

Risk Management

CONTRACTUAL RISK TRANSFERS

Getting the Right Coverages

A contractual risk transfer facilitates the transfer of risk (responsibility to pay claims and defense costs) from a contractor to the subcontractors who they are retaining. This is critical, since liability insurance premiums are rated in part on the loss experience of the insured – poor loss experience negatively affects premiums.

The requirements to transfer risk are stated in a group of insurance procurement requirements – including the types and limits of coverage required from the subcontractor. The requirements typically include general and auto liability, statutory workers compensation and excess insurance. Limits depend on the type of work at hand. However, depending on the work, other coverages may be needed to improve the transfer of risk to the downstream (subcontractor) party.

- **Contractors' Pollution Liability (CPL) Policy**
Standard commercial general liability (CGL) policies leave the insured uncovered for pollution-related events. In order to assure that a subcontractor performing abatement (clean-up) work is properly insured, require proof of a CPL policy. Request additional insured coverage on the policy and ask for the additional insured endorsement.



CPL policies are usually written for a specified peril or perils (such as asbestos and lead abatement) and cover bodily injury, property damage and clean-up costs. Limits depend on the type of project, but usually start at \$1,000,000 or \$2,000,000 per occurrence and aggregate.

- **Inland Marine Policies or “Floaters”**
Standard commercial property policies cover property on site or within a designated distance (i.e., 100') from the buildings or structures listed in the policy. An inland marine policy will cover property away from the insured premises for a broad range of perils – including fire, windstorm, theft and equipment in transit. A **builder's risk policy** is designed for new, ground-up projects. It covers property during the construction process. **Installation floaters** are used mainly to cover material during improvements or remodeling

projects. **An equipment floater** will cover damage to equipment that is not eligible for coverage under an automobile policy – such as tractors, backhoes, compactors and cranes. Requiring a floater policy ensures that a subcontractor will have financial protection in the event materials, supplies or equipment is damaged or stolen, reducing construction delays. A general contractor's interest can be included and a favorable waiver of subrogation should be included.

➤ **Professional Liability or Errors & Omissions**

Not all of the liability exposures of architects, engineers, construction managers and others are not covered in the standard CGL policy. Professional decisions or advice are routinely excluded. To ensure the professionals retained on a project has insurance protection for defense costs and for the cost of judgments and settlements, these entities need Professional Liability or Errors & Omissions insurance. The coverage must protect the work being done on your behalf. Limits vary, but usually start at \$2,000,000.

Exposures caused by cyber risks, drones, water and aircraft and barging operations also require specialized coverages in most cases, and should be requested when needed.