



HIRING THE RIGHT HVAC CONTRACTOR

Questions to ask...

EIGHT QUESTIONS TO ASK WHEN HIRING AN HVAC CONTRACTOR

As a multi-site Facility Manager hiring the right HVAC contractor can be a daunting task. Today, a trend toward hiring national brokers or total facility solutions is becoming a common practice.

While it seems like a simple one stop solution there can be many pitfalls and hidden liabilities to companies who operate in multiple states. To protect you and your organization we are looking at some important questions that you may want to ask prior to selecting an HVAC broker or service provider.

It is important to note that these brokers depend solely upon a network of subcontractors to perform the actual HVAC work. It is also assumed in most cases by the customer that these subcontractors carry the proper permits, licenses and insurance coverages which in many instances may not be the case.

As a facility manager you want to ensure that you are dealing with the most reputable people and that you are covered legally to limit your exposure while still getting the job done in a timely cost effective manner.

The following is a list of some necessary questions you may want to ask your potential HVAC service provider prior to entering an agreement.





Tracking the Problem of Unlicensed Contractors

Are you a licensed contractor in each state that you will be performing work for us?

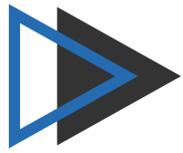
It is extremely important to make sure your HVAC contractor is properly licensed in all of the states that they will be performing work for you.

Most states now require the professional licensing of contractors who are performing HVAC work within each state. In many states licensing authorities require bidders to have a license prior to submitting a bid or any type of negotiation. Unfortunately, many of these service providers attempt to rely solely on their subcontractors to have the proper licensing, which in many cases does not exist. The simple truth is that many of these brokers are unaware that they need a general contractors license to do business within individual states.

To protect yourself, simply require the broker to provide a list of state license numbers or a copy of their state licenses. These numbers are easily verifiable online through the individual states licensing and regulation websites.

\$1.395 million settlement for electrocution of unlicensed contractor

Papazyan v. Chia et al.



Why be concerned?

If your unlicensed broker hires a contractor that is unlicensed, than his workers can be presumed as “your employees” as shown below in the following excerpt from Plaintiff Magazine.



Under Labor Code section 2750.5, an unlicensed contractor and their employees are presumed to be the employee of the hirer; this will eliminate the owner’s defense that he is not liable for the conduct of the independent contractor. Moreover, if the owner and/or general contractor did not provide workers’ compensation insurance for the injured subcontractor, the injured worker can bring a civil suit against the employer. (Lab. Code, §3706) The employer is presumed negligent; the defenses of contributory negligence and assumption of the risk are not available; and a judgment includes attorney’s fees. (Lab. Code, §§ 3708, 3709.) ¹

Licensing laws are designed to protect the consumer and the public, however it is your responsibility to make sure that the company that you enter a contract with has the proper licensing for each state, if not you can be found negligent.

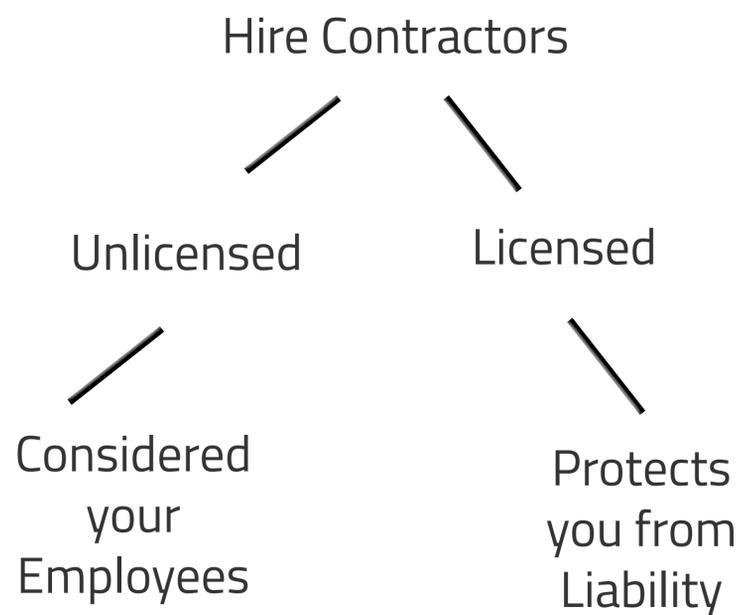
LICENSED TO WORK



Require brokers & service providers provide licenses



Verify licenses online



¹ Plaintiff Magazine June 2010 - William Veen, Unlicensed contractors



Do you carry workers' compensation insurance?

