

Diocese of Des Moines

Statement on the use of Service Contractors

draft 05 / 01 / 17

When organizations engage a service contractor, whether paid or volunteer, for a repair or remodeling project, a contract or written agreement should be signed by both parties.

In an effort to reduce your exposure to loss or damage please use the attached Service Contractor Insurance & Indemnification Agreement **before** you engage a service contractor. This agreement specifies the minimum level of insurance to be carried. This policy does NOT apply to small routine maintenance jobs.

The following represents examples of when this agreement should be used:

- Electricians and plumbers
- Welding and “hot” work
- Roofers and painters (projects over 12ft in height)
- Companies providing maintenance services for fire extinguishers. Hood systems, sprinkler systems, elevators, fire alarm and security systems, heating and cooling systems.
- IT consulting firms
- Any work involving hazardous materials

Pre-Approval Requirements

In addition to the contract with the contractor, parishes and schools are required to seek approval before engaging in building projects in the following cases:

- All projects at the threshold of \$25,000 or greater, according to the norms of the United Conference of Catholic Bishops and approved by the Holy See, require a proxy from the Bishop.
- All projects of \$50,000 or greater are ordinarily subject to the Building Commission requirements.
- All projects undertaken in our parish churches or chapels or related to liturgical questions require the explicit permission of the Bishop regardless of cost.

Examples of claims following work by an uninsured sub-contractor

An uninsured handyman is hired to thaw some frozen pipes. He uses a propane torch and sets the church on fire. It burns to the ground and people are seriously injured. The church is liable for the injuries and any jury awards. The church's property insurance pays for the building. The insurance company pays for the injuries, but the lawsuits drag out for five years. The church's insurance costs are now triple what they were before the fire.

A contractor is installing a new kitchen in the rectory. Unfortunately, one of his co-workers forgets to shut off the water and floods the kitchen. The water seeps into the floors and the walls of the lower level resulting in \$200,000 in damages to the church.

A roofing contractor used a blowtorch to seal roofing materials on a church. The crew completed the work and went home. Sometime later that evening, the smoldering roof burst into flames, and the church burned to the ground. The cost to rebuild was estimated to be \$1.8 million. The church's primary property/casualty insurer took responsibility and paid claims to the limits of the policy carried by the church: \$1 million. The contractor was uninsured, leaving the congregation \$800,000 short of the amount required to replicate the church it lost. Due to the loss, insurance costs increased significantly at the next renewal.

A school hired a contractor to paint the gym. The contractor was uninsured and fell off a ladder while painting in the school's gym. The contractor broke both wrists and suffered a laceration over his right eye, and was never able to return to work. The contractor sued the school for hundreds of thousands of dollars to pay for his injuries and loss of income.

Service Contractor Insurance & Indemnification Agreement Sample

This Agreement, as negotiated herein, is entered into by and between _____
"Service Contractor" and _____ "Parish/School".

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Service Contractor and The Parish/School agree as follows:

A. Statement of Work:

From time to time, Service Contractor may perform services ("Work") for The Parish/School, the conditions and terms for such projects to be negotiated in separate agreement(s). In addition to the terms and conditions agreed upon with respect to those particular projects, the Service Contractor and The Parish/School hereby agree that the terms and conditions of this Agreement (the "Agreement") shall apply whenever Service Contractor provides services to The Parish/School.

B. Insurance:

See attached for Insurance Requirements

The consultant and any other party working on their behalf shall purchase and maintain professional liability insurance for the duration of the agreement. In addition to this, in the event coverage is provided under a claims made policy coverage, an extended reporting period provision is required for a minimum of 3 years from the completion of the work. Any policy retention or deductible is the responsibility of the policy holder.

C. Indemnification:

The Work performed by the Service Contractor shall be at the risk of the Service Contractor exclusively. Service Contractor assumes the entire responsibility and liability for all Work, supervision, labor, and materials provided under any contract for Work by the Service Contractor, or under any other direction, until final acceptance of the entirety of the Work by The Diocese. To the fullest extent permitted by law, Service Contractor hereby indemnifies and holds harmless: The Diocese, its parent and affiliates, and their respective officers, directors, employees and agents _____ "Parish/School" from all claims, actions, losses, judgments, or expenses (including, but not limited to: attorneys' fees, consequential damages, and punitive damages) arising from or in any way connected to the work performed, materials furnished, or services provided to The Diocese during the term of this Agreement regardless of whether or not such claim, action, loss, judgment, or expense is caused in part by a party indemnified hereunder. Service Contractor shall be liable to The Diocese for all costs incurred by The Diocese as a result of any failure of the Service Contractor, or any of its suppliers or Service Contractor of any tier, to meet the terms of this Agreement.

D. Miscellaneous:

Service Contractor is an independent contractor and is not an employee of The Diocese.

