

PROTECTING YOUR BUSINESS

Why Construction Managers Need Professional Liability Insurance.

If you're like most construction managers, you focus your efforts on doing a good job for your clients. If a colleague's firm is sued, you can rationalize that they probably did a poor job of client selection, didn't manage the client's expectations properly or the job just got off schedule. Sound familiar?

"Just because you think you're doing a good job—and perhaps you even *are* doing a good job—that's no guarantee you won't be sued," says Betsy Good, Vice President, Victor O. Schinnerer & Co. And that's the point.

In one recent case, a construction management firm on a \$90 million hotel project was sued when the hotel couldn't open on time as a result of construction delays. The claim alleged that the construction manager failed to properly coordinate and schedule the work. Because of the number of contractors on site and the experts retained to investigate the allegation, defense costs were high. The case was eventually settled—with \$1.5 million paid for defense and indemnity costs.

Can your firm afford to make this kind of mistake? Because it's not just big firms with deep pockets that get sued—it could be you.

Consider for example, a construction manager for a new, high-end residence who worked with the owner to develop the project budget. When the bids came in 50 percent higher than the budget, the construction manager was blamed and consequently sued.

Another example is that of a construction manager on a new school project. During construction, one of the trade contractors' employees fell from the scaffolding and was injured. The injured worker sued everyone—his employer, the project owner, the design team, the general contractor *and* the construction manager. Since the construction manager had agreed by contract to supervise construction and overview safety programs developed by the contractor, he was ultimately forced to contribute \$200,000 to the global settlement.

What do these examples all have in common? An error—real or alleged—had very unintended consequences.

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Many construction managers provide multiple services—from contract preparation and negotiation to obtaining and evaluating bids, coordinating the schedule of work, cost estimating, budgeting, value engineering, code compliance, constructability review and more. If any of these services go wrong, you could be sued.

The right insurance policy can protect you and your business from the high cost of a claim. Professional liability insurance is designed to provide vital financial protection against lawsuits for professional negligence. And these policies *include* defense costs which adds an extra layer of protection. In other words, a trained attorney would be assigned to defend you against allegations, frivolous or not, leaving you to spend your time doing what you do best—construction management.

Ms. Good points out that insurance experts can provide contract review advice. This is a useful benefit in an era where more and more standard corporate and government contracts include one-sided indemnity provisions and other clauses not favorable to construction managers. "It can be helpful at times to have an insurer tell you—and your potential client—that a clause is unreasonable and explain why they won't stand behind its requirements."

Bruce D'Agostino, CAE, Executive Director of the Construction Management Association of America believes having professional liability insurance is an industry best practice. "If you don't know that you need professional liability insurance, then you shouldn't be providing construction management services," says D'Agostino. "You need to be business savvy and understand the scope of work you provide and your relationship with your clients." He adds, "if you don't carry a policy, you're not going to court because instead, you'll be bankrupt and out of business. If you ARE going to court, it's because you have insurance and someone to help defend you."

So ask yourself this fundamental question: Can you afford *not* to protect your business?

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