It is also important to make sure that your broker or service provider carries workers' compensation insurance. This protects you from any liability if a worker is injured while on your property. Be aware that if the broker or service provider doesn't carry workers' compensation coverage, you may be liable for any injuries suffered by the subcontractor or any of his employees while on your property. Laws differ from state to state, but most have verbiage which applies to this issue.

{ Minnesota law (Minn. Stat. §176.215) states: When a subcontractor fails to obtain workers' compensation coverage, the general contractor or any intermediate contractor is liable for payment of all workers' compensation benefits due to an injured employee of the uninsured subcontractor, so long as the injury occurs on a job that is within the scope of the contract. ²

After reading this excerpt many would determine that the broker is liable for the workers compensation. However if the subcontractor is not licensed and the broker is not a licensed general contractor in the state where the injury occurred than you, the hirer becomes the employer of the unlicensed contractor as is shown below in this excerpt from Plaintiff magazine.

{ An "unlicensed contractor" is an "employee" of the hirer
An "unlicensed contractor" - one who lacks the proper contractor's license for the work - cannot be an independent contractor. The hirer of the unlicensed contractor is presumed to be his "employer."³

This is another reason why it is so important to ask the question, "Are you a licensed contractor in each state that you will be performing work for us?" and to ask for proof of each state contractors license.

² Comp Talk - Hiring Subcontractors, 2010

³ Plaintiff Magazine June 2010 - William Veen, Unlicensed constructors



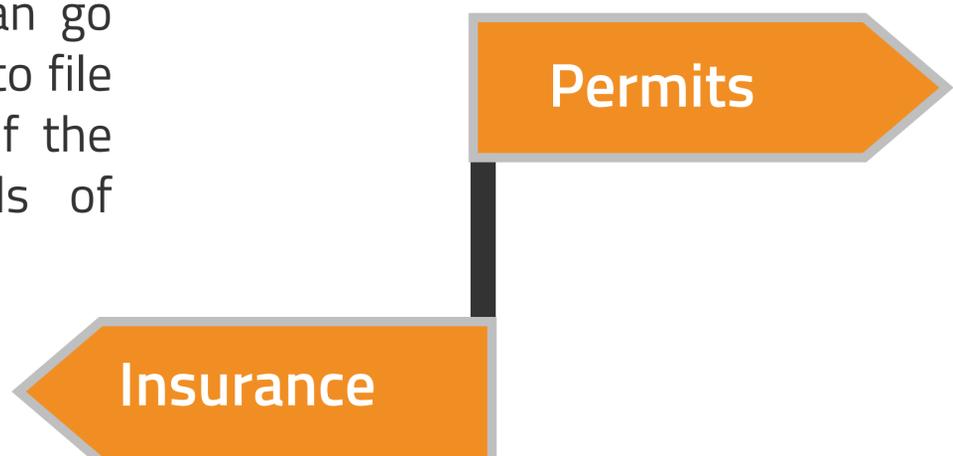
Do you carry general liability insurance?

Make sure your broker or service provider carries general liability insurance. This type of insurance protects your property in case of damage caused by the subcontractor and/or his employees. This is also important should one of your employees or customers be injured by a subcontractors negligence.

This way, in the event of an accident the insurance company will pay for the cost of replacing and/or repairing any damage or injury that occurs on your premises. If an accident occurs you can go directly to the broker or service provider to file a claim instead of hoping and wondering if the subcontractor carries the proper levels of insurance.

Will you file for all required permits?

All HVAC contractors should file required permits. This is very important. When a contractor pulls the required permits, you know things will be done to "code". This is one other advantage of dealing with a licensed contractor as he has passed the conditions of certification and knows the laws and the proper permits required.



Do you guarantee your work?

Your contractor should guarantee his work for at least one year from date of completion.

Will you provide references or testimonials?

A well established broker or service provider should be able to provide you with several client references from the last 6 months to one year.



Do you have a clean up policy for your subcontractors?

Make sure the broker or service provider has a clean up policy and will ensure the subcontractor will leave the area clean and free of debris and parts.



A SUMMARY OF FINDING THE RIGHT CONTRACTOR



These are just a few important questions that should be answered prior to entering an agreement with a HVAC service provider. The proper due diligence on the front end can save you great deal on the back end.



Properly Licensed Contractors



Clean Up Policy



Required Permits



Carries Worker's Comp Insurance



Guarantees Work



General Liability Insurance

Learn more about our history and how we've helped facilities receive reliable support nationwide.

[Watch Video](#)



Together, we work on building a custom-tailored maintenance and energy savings program that meets your business and savings goals.