HELP TO DETERMINE IF YOUR INSURANCE COVERS THE EXPOSURES

Company Sponsored Events
Many technology and life science companies sponsor activities or special events for employees, their families, and even the public. Such sponsorships can be one-time or recurring events – some may include only a few participants, while others may involve hundreds or even thousands of people.

While such events can enhance public relations and employee morale, they can also present the sponsor with a variety of risk management challenges. Before sponsoring any special event, your company should evaluate its potential liability and determine whether its existing insurance will cover the exposures that could give rise to a claim or lawsuit, perhaps like the case studies highlighted in this Best Practice.

Even if your firm, as a sponsor, is not ultimately found to be liable for payment of damages, it is important to remember that simply being named in a suit results in legal costs. As the sponsor of an event or activity, your firm should become familiar with the exposures that can give rise to an allegation of liability.

A proper assessment of the risk can help you to make an informed decision about whether your firm has the ability and resources to undertake the activity or sponsorship. Knowing your risks can also help you to minimize the chances of something going wrong that could expose your firm to potential liability.

Here are some questions to consider before entering into a sponsorship agreement or holding a special event:
• What is the capability and record of the organization for conducting activities?
• How long have they been in business?
• What kind of special training have they had?
• What is their financial condition? (Unless they have adequate finances, resources may be inadequate, equipment may not be properly maintained or replaced)
• How many of these activities have they conducted in the past?
• What improvements have they implemented which will further reduce exposures?

Risk Control
Risk control is a technique to minimize your exposure to loss by using waivers, obtaining certificates of insurance, and requiring additional insured language among other measures. For example:
• When possible, have all brokers, agents and employees sign an appropriate waiver that limits exposure by shifting the liability to the participant.
• Require that the licensor obtains adequate insurance coverage from an insurance company and that the coverage is maintained in force during the term of the sponsorship or special event. Depending on the specific agreement, a business owner should require the licensor have coverage for commercial general liability, workers’ compensation, automobile liability and/or professional liability.
• As a business entering into a sponsorship agreement, you are not automatically included as an insured under the licensor’s insurance policy. A company can arrange to be added as an additional insured through specific language on an endorsement to the licensor’s insurance policy. The purpose for providing additional insured status to others is to protect your business because of a close relationship with that party. An example of additional insured requirement: “Licensor will name the company, including its affiliates, directors, officers and employees as an additional insured on the Licensor’s Commercial General Liability Policy, Business Auto Policy and Commercial Umbrella Policy.”
To ensure that a vendor, facility, or other party has adequate insurance coverage, you need to require a certificate of insurance. This is a document providing evidence that certain types of insurance coverages and limits have been purchased by the party required to furnish the certificate. Your insurance agent or broker can help you determine what limits you should require other parties to carry.

Risk Transfer

In many cases, your company will hire or rent a facility for its event and you'll want to be protected in case something goes wrong. To properly protect your firm's assets, it's important that this responsibility and liability be passed along to the outside facility.

In some instances, the outside facility may attempt to pass liability along to you by requiring your firm to enter into a hold harmless/indemnification agreement and to name them as an additional insured on your policies. You should refrain from doing this as it exposes your company to losses over which you may have little to no control. The outside firm or facility should provide you with liability protection for injuries or damage that occurs on its premises.

Your firm should secure a hold harmless and indemnification agreement whenever possible and request that your company be listed as an additional insured on the liability policies of the facility, organization or licensor.

A company can also finance the sponsorship or special event risk through the purchase of insurance. The following types of insurance programs would limit exposure:

- **Sponsorship Liability**
- **General Liability**

**Sponsorship Liability** coverage is designed to respond to liability arising out of the events in which a company sponsors races, walks and other sporting type events. The coverage applies only to suits brought within the United States, unless coverage is extended to worldwide territories.

**General Liability** coverage protects a business owner or company from most liability exposures other than automobile and professional liability. The policy should include bodily injury, property damage, personal injury and advertising liability coverage.

