



Leaderschoice
INSURANCE SERVICES

Leaders News Alert

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Cyber Security

What You Can Learn from NSA Whistleblower Case

THE RECENT case of Edward Snowden, the National Security Agency whistleblower, should serve as a warning to all employers about the risk of USB flash drives.

Snowden copied the secrets he's spilled to the world media from his computer while working at the NSA, then walked out the door with this highly sensitive information, some of it on flash drives.

These drives, while able to store huge amounts of data, can be equally damaging to a business, for a few reasons:

1. Losing them – British dry cleaners found an estimated 9,000 forgotten USB memory sticks in people's pants pockets in the course of one year, according to a survey by Credant Technologies, a Texas data security company.

Credant Technologies also found more than 12,500 handheld devices, including USB drives, were left behind

in London and New York taxis every six months.

If one of your employees loses a USB drive with sensitive company data on it that's not encrypted, this could result in significant exposure to your business. Besides risking the release of company data, it can also result in identity theft and other cyber crime.

2. The bigger danger is how easy it is for an employee to walk out with information by concealing it on a small drive. Anybody with malicious intent can easily copy multitudes of important files (company secrets or identifiable information of customers and employees, as well as customer credit cards on file).

3. Finally, USB storage devices have gotten so popular that cyber criminals are starting to write viruses and worms that specifically target them. If an employee's USB drive gets infected and they plug it into their work computer,

they could accidentally upload the virus and cripple not only their computer but your entire database if the worm starts replicating.

So, what can you do?

- Only allow secure USB thumb drives that require a password to unlock them, to be plugged into your computers.
- Make sure thumb drives include anti-virus capabilities that prevent portable viruses from spreading.
- Disable auto-run on your PCs to prevent malicious code on thumb drives from infecting your computers.
- If you must put sensitive information on a USB device, encrypt it first. Well-known encryption programs like PGP can be downloaded from reliable websites and used to encode information so it can't be viewed without first being decoded.

See 'Flash' on page 2



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Affordable Care Act

Relief: Employer Mandate Delayed for One Year

EMPLOYERS NATIONWIDE got some reprieve on July 2 when the Obama Administration announced that it would delay until 2015 the requirement that “large” employers provide health coverage for their workers, or face a penalty.

The administration made the decision after receiving numerous complaints from the employer community that the Affordable Care Act reporting requirements were too complicated and that it would be difficult and costly for businesses to comply before the start of 2014.

The good news comes after the administration already announced that it would delay insurance offerings to small businesses via state- and federally run health insurance exchanges.

The latest announcement, made by the Internal Revenue Service, has also cast doubt on whether the rest of the law, which requires almost all individuals to secure coverage, can also be implemented on time for a Jan. 1, 2014 start-up.

Many larger employers have complained about the significant amount of administrative resources they have poured into updating technology for reporting purposes and for starting to offer coverage for employees without any idea of what coverage will cost.

Businesses with more than 50 full-time employees (or full-time equivalents) would have paid a fee of \$2,000 per uninsured employee after

the first 30 employees starting in 2014.

The announcement came a month after the independent Government Accounting Office cast doubt on whether the government-run health insurance exchanges could be up and running to start enrolling individuals by Oct. 1 for 2014 coverage.

While making the announcement on the delay, the IRS said exchanges for individuals will open on Oct. 1 as planned.

Valerie Jarrett, a senior adviser to President Obama, wrote in a White House blog: “As we make these changes, we believe we need to give employers more time to comply with the new rules. Since employer responsibility payments can only be assessed based on this new reporting, payments won’t be collected for 2014.”

And Mark Mazur, assistant Treasury secretary for tax policy, wrote in an IRS blog: “We have heard concerns about the complexity of the requirements and the need for more time to implement them effectively.”

The delay should give the IRS more time to iron out ways to simplify reporting requirements and give businesses time to get used to the reporting system. The IRS urges employers to voluntarily report their data for the 2014 year, so that they will understand how it works for 2015.

As your broker, we urge you to consult with us to determine what this means for your company and to find out how you can start planning now for the ACA era. ❖



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Don't Let Staff Use Same Flash Drives at Home, Work

- Use secure new USB flash drives with unique features such as fingerprint authentication that protect data from would-be hackers. Other devices have built-in encryption that eliminates the need to use a separate software program to scramble your information.

- Tell your staff to always keep their USB drives in the same place. Because they are so small, they are easy to misplace.

Women can keep them in the same pocket in their purse

every time, and men in that little extra pocket above their right-hand pants pockets. Or use the lanyard that comes with the devices to hang them on your car key chain.

- Tell your staff not to use the same flash drives for home and work, in order to avoid accidentally introducing a virus they picked up at home onto their work computers.

