

# Act 2: Insurance Basics

Construction Contracts, Risk & Insurance
Thursday, June 8, 2017

propel INSURANCE

# Insurance Basics



- Role of Agent/Broker
  - Manage Insurer Services
  - Identify Insurable Risks
  - Provide/Compare Coverage and Pricing Options
  - Assure Coverage is Correct
- Role of Insurance Company
  - Interpret Coverage
  - Pay Claims (or Deny coverage)
  - Loss Control Services
  - Claims Adjustment Services

# Coverage Basics



Commercial General Liability

- Pays legal liability for Bodily Injury or Property Damage occurrences to third parties. For contractors this includes operations performed during construction and completed operations post-construction.

Business Automobile Liability

- Pays legal liability For Bodily Injury or Property Damage to third parties from accidents involving use of owned, non-owned or hired autos.

Umbrella Liability

- Pays legal liability for Bodily Injury or Property Damage to third parties in excess of scheduled underlying policies--General Liability, Auto Liability and Employer's Liability

# Coverage Basics



Workers' Compensation and Employers Liability

- Workers' Compensation pays medical expenses and loss of income to employees injured on the job. Workers' comp is considered the "sole remedy for injured workers from their employers." Employer's Liability is legal liability outside the scope of Workers' Compensation. Rarely is this coverage used. It applies to legal liability of the employer for accidents or disease incurred by employees.
- In the State of Oregon, Workers' Comp and Employer's Liability are provided by either SAIF (State owned insurer) or private insurers. In Washington, Workers' Comp is provided by the State run program. Employers Liability is normally provided by the General Liability policy by a "Stop Gap" endorsement. Both States allow Self Insurance subject to State approval (size of employer and financial backing).

# Coverage Basics



Insurance Normally Purchased by Contractors (required by Contract):

- General Liability
- Auto Liability
- Excess/Umbrella Liability
- Workers' Comp

Additional Insurance Purchased by Contractors (not required by Contract):

- Contractors Equipment
- Builders Risk/Installation Floater
- Property Insurance
- Crime/Employee Dishonesty
- Pollution Liability
- Professional Liability
- Fiduciary Liability
- Employment Practices Liability
- Director & Officer Liability

# Contractual Risk Transfer



- **Certificate of Insurance** is just a piece of paper
  - Certificate holder has no rights within the policy
  - Must be accompanied by Additional Insured endorsement
- **Additional Insured** (AI) Endorsements
  - AI has rights within the policy, limited by endorsement
  - Insurance Standards Office (ISO) Forms
  - Non-Standard Forms
  - Examples:
    - CG 20 10 11 85 Arising out of "Your Work"
    - CG 20 10 10 93 Arising out of your "ongoing operations"
    - CG 20 10 07 04 Caused in whole or in part by your Acts or omissions; or

      The acts or omissions of those acting on your behalf in performing ongoing operations

# Certificates of Insurance



**ACORD™ CERTIFICATE OF LIABILITY INSURANC** Clear Save DATE (MM/DD/YYYY) current date

PRODUCER: Subcontractor's Insurance Agent

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED: Subcontractor (same as on Subcontract Exhibit A)

| INSURERS AFFORDING COVERAGE | NAIC # |
|---|---|
| INSURER A: GL Insurer Name | |
| INSURER B: Auto Insurer Name | |
| INSURER C: WC Insurer Name | |
| INSURER D: Professional Liab Insurer Name | |
| INSURER E: | |

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | POLICY NUMBER | POLICY EFFECTIVE DATE (MM/DD/YY) | POLICY EXPIRATION DATE (MM/DD/YY) | LIMITS | |
|---|---|---|---|---|---|---|
| A | GENERAL LIABILITY<br>X COMMERCIAL GENERAL LIABILITY<br>CLAIMS MADE / OCCUR<br>GEN'L AGGREGATE LIMIT APPLIES PER:<br>POLICY / X PRO-JECT / LOC | Sample | | | EACH OCCURRENCE<br>DAMAGE TO RENTED PREMISES (Ea occurrence)<br>MED EXP (Any one person)<br>PERSONAL & ADV INJURY<br>GENERAL AGGREGATE<br>PRODUCTS - COMP/OP AGG | $ 1,000,000<br>$ N/A<br>$ N/A<br>$ 1,000,000<br>$ 2,000,000<br>$ 1,000,000 |
| B | AUTOMOBILE LIABILITY<br>X ANY AUTO<br>ALL OWNED AUTOS<br>SCHEDULED AUTOS<br>X HIRED AUTOS<br>X NON-OWNED AUTOS | | | | COMBINED SINGLE LIMIT (Ea accident)<br>BODILY INJURY (Per person)<br>BODILY INJURY (Per accident)<br>PROPERTY DAMAGE (Per accident) | $ 1,000,000<br>$<br>$<br>$ |
| | GARAGE LIABILITY<br>ANY AUTO | | | | AUTO ONLY - EA ACCIDENT<br>OTHER THAN AUTO ONLY: EA ACC / AGG | $<br>$ / $ |
| | EXCESS/UMBRELLA LIABILITY<br>OCCUR / CLAIMS MADE<br>DEDUCTIBLE<br>RETENTION $ | | | | EACH OCCURRENCE<br>AGGREGATE | $<br>$ |
| C | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY<br>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?<br>If yes, describe under: SPECIAL PROVISIONS below | Sample | | | WC STATU-TORY LIMITS / OTH-ER<br>E.L. EACH ACCIDENT<br>E.L. DISEASE - EA EMPLOYEE<br>E.L. DISEASE - POLICY LIMIT | $<br>$ 1,000,000<br>$ 1,000,000<br>$ 1,000,000 |
| D | OTHER<br>Professional Liability<br>(or Errors & Omissions) | | | | $1,000,000 | |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

General Liability: "Certificate Holder" and "Project Owner" are named as Additional Insured per the attached form _____
RE: SDD Job # <OR>
RE: All Operations for the above Named Insured

CERTIFICATE HOLDER

CONTRACTOR NAME

CONTRACTOR ADDRESS

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL _____ DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

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# Certificate and AI Best Practices



- Step 1: Develop clear insurance requirements in Contractor and Subcontract Agreement
- Step 2: Determine who manages Certificates and how records are maintained
- Step 3: Make compliance mandatory for high risk subtrades, with waiver process for lower risk trades
- Step 4: Develop internal waiver process when accepting non-compliance for lower risk trades
- Step 5: Keep copies of all documents in Subcontract file. Make sure to get renewal Certificates and AI endorsements



# Conclusion and Questions

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