- a. Thirty-day prior written notice is required Service Contractor's policy is to be cancelled for non-payment of premium. Certificates of insurance acceptable to the Parish/School and Roman Catholic Diocese of Des Moines shall be filed with the Parish/School and Roman Catholic Diocese of Des Moines prior to commencement of the Work. These certificates and the insurance policies required by this Agreement shall contain a provision that coverages afforded under the policies will not be cancelled or allowed to expire until at least thirty-day prior written notice has been given to the Parish/School and Roman Catholic Diocese of Des Moines. If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Service Contractor with reasonable promptness.
 - i. Coverage shall remain in force for two years subsequent to project completion.
 - ii. This Agreement is governed by the laws of the State of Iowa. Any and all amendments must be agreed-to in writing by all parties to this Agreement.
 - iii. This Agreement shall inure to the benefit of, and be binding upon, the heirs, personal representatives, successors and assigns of the parties hereto, provided however, that neither The Diocese nor the Service Contractor shall assign this Agreement without first having obtained prior written consent of the other.
 - iv. This Agreement shall remain in full force and effect from the date of signing unless cancelled in writing by either party upon thirty-day prior written notice. The cancellation of this Agreement shall not negate any term or condition, such as the indemnity and/or insurance requirements.

_____	_____	_____	_____
Signature of Service Contractor	Date	Signature of Pastor	Date

Attachment - Insurance Requirements:

The Contractor should obtain and maintain, at its own expense, insurance of at a minimum the following types of coverages and limits of liability as specified below. All policies shall be issued by insurers admitted to do business in the state where the work will be performed, and rated A- VII or better by A.M. Best. Certificates of insurance that meet the requirements set forth in this document must be shown by Contractor and sub Contractor (if applicable) prior to starting the job. If the sub contractor does not meet the requirements set forth in this document, approval must be obtained from the Director of Property Management.

Commercial General Liability

Limits of Insurance:

\$1,000,000	Each Occurrence Limit
\$2,000,000	General Aggregate
\$2,000,000	Products / Completed Operations
\$1,000,000	Personal & Advertising Injury
\$50,000	Fire Damage Liability
\$5,000	Medical Expense per Person

- Coverage on ISO CG0001 or similar. Restricting endorsements must be noted and approved.
- Waiver of Subrogation in favor of The Diocese and should apply to The Diocese's officers, agents, and employees.
- General Aggregate Limit shall apply separately to each project.
- Parish/School and Roman Catholic Diocese of Des Moines shall be named as additional insured for all work performed under the contract using Form numbers CG2010 (07/04) or CG 2010 (07/04) or equivalent. Additional Insured status for both ongoing and completed operations is required.
- Coverage shall be primary and noncontributory with respects to the additional insured. The Diocese's insurance coverage is excess, non-contributory and not co-primary in relation to the coverage purchased by the Contractor or the sub-Contractor.
- Coverage shall remain in force for two years subsequent to project completion.

Commercial Auto Liability Insurance

Limits of Insurance:

<input type="checkbox"/> \$1,000,000	Combined Single Limit Bodily Injury & Property Damage
--------------------------------------	---

- Coverage on ISO CA0001 or similar. Restricting endorsements must be noted and approved.
- Policy shall provide liability for all owned, non-owned and hired autos used by the Contractor.
- Waiver of Subrogation in favor of The Diocese and should apply to The Diocese's officers, agents, and employees.

Workers' Compensation Insurance

Limits of Insurance:

<input type="checkbox"/> \$100,000	Bodily Injury by Accident (each accident)
\$500,000	Bodily Injury by Disease (policy limit)
\$100,000	Bodily Injury by Disease (each employee)

- Restricting endorsements must be noted and approved.
- Waiver of Subrogation in favor of The Diocese and should apply to The Diocese's officers, agents, and employees.

Umbrella Liability

- Limits of Insurance:**
\$2,000,000 Each Occurrence & Annual Limit (could vary depending on project)

- Coverage shall be at least as broad as provided in primary policies
- Restricting endorsements must be noted and approved.
- Waiver of Subrogation in favor of The Diocese and should apply to The Diocese's officers, agents, and employees.

Professional Liability for IT Technology, including Cyber / Data Privacy Risk

- Limits of Insurance:**
\$2,000,000 Each Claim / Loss
\$2,000,000 Aggregate

- Policy should cover:**
- Professional misconduct or lack of ordinary skill for those positions defined in the Scope of Services of this contract.
- Liability arising from theft, dissemination and/or use of confidential information (a defined term including but not limited to bank account, credit card account, personal information such as name, address, social security numbers, etc. information) stored or transmitted in electronic form.
- Network Security Liability arising from the unauthorized access to, use of or tampering with computer systems including hacker attacks, inability of an authorized third party, to gain access to your services including denial of service, unless caused by a mechanical or electrical failure.
- Liability arising from the introduction of a computer virus into, or otherwise causing damage to, a customer's or third person's computer, computer system, network or similar computer related property and the data, software, and programs thereon.
- Coverage shall remain in force for three years following termination of the Contract.

Professional Liability / Errors & Omissions (if applicable)

- Limits of Insurance:**
\$1,000,000 Per Claim
\$1,000,000 Aggregate

- Policy must be maintained for duration of agreement. If policy is claims made, either the policy must be maintained for three years after work has been completed; or an Extended Reporting provision must be in effect for three years after work has been completed.