

# Insurance and Risk Management Guide

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# A quick **Preview of Topics**

- ❖ **Risk Management:** What is it and how to handle it
- ❖ **10 Commandments of Good Practice:**  
Best way to reduce risk
- ❖ **Insurance:** Why you need it and what kind to get
- ❖ **Claims:** Why they happen; examples
- ❖ **Solutions:** How we can help

# PART 1: Risk Management

What it is and how to handle it

# What is **Risk Management**?

- The procedures used to identify, assess, control, and finance accidental loss
- Management of the pure risk to which an organization might be subject

# Steps of Risk Management?

- ① Identify and analyze exposures to accidental & business losses
- ② Examine feasible alternative risk management techniques for dealing with those exposures
- ③ Selecting the apparently best risk management techniques
- ④ Implementing the chosen risk management techniques
- ⑤ Monitoring the results of the chosen techniques to ensure that the risk management program remains effective

# Methods of Risk Management?

- ✓ Avoidance
- ✓ Loss Prevention
- ✓ Loss Reduction
- ✓ Contractual Transfer of Risk

# Avoidance

## DON'T DO IT

- Avoids any possibility of loss
- Done by abandoning or never undertaking any activity or purchasing an asset
- Not a realistic approach

# Loss Prevention

*Reduce the likelihood of a particular loss*

Achieved by improving the risk using the methods such as dead bolt locks or computer tie downs



# Loss Reduction

*Reduce the severity of a particular loss*

Can be achieved by taking necessary steps to get business back up and running as soon as possible

# Contractual Transfer of Risk

- Organization to which the transfer is made bears all legal and financial responsibility for any loss
- An example is the purchase of an insurance policy, by which a specified risk of loss is passed from the policyholder to the insurer
- Other examples are the hold harmless clauses in many contracts or the contractual requirement to provide insurance coverage for another party's benefit

# **PART 2: The Ten Commandments of Good Practice**

The best way to avoid risk

# Sell your Firm and your Services fairly

- Do not oversell your firm or services
- Avoid superlatives
- Distinguish between “services” and “work”

# Educate your Client

- Time and cost estimates
- You are NOT a GUARANTOR of the work

# Insist on an equitable written contract

- Avoid oral contracts
- Standard contracts are advantageous
- If you deviate, seek legal advice
- Take advantage of any contract review service available

## Do not play Lawyer when...

- Your client hires a lawyer for contract
- In doubt about by-laws and regulations
- Writing special legal clauses
- Writing insurance and indemnity specifications

# Specific Project Plan

- Early identification of team members
- All team members must FULLY understand job mandate
- Design and calculation checks



# Keep your Client informed

- The client makes the decisions
- Based on your advice, you are the CONSULTANT
- Duty to warn of any potential problems

# Deal promptly with problems

- Keep your client informed
- If there are persistent problems notify your insurer

# Written Records

- Preserve written records
- After an incident or accident state objective facts only – no opinions
- **DO NOT ADMIT LIABILITY**

# Do not certify that which you have not seen

- Discuss at the outset what certification is required for the job

# Think before suing for fees

**Self analysis:** Why is the client not paying?

**Inevitable result:** countersuit for negligence

# PART 3: Insurance

Why you need it and what kind to get

# Why do you need Insurance?

- To protect the assets of the company or individual
- To protect the company or individual against claims for bodily injury, property damage, or professional negligence
- To fulfill contractual requirements
- Peace of mind

# Who **Benefit** from Coverage?

- Policy holder
- Owners
- Contractors
- Third parties
- Consultants



# Types of Insurance available

- 1. Property Insurance:** insures against loss or damage to physical property by an insured peril
- 2. General Liability Insurance:** insures against bodily injury or property damage to a third party arising out of the negligence of the insured. Excludes losses for Professional Services provided.
- 3. Professional Liability:** insures against negligent performance by a professional for services they have provided. Covers against financial loss.

# Property Insurance

- Coverage available through various options:
  - ☑ Business contents may be covered under homeowners insurance by special endorsement
  - ☑ Can be covered under a commercial insurance policy
- Covers against “all risks of direct physical loss or damage” subject to specific policy exclusions

# Property Insurance Cont.

- Coverage can either be location specific or “mobile” for equipment taken off premises
- All losses subject to a deductible
- Various types of coverage available
  - ☑ Electronic Data Processing Equipment Floater
  - ☑ Miscellaneous Equipment Floater
  - ☑ Tool Floater
  - ☑ Laptop Computer Floater

# General Liability

- Coverage available through various options:
  - ☑ Can be added to a homeowner's policy as "Comprehensive Personal Liability", however this coverage may not be adequate to meet contractual requirements of your clients
  - ☑ Can be insured commercially as part of a commercial package policy such as the Park Insurance Office Package

