages in the case of injury to workers.

Recognize Sentry Management's best practices and the process for setting up a new service provider:

Over the years, Sentry Management has become well versed in effective and efficient management of vendor records and verification of documentation. Ultimately, the goal is the protection of our partner communities. The below steps are deployed for that purpose:

- Verifying insurance coverage before setting foot on association property, even if they're only providing a proposal for services
- Requiring that a vendor's insurance producer provide their certificates of insurance (COI) directly to a Sentry Team Member initially and for each renewal term
- Verifying the contractor has a valid Employee Identification Number, or Social Security Number for independent contractors, and making sure all documentation agrees (i.e. invoice and insurance uses the same name or a dba name)
- Naming Sentry Management or the association as the certificate holder on the certificate of insurance. This ensure receipt of renewals or notices of cancellation.

One other important step is for board members who prefer to locate their own service providers. In this case, it is imperative that the board consult with the community association manager before hiring a vendor on behalf of the association. If the manager is notified in advance, before any commitment is made to the vendor, then the process outlined above can be followed for the ultimate benefit of the association.

Other considerations regarding vendor insurance

The lowest price isn't always best: Boards must always keep in mind that often a vendor who provides a price that appears "too good to be true" could be because the vendor does not carry the proper levels of insurance. This will likely expose the association to adverse financial consequences if an incident occurs.

Independent contractors: The association's legal counsel should review any service contract. As part of the written contract for the project, the Board will want their attorney to address the vendor's independent contractor status. This is because it is essential to avoid a vendor asserting that they are the association's employee.

Classification as an employee means additional labor laws apply to the vendor relationship, and the association may be responsible for providing employee benefits and worker's compensation benefits. In addition, there are complex rules set forth by the IRS establishing the classification of employee versus independent contractor status. Therefore, it is imperative to clarify within the contract terms that there is no employment relationship and that the

vendor is an independent contractor and, further, that the contractor is responsible for providing its insurance.

Review of contracts, paired with adherence to the Sentry Management best practices listed above, will help ensure vendors are set up correctly, adequately insured and that the community's best interests are at the forefront of the process. Finally, these steps will help avoid delays in payments to vendors and increased exposure of litigation against the association.

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