

# Working with Contractors & Vendors: Selection, Insurance, and Indemnity; Ways to Protect Your Church

Churches are known for welcoming the community with open arms. They operate many wonderful ministries that are a vital part of the community; this is what makes being part of a church so special. It is possible for them to maintain a welcoming environment and make decisions that are in the best interest of the church and its ministries.

Accidents can happen, even if we do our best to prepare. A person visiting the church in any capacity has the potential to sustain an injury or have their property damaged, even contractors, vendors, or outside parties who use your church. Although your church may not be directly responsible for the incident, the injured party can still submit a claim against the church's insurance. Without the proper contracts and documentation, the church may be responsible for paying the damages incurred by the injured party. It is critical for leadership to perform their due diligence with any individual who comes onto church property.

To ensure the future and sustainability of your congregations, it is wise to take appropriate steps that will help insulate the church from potential liabilities. Church leadership should require a well-drafted, formal contract; proof of insurance with proper limits that match the exposure/risk; and hold harmless agreements with indemnity language for any contractor, vendor or outside party who uses the facility for gatherings, events, or leases space (also known as tenants or third party users).

Although the church is a place to worship and enjoy fellowship, the church sometimes wears the hat of a business, as well as a landlord. Informal agreements could have unintended, financially disastrous consequences. Lack of formal agreements may constitute a breach of fiduciary duty for board members. Whether or not rent is paid, churches should require a formal lease or third party use agreement with all non-church user groups. Lease/use agreements should:

- Provide a release and indemnification to your church for accidents that result from their operations.
- Outline insurance requirements for the tenant understanding that the amount of coverage should be reflective of the activity being conducted. Sample contract language could read: "Commercial General Liability coverage on an 'occurrence' basis, including products and completed operations, property damage, bodily injury, and personal & advertising injury with limits no less than \$1M per occurrence, \$3M aggregate." Tenant must provide a Certificate of Insurance (COI) documenting that the tenant's insurance fulfills the contract requirements, and demonstrate financial means to defend a claim under the lease/contract.
- Require "additional insured" status on the tenants' policies.



## SELECTION *Is key*

**What if the third party does not have insurance?**

**An alternative is available if the tenant has occasional use of church facilities and does not have insurance (such as support groups and weddings). Through a product called TULIP (Tenants and Users Liability Insurance Program), a third party can obtain liability insurance specifically for use of your church. TULIP allows the Tenant or User to purchase a low cost general liability product to cover their liability related to the utilization of the church premises, protecting the entity as well as protecting the church by providing an extra layer of insurance and including the church as an additional insured.**

**Upon approval of a short application, and premium payment from the third party user, Insurance Board is able to provide TULIP coverage. If your church has interest or a need for a TULIP policy for a third party user of your church, please contact your agent for more details.**

## Vendors, Contractors and Service Providers

Churches will frequently hire service providers to help maintain church property or provide a business service, assisting with anything from occasional tasks to urgent repairs. Vendors may also be used to provide on-going services such as cleaning.



Consider developing a contractor selection procedure. The process should include screening of vendor/service provider, reference checks, licensure verification, and an evaluation of the contractor's insurance. Church board members or senior staff should review all selections and approve/disapprove of any deviation from the procedure.

When your church selects a provider/business you should carefully screen the individual/company before hiring them.

Engage contractors or other service providers only with a written contract which contains a "hold harmless and indemnity agreement" and insurance requirements, and which requires that your church be provided "additional insured" status on insurance policies. The contract should also require the vendor to provide a valid Certificate of Insurance that demonstrates evidence of the coverage you outlined for the provider. There are several considerations:

- **Business license** – Require documentation of a business license as it may be required by the state and/or local jurisdiction.
- **FEIN or SSN** – If the business has employees, require a FEIN (Federal Employer Identification Number) as evidence the contractor will be paying employment taxes. Otherwise, require a SSN for a sole proprietor.
- **Trade license** – For construction or trades, require an appropriate license. States vary greatly on requirements for licensing of construction and building trades.
- **Workers' compensation** – Require proof of workers' compensation insurance. In states where very small employers are exempt from the statute, either require the coverage or consult an attorney regarding necessary contract terms to protect your church from a contractor employee's injury claim.
- **IRS Form 1099** – Make it clear that you will be preparing an IRS Form 1099 for services exceeding \$600 during the calendar year.

As previously stated, vendors and contractors should provide proof of insurance for General Liability, Products & Completed Operations Liability and Workers' Compensation. Additionally, coverage for Automobile Liability should be required for vendors using vehicles on your property, such as snow removal companies.

Churches should contact their local insurance agent when any claim-related issue arises. Certain issues should always be referred to your local agent.

Wondering if your activity requires a contract? In addition to all of those mentioned previously, consider all of these scenarios that should have a contract:

- Allowing another entity to use your church or even your parking lot to gather or conduct a meeting or activity. Either formal groups like Weight Watchers or AA or informal like a local knitting group.
- Any type of construction/repair work. If you think you are saving money by using a well-intended congregant, think again: use only licensed, insured and bonded contractors that you have vetted. Call references!
- Some churches benefit from having significant business expertise as membership – accountants, attorneys, insurance agents, human resource professionals, financial advisors and such. However, if the church plans to engage these individuals as professionals conducting work for the church, secure a contract before engaging.