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Contracts, Certificates of Insurance, and Labor Law Claims

For years we have been urging camps to be certain that whenever an outside contractor is used, the camp should secure a contract where the contractor holds the camp harmless and indemnifies the camp to the fullest extent possible under the law. In addition, the contractor should be required to provide a certificate of insurance evidencing at least:

- Commercial general liability insurance with limits not less than \$1 million each occurrence and \$2 million general aggregate, including \$2 million products/completed operations and \$1 million personal injury liability. This must include proof that there is no employee injury or labor law exclusion.
- Excess liability (umbrella) coverage with limits not less than \$1 million (should be higher for more risky work)
- Automobile coverage with limits not less than \$1 million per accident, including hired and non-owned automobile
- All of the 3 coverage listed above must name all of the camp's entities as an additional insured, on a primary, non contributory basis.
- Valid workers compensation coverage in your state
- all policies must contain 30 days notice of cancellation or non renewal, cover the entire term of the work to be done, and be placed with insurers acceptable to the camp

We cannot stress enough how important this seemingly routine task is. By requiring outsiders who come to camp for pretty much any professional service (construction, food service, propane delivery, tree pruning, etc.), you are actually transferring liability by contract from you to them. You are paying these professionals good money to complete a task for you. They should come with all the tools necessary to do their job, including a proper contract and adequate insurance.

If they do not, you may be forced to pay any resulting claims that they otherwise would be required to pay. Why would you want to prejudice your own insurance with claims that can and should easily be handled by others? Failure to do so will not help us keep your premiums down!

This is not some esoteric concept. You should make this a top priority at camp and we suggest that no outside contractor or professional be allowed at camp without this. Our claim files are full of example after example where camps failed to pay attention to this policy, there was no contract or certificate, and the camp was forced to handle the claim through its own insurance.

But in New York State, the situation is actually far worse than in other states. New York is the only state in the country with a special law for construction accidents. NY labor Law 240, commonly referred to as "the scaffold law," essentially puts strict liability on the owners of job sites for any injury suffered by a contractor injured by or on scaffolds, ladders, hoists, stays, slings, hangers,

pulleys, irons, ropes, blocks, braces, or similar devices. Strict liability means that the owner is responsible for the injury, pretty much without any regard to the cause of the accident or whose fault it may be. In essence, any fall from heights, whether off a roof or a step stool, and whether the worker was following safety rules or not, or even if he was drunk, means you are on the hook for the claim! Without a contract or certificate of insurance the claim will fall squarely on your insurance, and the claims can get very, very big.

In the past few years alone we have had at least three significant and completely avoidable claims at different NY camps:

1. A camp hired a tent company and the contractor's employee fell 15'-20' off a ladder suffering multiple fractures and an eye injury. The camp had worked with the company for years, even bartering in trade with camp for reduced tuition. There was no contract or certificate. The injured employee cared nothing about this relationship and sued the camp. Currently in litigation
2. Camp hired a contractor to perform roof work, who fell from a ladder owned by the camp. Fractured ankle and shoulder. No contract or certificate and the claim has a six figure reserve.
3. Camp hired a contractor to drain water from a building for the winter. Employee fell from the camp's ladder suffering serious leg injuries. No contract or certificate. Claim settled for six figures.

In general, camps do a fine job running their own programs. Many problems arise when you rely on others. Be smart and make the best use of all available tools to lessen your liability and transfer as much risk by contract as you possibly can. It is good business practice and will help us keep your premiums as low as possible.

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