- Put in place policies about what can be plugged into the company network. You may also want to bar flash drives outright from the office if you fear data walking out. ❖



Supreme Court Sets Limits on Harassment Claims

THE U.S. Supreme Court in June put new limits on employer liability when facing on-the-job harassment claims. In its ruling, the court found that an employer can be held vicariously liable for the actions of a supervisor who has the power to hire, fire, promote or reassign a worker to a post with different responsibilities.

The Supreme Court justices found that such a “workable” definition of a supervisor would provide employers and employees with guidance prior to a lawsuit being filed.

The issue is important because up to this point, employers have generally been held liable for racial and sexual harassment by supervisors. Employees file more than 30,000 formal harassment complaints with the U.S. Equal Employment Opportunity Commission every year, not to mention lawsuits. It is a significant liability for employers.

Also, harassment claims are bad for business. They hurt productivity and morale, can make it harder to retain qualified employees, and can damage your company’s reputation through negative media coverage. A harassment claim can cost you hundreds of thousands of dollars in attorneys’ fees, and even more in settlements, judgments and punitive damage awards.

In the case at hand, *Vance vs. Ball State University*, an African-American worker who worked in the school’s catering department complained that she had been threatened by a fellow worker and that another one had directed racial epithets at her.

In the ensuing two years, the worker continued to complain about the other two employees’ treatment of her and she finally filed suit against Ball State, the two employees and the general manager of the Banquet and Catering Department.

Among her claims was that Ball State should be held liable for the hostile environment created by the behavior of one of the employees, who she claimed was a supervisor.

The Supreme Court in the Ball State decision added: An employer will be vicariously liable “when the employer has empowered that employee to take tangible employment actions against the victim, i.e., to effect a significant change in employment status, such as hiring, firing, failing to promote, reassignment with significantly different responsibilities, a decision causing a significant change in benefits.”

The best way to reduce the possibility of harassment in the workplace and avoid litigating a harassment case is to train your employees, supervisors and managers (see sidebar). ❖

Reducing Your Liability

THE NATIONAL employment law firm of Fisher and Phillips recommends the following:

1. Adopt a workplace harassment policy that complies with U.S. federal law and the laws of any state in which you do business. A policy that complies with the laws of all 50 states is ideal for organizations that intend to grow nationally.
2. Post your policy in public areas and ensure the complaint process is easily visible.
3. Ensure all current employees and supervisors and new hires (a) receive a copy of your workplace harassment policy, and you have a record of their receipt, (b) understand the complaint process, and (c) are trained on your policies and the law, and you have a record of that training.
 - All new hires, especially supervisors, should receive your policy and training immediately upon commencement of employment.
 - Training should cover both sexual harassment and other forms of workplace harassment based on protected categories, such as race, national origin, religion, disability, age and sexual orientation.
4. The complaint process should allow an employee to bypass his or her current supervisor.
5. Reward employees whose actions prevent or correct workplace harassment.
6. Respond to complaints immediately, thoroughly investigate all complaints, and ensure that all involved parties are aware of your anti-retaliation policy.
7. Review your workplace harassment policy at least once a year to ensure it complies with the ever-changing legal and regulatory environment.
8. Retrain supervisors and all employees periodically to ensure they are aware of any changes in your policies, the law and your complaint process, and to help maintain a culture that respects the contributions and dignity of all employees. ❖



Extra Layer of Protection

FOR THE best protection, you should secure Employment Practices Liability coverage. Policies cover employment-related claims made by employees, including harassment, discrimination or wrongful discharge. EPLI will typically cover defense and judgement costs.

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Workers' Comp

Calculating the Cost of Workplace Injuries

IT'S NO secret that workplace accidents can cost your company dearly. There's not only the loss of an employee who has to take time off work for treatment and recovery, but you also have to consider hiring and training costs for a replacement, the risk of citations and fines by OSHA – and also the likelihood of increased workers' comp costs.

It's estimated by the National Safety Council that the average workplace injury ends up costing (in treatment and lost time) more than \$40,000. But just how much can an industrial injury cut into your profits? There's a website for that (sorry, no app yet).

OSHA's Safety Pays Program offers a calculator to figure out how much various injuries can cost you in terms of lost profit.

It has a fairly comprehensive list of the most common injuries in workplaces, and includes other fields of data that you need to enter to arrive at a cost.

While OSHA cautions the calculator is not exact, it does provide a glimpse of just how damaging an injury can be to your company's finances.

According to OSHA, the program "is intended to help raise employers' awareness of the impact of occupational injuries and illnesses on profitability", and is not a standard or regulation.

