


Insurance and Risk Management 101

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Insurance 101

- Companies face many perils each and every day. They can:
 - Avoid
 - Mitigate
 - Transfer
- Insurance is Risk Transfer.


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Insurance 101

- What Coverage is needed?
 - Contractual Requirements
 - Types of Insurance
 - Limits
 - Special Endorsements
 - Job Site/Operational Exposures
 - Water
 - Cranes
 - Railroad

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Contractual Requirements

- Contracts usually require the following:
 - Commercial General Liability
 - Auto Liability
 - Excess Liability
- Contracts Sometimes also require:
 - Pollution/Professional
 - Property Insurance

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Contractual Requirements



- Most Insurance Policies now require a written contract or agreement for coverages to apply!

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Contractual Requirements



- Commercial General Liability
 - Bodily Injury, Property Damage, Personal Injury
 - Completed Operations (Construction Defect)
 - Contractual Liability
 - Additional Insured Endorsement
 - Primary and Non-Contributory
 - Waiver of Subrogation

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- Additional Insured Endorsments
- CG 20 10 11/85 – The Gold Standard
- CG 20 10 03/97 – Excludes Completed Operations.
- CG 20 10 07/04 – Losses must be caused “in whole or in part”.
- CG 20 10 04/13 – Limits coverage by law and by contract.
- CG 20 37 – Completed Operations

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The OCP



- Sometimes used in lieu of the AI Endorsement
- Separate insurance policy purchased for the benefit of the owner/GC.
- Does not include completed operations coverage, contractual liability or personal injury.
- WSDOT requires it... Elevator companies and other high risk trades use it. Overall, not preferable to the AI endorsement.

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- Primary & Non-contributory
- Amends the “other insurance” clause in the General Liability policy

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- Waiver of Subrogation
- Prevents the insurance company from pursuing reimbursement from other parties.

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Auto Liability



- Auto policies use number symbols to designate what is a covered auto.
 - Symbol 1 is best
 - Symbol 7,8,9 can also work. The danger here is that a newly acquired auto may not be reported to the insurer yet and is past the grace period.
- The Additional Insured wording is built into this policy. No endorsement required.

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Umbrella/Excess policies



- Umbrella goes over one or more policies and is “broader” than the underlying coverages.
- True excess policies provide higher limits over one line of coverage and are not broader in coverage.
- Umbrella/Excess policies are separate from underlying policies and often need their own endorsements to comply with Primary & Non-contributory status as well as to waive subrogation.

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Pollution Liability



- Commercial General Liability excludes most “pollution” losses
- What is a Pollutant?
- Solids, Liquids, Gases, Vapors, Mold/Mildew or any other chemical or naturally occurring substance that can harm the environment if used or disposed improperly.

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Pollution Liability



- Job Sites
- Transit
- Storage Facilities
 - Underground/Above Ground storage tanks
- Disposal Sites

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Professional



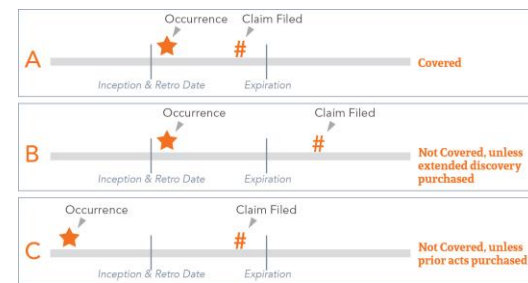
- Commercial General Liability policies exclude losses caused by rendering or failure to render professional services. It also will not cover losses of economic damage only. Coverage is triggered by bodily injury or property damage.
- Inside or outside surveying, engineer or architect work.
- Preparing, approving..maps, shop drawings, opinions, reports, surveys, field orders, change orders, or drawings and specifications.

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Pollution/Professional



- Claims Made...what is it?



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JOB SITE EXPOSURES



- Railroads
- Waterways
- Aircraft/Watercraft
- Cranes
- Contractors Equipment

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Railroads



- CGL policies have exclusions for construction
- work performed within 50 ft of a railroad.
- Contractors oftentimes must purchase Railroad Protective Policies.
- Exclusion for contractual liability must be removed.

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USL&H



- Situs – employees working on, near or adjacent to a navigable waterway.
- Status – employees working on any facility that aids marine navigation or commerce.
- Federal Court is ultimate arbitor.

