

## TECHNICAL INFORMATION PAPER SERIES: KNOW WHO YOU'RE HIRING



## GET THE FACTS ON CONTRACTORS BEFORE YOU SIGN A CONTRACT.

Careless hiring practices can lead to significant general liability claims. For that reason, hiring managers have a responsibility to ensure profitability and protect their company's reputation.

As part of managing risk, you must hire the proper contractors/subcontractors to complete jobs of all types. These include building and grounds maintenance contractors or subcontractors hired to help manufacture your products.

### **Apply some basic hiring principles and contractor controls.**

This will help your company to:

- Ensure that the job is correctly done
- Meet deadlines, specifications and requirements
- Avoid legal intervention and litigation

### **A CONTRACTOR HIRING PROGRAM: WHY YOU NEED ONE**

An effective contractor hiring program is a tool used to uncover risk transfer and safety and health problems before personal injuries,

property damage, or business interruptions occur.

The amount of information needed from the contractor is based on the size and complexity of the project to be performed. Some areas like New York require more focus on contractor hiring controls due to the specific laws in the state (New York Labor Law 240).

### **Contracts are the cornerstone to mitigating loss.**

Risk transfer is a valuable tool to mitigate a loss when you have favorable contracts in place.

Your contracts should always be reviewed by a qualified attorney. As risk exposures increase, documentation and execution of your contractors' policies and procedures become more important in order to transfer risk.

With careful planning, you can create a contractor hiring program that effectively manages risk while improving performance, reducing costs and establishing a strong working relationship among all parties.

An attorney can help you develop a program that responds to your specific insurance and risk management needs.



Here are some pointers.

**1. Contracts should always be in place prior to work starting.**

Prior to the start of any work with any contractor, a written contract should be in place that has been reviewed by a qualified attorney prior to signing.

- It will include terms and conditions; indemnification in your company's favor; waiver of subrogation; requests for certificates of insurance; and a requirement to be named an additional insured on the contractor's general liability policy. Depending on the location, other terms may be needed.
- The contractor's general liability policy should be designated "primary" and "non-contributory" and your company should be an additional insured on the contractor's policy. This method of transferring risk could be significant in the event of a loss.

Contracts should state that:

- Each of their agents, vendors, subcontractors and suppliers is responsible for compliance with safety and subcontractor's safety requirements.
- The contractor is solely responsible for implementing the safety program and should have sole responsibility for monitoring the work of its employees, subcontractors, agents, vendors and suppliers to ensure compliance.
- The contractor is responsible for procuring the current version of the Account's Site Safety Requirements and Procedures.

It's also a good idea to have a sign-off that the contractor/subcontractor and all their employees understand these policies, procedures and responsibilities.

**2. Examine your contractors' basic information carefully.**

Ask your contractors for all of the following, and be sure to review it:

- Company information: Name; Officers of the company and length of service; Mailing address; Contact information; Federal ID and other numbers (if applicable); Business type; Year founded and state of incorporation (if applicable); Trades the company performs
- Business classification
  - » Certifying agency
  - » Certification number
  - » Expiration date

**3. Ask to see licenses.**

- State licensed
- Trades performed
- License number (if applicable)

**4. Ask about work experience and history and do your own research to verify the following.**

- How many people does your firm currently employ?
- Has your company ever petitioned for bankruptcy, failed in a business endeavor, defaulted or been terminated on a contract?
- Has any entity ever made a claim in a court of law against your company for defective, improper or nonconforming work, or for failing to comply with warranty obligations?
- Are there any outstanding judgments or claims against your company?
- Has any entity made a claim in a court of law against you and another entity?
- How many contracts have you completed in the last five years?
- What's the largest contract your company has completed?



