

VENDORS AND EXHIBITORS

An important part of the risk management process is placing the responsibility for negligent actions with the negligent party. Part of doing this is verifying that vendors and exhibitors have appropriate insurance coverage. This ensures that vendors and exhibitors (a.k.a. independent contractors and service providers) not only accept responsibility for their actions but are able to follow through with the ability to pay for any resulting damages.

Missing any of the four steps to verify coverage for vendors and exhibitors may result in the agricultural society being held responsible for the misdeeds of the vendor/exhibitor.

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STEP 1: HOLD HARMLESS AND INDEMNIFICATION

Fair vendor agreements should be in writing and state that the outside party accepts responsibility for its negligent acts. Accepting responsibility is the first step and is accomplished through a defense, indemnification and hold harmless clause in the contract (see *Chapter 8, Independent Contractors for sample language*).

STEP 2: REQUIRE SUFFICIENT INSURANCE

To back up the promise to take responsibility for their acts, each vendor, exhibitor, independent contractor and service provider must be able to pay for the potential damages caused by those negligent acts.

Few individuals and small businesses have enough assets to cover a potential \$1.5 million loss. To have adequate finances to cover a potential loss, the vendor should also agree to maintain sufficient insurance. If the vendor does not have enough insurance, the person who has sustained damage or injury may look to the agricultural society for compensation.

Whether the agricultural society is liable or not, it will likely be involved in a time-consuming and costly claim process. Therefore, agreements should include insurance requirements. A basic rule is that the insurance required should reflect the party's potential exposure. For example, a food vendor operating at the fair potentially brings more loss exposures than a Tupperware® demonstrator (see *Chapter 8 for recommended coverages*).

STEP 3: REQUIRE ADEQUATE INSURANCE LIMITS

Simply obtaining an insurance policy is not enough. MCIT recommends that agricultural societies require vendors, service providers, independent contractors and exhibitors to secure liability coverage with limits that, at a minimum, meet those for which a municipality (such as an agricultural society) may be held liable.

Minnesota Statutes, Chapter 466 provides some immunities and places caps on damages for certain tort liability claims. Agricultural societies organized under Minnesota Statutes, Chapter 38 are included

in the definition of "municipality" for purposes of Chapter 466. The caps on damages are \$500,000 per claimant and \$1.5 million per occurrence or event.

MCIT recommends that members require the following *minimum* insurance limits:

- \$1.5 million each occurrence
- \$3 million general aggregate (aggregate limit is the most the insurer will pay in one year)
- \$3 million products and completed operations aggregate (if there is an aggregate limit)

STEP 4: VERIFY FINANCING—CERTIFICATE OF INSURANCE

Agricultural societies should require vendors to provide verification of coverage in the form of a certificate of insurance. Agricultural societies should always make sure the events being held at the fair fall within the effective dates of coverage. For returning vendors, agricultural societies should verify receipt of a current certificate. Last year's certificate will most likely have expired. Check the effective dates shown on the certificate.

Agricultural societies should be included as an additional insured on liability policies. Professional liability and workers' compensation are the exceptions. Additional insured status should be indicated on the certificate of insurance. Agricultural societies should also request a copy of the additional insured endorsement.

RECOMMENDATIONS

Fairs have a unique diversity of vendors, independent contractors, service providers and exhibitors. A promoter bringing a snowmobile race to the fairgrounds does not pose the same risk as a local afterschool program displaying children's artwork or a group handing out brochures for a local nonprofit.

A key risk management practice is to require vendors to have sufficient insurance to cover their exposure to loss. To determine appropriate or sufficient limits, the agricultural society may classify vendors and exhibitors according to the exposures or risk of liability. Upon careful review of the risks and



exposures, the agricultural society may determine there are certain vendors/exhibitors for which lower (such as the above-mentioned nonprofit) or higher (the promoter of snowmobile races) liability limits may be acceptable or appropriate.

It is imperative that vendors'/exhibitors' classifications and the rules governing the determination of appropriate classifications be applied consistently to avoid potential allegations of discrimination. MCIT recommends that rules such as these be in writing, approved by the board and used uniformly for all vendors/exhibitors.

Resources



The following articles are available at MCIT.org and provide additional information:

- "County Fairs: Verifying Vendor and Exhibitor Insurance"
- "Steps to Verify Coverage for Vendors and Exhibitors at the Fair"
- "Certificate of Insurance"