



## Managing Your Contract Risk 6 Steps to Protect Your Balance Sheet

Construction is a risky business. Successful contractors can reduce risk to their balance sheet by managing and mitigating their contract risk with their clients and subcontractors.

Here are six steps you can take to manage your contract risk:

1. Before you purchase your insurance policies, have your broker review the contractual insurance requirements from your top five to ten clients. You won't save any money by purchasing the "cheapest priced insurance policy" if the coverage is not accepted by your biggest clients. Matching your insurance coverage to your clients' contract requirements will ensure your ability to bid and obtain jobs.
2. Before bidding work, make sure you meet or exceed the proposed contract insurance requirements. We can help you review the insurance requirements and advise you if you (a) meet or exceed requirements; (b) need to add additional cost to meet requirements; (c) can't meet them; or (d) they need clarification. Why spend the time and money bidding work only to be disqualified due to inadequate insurance, or to find out the cost to meet insurance requirements eliminates most of your estimated profit?
3. Use insurance prequalification language in your bid. You can only price so much contingency in your bid and still get a job in today's competitive market. With tight margins, you can't afford any insurance and deductible surprises. We recommend that you qualify your bid to limit your liability for Builders Risk deductibles, damage to your work from outside forces (such as earthquake, terrorism or flood), and to limit your responsibility to indemnify other parties such as the architect or engineer.
4. Don't let your estimators purchase your general liability insurance policy. When you bid projects to owners that elect to use an owner-controlled insurance policy (OCIP), you need to review the terms of the OCIP prior to the bid. We use an OCIP checklist with our clients to evaluate the key OCIP coverage issues before they elect to bid the job. Many of our clients require the CFO or president to sign off on the checklist before estimating the job.

Become educated with respect to the possible OCIP issues (coverage gaps) that are deal killers due to the fact that the insurance risk is greater than the profit potential in the job. Some of the checklist items are:

- Adequate limits to cover job exposures
- 10-year's completed operations coverage is provided
- Self Insured Retention (SIR) or deductible is reasonable
- Quality of insurer is A+ or better
- Coverage for warranty work is included in OCIP

5. Transfer risk to your subcontractors by using master subcontract agreements. Many subcontractors start work at the jobsite before signing and returning a subcontract. Today's additional insured endorsements only become effective when the subcontract is executed. The additional insured coverage exposure gap between when a sub starts work and signs your subcontract agreement can be avoided by having your frequently used subcontractors sign a master subcontract agreement. This master agreement should apply to all work performed for you unless a job-specific contract is executed.
6. Keep your subcontracts and insurance information forever. If you are sued ten years after your work is completed, your attorney will ask you to produce evidence of your insurance coverage, copy of your contract (including scope of work), and your subcontractor's insurance certificates and additional insurance coverage. Many of our clients use scanning technology to save these records, as they realize insurers and brokers usually (and legally) destroy records five to seven years after they were produced.

By following these six risk management steps, you can avoid surprise costs to your balance sheet. By educating your insurance underwriter about how you implemented these risk management techniques, they will lower your general liability premium as well.

Contact **Jim Untiedt, President at 408.418.2734, [juntiedt@pentarisk.com](mailto:juntiedt@pentarisk.com)**, or your PentaRisk broker or account executive for more information on *Managing Your Contract Risk — 6 Steps to Protect your Balance Sheet*.

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