**Serving Alcoholic Beverages and Liquor Liability**

Many companies have established a business culture that celebrates successes and accomplishments such as closing a deal or completing a major project with some type of group activity that may involve alcohol consumption. Alcohol is also often a component of functions such as receptions for business guests, civic or business organizations, retirement and anniversary parties, employee recognition events, and holiday parties. If your company chooses to sponsor or host an event where alcohol will be served or permitted, you should set company guidelines designed to ensure the health and safety of guests, employees and others around them and to avoid situations that can tarnish your company's reputation.

Here are some guidelines to consider:

- When serving alcoholic beverages on company property, limit to designated areas such as dining rooms, lounges and cafeterias.
- Alcoholic beverages should not be permitted in the office or other work areas.
- Self-serving of alcoholic beverages should be strictly prohibited. Alcoholic beverages should be served by professional bartenders.
- Non-alcoholic beverages and food should also be available.
- If an event with alcoholic beverages is held off company premises, it should be held only in appropriately licensed facilities staffed with professional bartenders.

As part of the loss control method of risk transfer, your firm should require vendors serving or selling alcoholic beverages to have special liquor liability coverage. If implemented properly, this coverage will transfer the risk from your company to the vendor serving the alcoholic beverages. This coverage can be provided by an endorsement to a general liability policy or by a separate liquor liability policy.

Additional risk control measures should include setting reasonable time limits on the serving of alcoholic beverages. In all cases, alcohol should only be served during a set time frame and should cease at least one hour prior to the end of the function. Alcohol should not be served to minors or anyone who appears to be impaired. You may also consider arranging for transportation such as designated driver or taxi service for attendees who have been drinking.

**Waivers and Certificates of Insurance**

As previously mentioned, you should have employees or other participants sign a hold harmless/waiver agreement whenever possible. This limits exposure by
Not so Happy Hour
Every Friday an up-and-coming biotechnology firm hosts a happy hour on company premises for its employees. These get-togethers often last several hours and are generally well attended. One Friday, the company’s top salesperson has several drinks too many and is involved in a head-on collision on his way home. Fortunately, the employee walks away largely unscathed, however, the young family traveling in the other vehicle is not so lucky. The company is found grossly negligent for sponsoring the happy hours and a jury awards $2 million in compensatory damages and $10 million in punitive damages.

Producing Claims
Every summer an electronics manufacturer sponsors a company picnic. Employees are encouraged to bring food and drinks and the events are open to family members. The picnic is a great success, but two days later a number of employees and their family members are horribly sick. They are diagnosed with salmonella poisoning, apparently from some produce that wasn’t thoroughly washed by the employee who brought it to the picnic. The company is sued for medical expenses, lost wages and pain and suffering.

Musical Mayhem
An accounting software developer celebrated their successful IPO by sponsoring a concert in the park, near their Bay area headquarters. During the event, one overzealous concertgoer decides to take a large piece of cardboard out of a trash bin to use as a sled. While sliding down the hill toward the stage, he accidentally hits a young woman in the head with his Timberlands. She suffers a traumatic brain injury and it is uncertain whether she will ever awake from a medically induced coma. As the sponsor for this event, the company finds itself in the middle of a multi-million dollar lawsuit from the young woman’s family.

Assessing Your Risks and Minimizing Them
Before you plan to sponsor an event, assess your risk exposure by using the loss control methods covered in this Best Practice. By uncovering and identifying the risks, your firm can take steps to minimize your risk exposure and help to ensure the health and safety of your guests, employees and their families and other attendees at your event.

shifting the liability to the participant. This agreement is a legally binding contract (subject to limitations in some jurisdictions) by which the employee agrees to hold your firm harmless for liability arising out of the event. Waivers must be in writing and must clearly state the indemnifying party’s responsibility to indemnify your firm against liability or loss.

To minimize liability arising out of the event provider’s negligence, begin by ensuring that the provider carries General Liability insurance. A Certificate of Insurance is a document attesting to the existence and limits of coverage on the other party, issued to your firm by the provider’s insurer. Check to be sure that:
• The policy is in force and issued by a domestic insurer
• The policy covers Comprehensive General Liability
• The policy limits are equal to or greater than your own firm’s coverage
• Your firm (and any subsidiaries your firm may have) is named as the Certificate holder.

For More Information
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