5. Ask about financial performance.

6. Request references from several sources.

7. Check the Better Business Bureau.

8. Ask about all lines of insurance: GL, Auto, WC, Umbrella.

- Insurance carrier rating (A rated is strongest)
- Expiration date
- Limits – Suggested Minimum Requirements:
  - » WC – \$500,000/\$500,000/\$500,000
  - » Auto – \$1M/\$1M/\$1M
  - » GL – \$1M Each Occurrence/\$2M General Aggregate

**IN SOME CASES, EVEN MORE DETAILED INFORMATION SHOULD BE GATHERED**

It all depends on the complexity of the contracted job. Weigh the importance of controls against the tasks and complexity of the project to be performed.

The following guide should be considered when selecting your contractor/subcontractors. This is only a guide; please work with your legal counsel to determine your needs when hiring a contractor.

**Ask about safety and health support.**

The contractor should have a Health and Safety Policy. Is it readily available? It should include specific plans for hazards, such as falls or trench safety (especially if the work involves such critical tasks when working in New York).

Are competent persons assigned to all tasks?  
Do contractors have or use job safety analyses to plan for safety in hazardous tasks?

- **Personnel:** What safety personnel do contractors have on staff and on-site? What are their credentials?
- **Employee involvement:** What plans do contractors have to actively involve employees in their safety efforts? Will they have a joint safety committee? How else will they encourage participation? Are there “Tool Box Meetings”?
- **Safety training:** What kind of safety training is required for employees? An OSHA 10-hour course/class should be the minimum. What kind of safety training is required for supervisors? Many companies now require an OSHA 30-hour course/class. Some require supervisors to qualify as a “Safety Trained Supervisor.”
- **Safety inspections:** Will contractors have regular walk-throughs of the site with both project and field supervisors and employees? Are they documented?
- **Accident/Incident investigations:** Does a contractor have a policy of investigating each incident to discover its root causes and learn from the results? Are the results widely distributed?
- **Other:** Do they also have:
  - » Substance Abuse Screening: Pre-hire, for cause, post-accident, random
  - » Safety & Health Training: Employee initiation, supervisors, managers, tool box meetings
  - » Recordkeeping information:
    - Workers’ compensation experience modification over the last five years
    - OSHA recordable incident rate
    - OSHA violations
    - Fatalities over the last five years

**ADDITIONAL CONTRACTOR HIRING QUESTIONS**

Has the contractor reviewed the company's Site Safety Requirements and Procedures?

Have all contractor employees received appropriate training in their trade?

Have any safety citations been issued to this company in the last 3 years? If yes, explain.

Is there a transitional/restricted duty work program?

Do all new employees complete safety orientation prior to performing any work activities?

Are safety audits routinely conducted and documented?

Is there a corrective action program based on the audit?

Is there a safety and health incentive program?

Is there a safety management program?

Does the program address the following key elements:

Management commitment and expectations?

Employee participation?

Accountability/responsibility for managers, supervisors and employees?

Resources for meeting safety and health requirements?

Periodic safety and health performance appraisals for all employees?

Are the following programs and safeguards in force?

Fall protection program (required in New York)?

Hazard recognition and control program?

Hazard communication training?

A confined space entry program?

Fire protection and prevention program?

A "hot work" permitting program?

A lockout/tagout program?

A personal protective equipment program?

Worker IH exposure monitoring program?

A respiratory protection program?

Medical monitoring for users of respirators?

Certified powered industrial vehicle program (cranes, forklifts, etc.)?

Housekeeping program?

Job site emergency preparedness and evacuation program?

Waste disposal program?

Recordkeeping program (training, inspections, audits, etc.)?

Tool and equipment inspection program?



### BE PREPARED - WITH THE RIGHT CONTRACTORS

In conclusion, no one expects to have an accident. Having the proper contractor hiring procedures in place to do the job correctly is one important preventive step. By being prepared, both before and after the unexpected happens, you can help to protect your business.

Get Quotes Today

Protect your workers and business today! Get quotes for pay-as-you-go workers' compensation and business owners policy (BOP) coverage with E-COMP

GET QUOTES TODAY

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