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USL&H



- “Any employer required to secure the payment of compensation under this Act who fails to secure such compensation shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$10,000, or by imprisonment for not more than one year, or by both such fine and imprisonment”

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Jones Act



- Workers compensation for Master and Members of a crew.
- The Jones Act covers not only the master and members of a crew, but also anyone who has a connection that is both substantial in nature and duration to a specific vessel, or to a fleet of vessels, and whose duties contribute to the function or mission of that vessel or fleet.

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Aircraft & Watercraft



- CGL policies exclude liability from the operation of owned and non-owned aircraft.
- CGL also excludes liabilities for owned watercraft and larger non-owned watercraft. (51 ft or smaller is ok).

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Cranes & Equipment



- Damage to equipment of others while in your care custody and control is not covered
- Borrowing Equipment (property coverage)
- Riggers Liability (items on the hook, if you are operating the crane, is considered in your care custody and control).
- Weight of load exclusions

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A Word on Residential



- Insurers continue to dislike residential projects.
- Apartments are now considered residential by a majority of insurers.
- There are exceptions and “carve outs” granted, but you must be careful to know your coverages.

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OCIP's



- Used with almost all mixed use and condo projects as well as large commercial jobs.
- OCIP's are popular because:
 - Quality and limits of coverage
 - Claims handling advantages
 - Insurers can exert greater Quality Control requirements.

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OCIP's



- Contractors must be aware:
 - Deductible Allocations
 - Limits. (Must last for duration of project as well as applicable construction defect statute's).
 - Coverages (Don't accept exclusions that you would not live with on your program policy)
 - Enrollment "credit". Challenge excessive credits including umbrella costs.

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Builder's Risk



WHAT IS BUILDER'S RISK/COURSE OF CONSTRUCTION INSURANCE?

- A. A contract between the Named Insured and Insurance Company
 - 1. Insurance Company agrees to indemnify or make whole the Named Insured for direct physical loss or damage to the project.

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Builder's Risk



WHY PURCHASE THE COVERAGE?

- A. Who is going to pay the loss?
 - 1. Owner/Developer
 - 2. Lender
 - 3. General Contractor
 - 4. Subcontractors

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Builder's Risk



WHO SHOULD PURCHASE/ PROVIDE THE COVERAGE?

- A. Owner/Developer or General Contractor
- B. Whoever provides - 3 Fundamental Questions
 - 1. Who has the primary insurable interest?
 - 2. What are the values to insure?
 - 3. What perils are to be covered?

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Builder's Risk



WHO SHOULD BE INCLUDED AS NAMED INSUREDS?

- A. Those with an Insurable/Financial Interest
 - 1. Owner/Developer
 - 2. General Contractor
 - 3. Subcontractors of Every Tier
 - 4. Lender in some cases
- B. Avoid use of the words “As their interests may appear” in the Named Insured.

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Builder's Risk



WHAT KIND OF PROPERTY TO INSURE?

- A. Actual structure under construction.
- B. Materials, equipment, and supplies to be incorporated into the project.
- C. Machinery and Fixtures which are to become a permanent part of the structure.

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Builder's Risk



WHAT IS THE CONTROLLING DOCUMENT WHICH DRIVES COVERAGE PLACEMENT?

- A. Construction Contract
- B. Lender's Requirements

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Builder's Risk



WHAT SHOULD THE IDEAL CONSTRUCTION CONTRACT SPELL OUT IN THE AREA OF BUILDER'S RISK?

- A. Insurable Interest of each party to the contract - who should be a Named Insured?
- B. Establish who owns or is responsible for what property and its "protection."
- C. For what period should the Builder's Risk coverage be provided?
- D. Which party to the contract is required to purchase the coverage?
 - 1. Which party is responsible for policy deductibles, uninsured and/or underinsured losses?

Continued>

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Builder's Risk



- E. Financial strength requirements of the insurance carrier.
- F. Perils to be insured, amount of coverage.
- G. Who losses are to be adjusted with and to whom claim adjustment monies will be paid?
- H. Waiver of Subrogation provisions.
- I. Property in Transit and Offsite Storage considerations.
- J. Deductibles - who is responsible for payment?

Lender's Requirements for Builder's Risk coverage and requirements of the construction contract should be consistent.

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