The program offers contractors a worksheet where they choose the type of injury from a list and then enter information including workers' comp costs, profit margin and number of injuries. The worksheet then provides estimates of direct and indirect costs, as well as the amount of sales that would be needed to cover these costs.

While this tool is only meant as a rough estimate, it can be a great visual to remind business owners, foremen and employees on how unsafe practices impact the company's bottom line.

While it may not be the most important reason to work safely, the calculations may offer an extra incentive for everyone to reinforce proper safety habits.

The tool can be found here:

www.osha.gov/dcsp/smallbusiness/safetypays/estimator.html

In addition, Safety Management Group, a workplace safety consulting company, has an injury cost calculator so that you can find the total costs to you of an injury. You can plug in the direct costs of a claim and it will calculate the indirect costs to you.

Indirect costs include administrative time dealing with the injury and medical care, increases in insurance costs, replacing the hours lost by the injured employee with hiring another employee, loss of reputation and confidence in employees and clients, unwanted media attention, and more.

You can find that calculator here:

www.safetymanagementgroup.com/injury-cost-calculator.aspx

These two tools should help you think of safety as a profit center, rather than an expense. Following are just a few potential profit areas:

Insurance premiums – If you keep workers' comp and other insurance claims under control – thus lowering your X-Mod – your insurer will perceive your company as a lower risk. Consequently, you may be eligible for reduced premium rates.

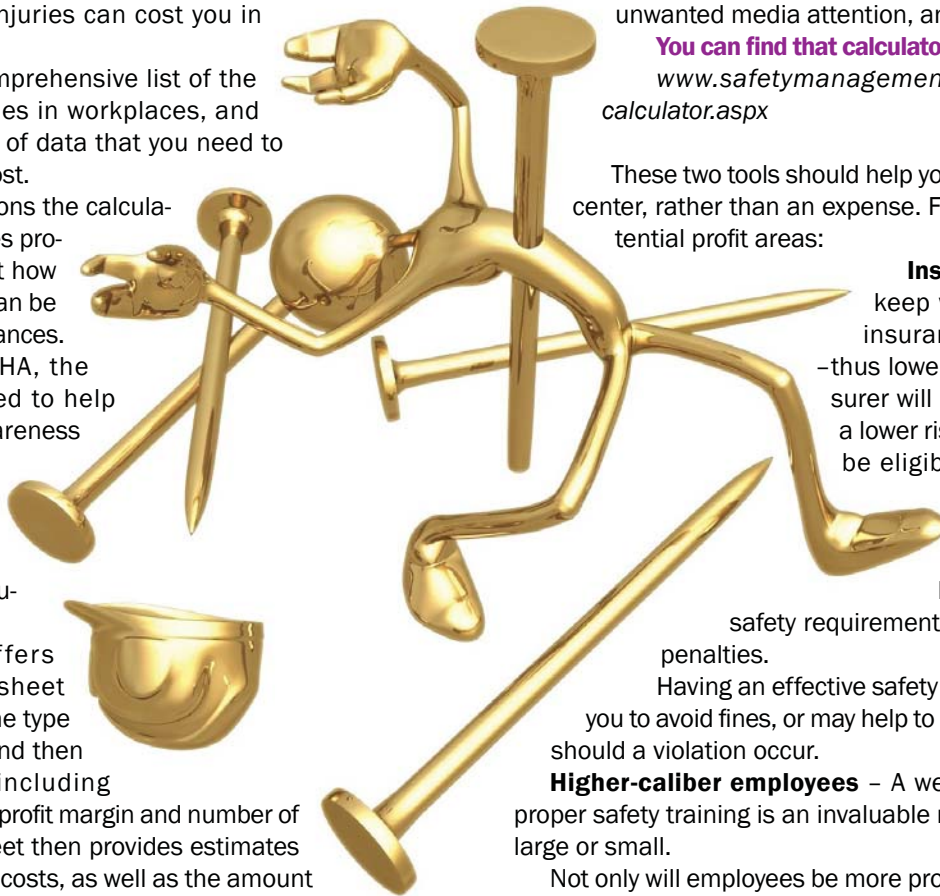
Regulatory compliance – Failure to adhere to OSHA-mandated safety requirements can result in substantial penalties.

Having an effective safety program in place can help you to avoid fines, or may help to reduce the severity of fines should a violation occur.

Higher-caliber employees – A well-trained workforce with proper safety training is an invaluable resource for any employer, large or small.

Not only will employees be more productive, they will be better able to help identify unsafe conditions and/or operating practices, as well as situations where jobs might be done more safely and effectively.

Company safety culture – Promoting a safe work environment improves employee morale. And if employees believe the company cares about their well-being, they are likely to care about the well-being of the company. The result can be greater productivity and employee loyalty. ❖



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