# General Liability Cont.

- ☑ Can be purchased in conjunction with Professional Liability
- ☑ Professional Liability coverage may be a requirement in order to obtain Commercial General Liability
- ☑ “Premises Only” coverage *may* be available without Professional Liability

# Professional Liability

- Covers all sums which the insured becomes legally obligated to pay as damages because of injury arising out of the rendering of, or failure to render, professional services in the practice of the insured's profession.
  - ☑ Written on Claims Made form
  - ☑ Subject to an annual aggregate

# Coverage Comparison

## *General Liability*

- ✓ Insures premises, products, operations
- ✓ Bodily Injury & Property Damage
- ✓ Excludes damage to “work performed”
- ✓ Completed Operations
- ✓ Occurrence form
- ✓ Limits automatically reinstated for products, completed operations
- ✓ Insures professional services
- ✓ All “damages” including delays, extras, financial & consequential loss
- ✓ Covers damage to “work performed”
- ✓ Claims arising from services rendered
- ✓ Claims-made form
- ✓ Aggregate Limits

## *Professional Liability*

# Definitions

- **Negligence:** Failure to exercise the standard of care to which a design professional is held
- **Occurrence Policy:** Covers loss or damage that occurred during the policy period. Liability is assigned to the policy that was in force at the time of a covered loss. Coverage is still available even if the policy was cancelled or non-renewed



## Definitions Cont.

- **Claims Made Policy:** Covers claims presented to the insurer by the insured during the policy period, no matter when in the past the incident that gave rise to the claim took place. It covers today and the acts of the past. In order to present a claim there must be a policy in force.
- **Per Claim Limit:** The most that an insurance company will pay for any one claim.
- **Aggregate Limit:** The most that an insurance company will pay in any one policy period. Limit is reduced with each claim paid.

# PART 4: Claims

Why they happen and some examples

# Claims: **Source of Liability**

- Contractual Liability
- Tort Liability
- Liability Among Consultants
- Statutory Liability

# Source of **Claims**

- Owners
- Contractors
- Third Parties
- Other Consultants

# Types of **Claims**

- ✓ Physical Damage
- ✓ Correction of Deficiencies
- ✓ Unfit for Intended Purpose
- ✓ Cost Increases
- ✓ Delay/Loss of Income
- ✓ Bodily Injury

# Claims Examples

## Underdesign of building:

- ⦿ Structural engineer retained to design 10 storey building which included two underground parking levels, attached low rise building and a bus station
- ⦿ Main structure constructed of reinforced concrete supported by concrete raft foundation
- ⦿ Following completion of design the contractor requested the wall & floor thickness be reduced in order to save costs
- ⦿ Engineer redesigned the project with the revised thickness but failed to revise the design factors for earthquake loading
- ⦿ Building owner sued the engineer for \$350,000 for negligent design and the cost of remedial work to the building
- ⦿ Claim settled after 5 years for \$250,000 (policy limit)
- ⦿ Defence & Investigations costs exceeded \$114,000

# Claims Examples Cont.

## Change Order Requested:

- ⦿ Engineering firm contracted by developer to provide design services in connection with construction of new commercial facility
- ⦿ Architect added several fire-rated walls to the scope of the project during the late stages of design
- ⦿ Engineers notified of changes but did not revise their design to include necessary fire dampers in its HVAC duct work
- ⦿ Contractor discovered the omission during construction and submitted a change order to the developer for costs to incorporate the omitted equipment
- ⦿ Developer filed a claim exceeding \$300,000 against the engineer for contribution toward these costs

# Claims Examples Cont.

## Tenant Damages:

- ⦿ Mechanical engineer designed HVAC system for new commercial office building
- ⦿ During occupancy, tenants complained of problems with computer systems continually overheating and crashing
- ⦿ Engineer was able to correct the problem by adjusting the ventilation and air conditioning systems
- ⦿ Tenant had already suffered damages as a result of lost data and production time
- ⦿ Tenant filed claim against the engineer for over \$800,000 in losses



# Claims Examples Cont.

## Homeowner Damages:

- ⦿ Civil engineer provided design services for a drainage system in newly developed subdivision, including the design of a culvert near several new homes
- ⦿ Engineer failed to properly size the culvert
- ⦿ During heavy rains the culvert overflowed, flooding the new home properties
- ⦿ Homeowners claimed against the engineer for damage to their new homes

# PART 5: Solutions

Where to go for protection and how Park Insurance can help

# Where to buy:

## Picking the *right* broker

- Deal with a broker who knows and understands your business needs
- Deal with a broker who deals regularly with the insurers who offer the policies you need
- Make sure the broker can provide the services that you require...
  - ☑ Issuance of Certificates of Insurance when required
  - ☑ Review and comment on contracts for jobs you are bidding on



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***Thank You!***

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