



Contractor and service provider liability

By Ken Fingler, Risk Manager, HED Insurance

Every year municipalities hire a variety of contractors for construction of facilities or to provide services for the municipality. There is often pressure to use local contractors and service providers, even though they may not be as experienced or carry liability insurance.

Municipalities are, at times, requested to have their liability insurance extended to provide coverage for some of these small independent contractors. In some cases, where the contractor is an individual who is providing a service that would normally be provided by an employee, such as a caretaker or maintenance person, liability coverage can be extended. These types of contractors do not present liability hazard out of the normal realm of municipal operations.

However, municipalities may also be requested to have their liability cover-

age extended to provide coverage for persons/companies that are involved in events sponsored by the municipality or one of their insured organizations. Often, these requests are for high liability hazard operations such as amusement rides or pony rides.

In some cases, these operators feel that since they are participating in a municipal function, they should be covered under the municipality's insurance. This request usually comes from operators who can't obtain insurance or don't want to pay for it.

Why should the municipality have them covered under its insurance? This amounts to the municipality assuming responsibility for the operations of these operators, even though the municipality has little or no input into the way they carry on their business and even though they present hazards that are

outside the normal operations associated with a municipal operation.

Care must be taken when hiring any contractor or service provider because some businesses, especially operations with small receipts and limited assets, have gone so far as to operate without any insurance at all. Others with potentially hazardous operations (such as amusement rides) and those with high claims experience may not be able to obtain insurance.

This is a potentially dangerous situation for the operator, the customers and the municipality that hires the operator.

A serious liability claim could put the operator out of business, leaving the injured party looking for someone to pay for the injury or damages. If a claim occurs due to a person/company operating at a municipal function/activity, and that person/company





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did not carry any liability insurance, the responsibility to pay for the damages would likely fall back onto the municipality.

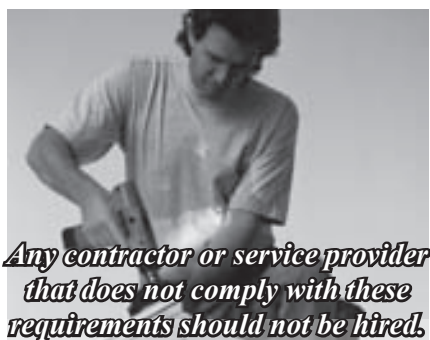
Similarly, care needs to be taken when hiring a contractor to work on a building project or to provide repair or maintenance service on municipal facilities. Many small contractors have been operating without insurance, especially in the past few years when insurance premiums have risen dramatically.

There have been several incidents where a contractor's work has resulted in serious property damage to a municipal building, only to discover that the contractor did not have insurance to cover the damages.

In one case, a roofing contractor caused a fire on the roof of a community hall, resulting in a total loss fire. The municipality that owned the hall had to have the hall rebuilt under the Municipal Insurance Program. Normally, upon payment of a claim, recovery should be possible against the responsible party. In this case, it was discovered that the contractor was not carrying insurance; nor did he have enough assets to cover the damages and declared bankruptcy, leaving the Municipal Insurance Program to pay over \$1,000,000 in damages.

What can be done to prevent these types of problems with service or building contractors?

1. Hire a reputable contractor/operator.
2. Check references and qualifications.
3. Talk to owners/tenants in buildings that have been worked on by this contractor.
4. Request and obtain written confirmation from the person/company providing evidence that they carry liability insurance for a minimum limit of \$2,000,000. (Higher limits will be needed for larger building projects.)
5. Request and obtain written confirmation that the municipality has been added to the person/company's liability insurance as an additional named insured, with respect to the event or project in question.
6. Keep records of the insurance coverages and policy numbers. Claims can arise years after operation or building project has been completed and the contractor/operator may not be around any longer. ☹



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