

# ARE YOUR SUB-CONTRACTORS INSURED?

## Design-Build Risks

Today, many general contractors offer design-build project delivery as part of an expanding menu of services. While this method of project delivery offers many benefits, general contractors need to ensure they are properly protected.

Factors arising from both the contract structure and insurance coverages (or lack thereof) could put the general contractor in danger of facing a lawsuit for damages and for incurring potentially significant defense costs for sub-consultant error. These factors include:

- **Single-Point Responsibility**

Design-build contracts assign single-point responsibility to the general contractor. That means they are legally liable for the project's design and its construction. A claim could be made against them, even if the sub-consultant is at fault.

- **Additional Insured Status**

Contractors can't be named as additional insureds on an architect/engineer/design consultant's professional liability policy.

- **Project Owner Claims**

No contractual relationship exists between the project owner and design sub-consultant, so the project owner may make a claim against the general contractor instead.

## Professional Liability Coverage

General contractors offering design-build services should always carry professional liability insurance. And, as a best practice, they should require their design sub-consultants to carry it also. Otherwise, they could be held liable for design sub-consultant errors.

When the design sub-consultant carries professional liability insurance, the general contractor has a source of recovery for claims made against them. Here's how. After a general contractor's professional liability covers a claim, they can look to the sub-consultant to recover damages and defense costs incurred due to their negligent performance...but only if the design sub-consultant has professional liability insurance.

The information contained in this publication provides only a general overview of subjects covered, is not intended to be taken as advice regarding any individual situation and should not be relied upon as such. Insureds should consult their insurance and legal advisors regarding specific coverage issues. Statements concerning legal matters should be understood to be general observations based solely on our experience as insurance brokers and risk consultants and should not be relied upon as legal advice, which we are not authorized to provide. All such matters should be reviewed with the client's own qualified legal advisors in these areas. All insurance coverage is subject to the terms, conditions, and exclusions of the applicable individual policies. Victor O. Schinnerer & Company, Inc. cannot provide any assurance that insurance can be obtained for any particular client or for any particular risk. Copyright 2007 Victor O. Schinnerer & Company, Inc. All rights reserved.

Many insurers will issue a policy to general contractors only if the general contractors require all their sub-consultants to carry professional liability. As incentive, some carriers offer premium credits or use a lower rating basis to general contractors who work only with properly insured design sub-consultants.

## Schinnerer's Professional Liability Policy Features

- Our contractor program provides coverages for direct liability arising out of the performance of professional services by in-house design professionals and for the vicarious liability of design sub-consultants.
- Coverage is also included for design delegation under the provisions of AIA Document A201, *General Conditions of the Contract for Construction*.
- The policy provides coverage for agency and at-risk construction management services.
- **Programs Available for Design Consultants:**
  - **Small Firm Program.** Architect & engineer firms with less than \$500,000 in professional billings are eligible. This program features multi-year policies and low deductibles.
  - **Premier or Large Firm Programs.** Architect & engineer firms with greater than \$500,000 in professional billings are eligible.
  - **Specialty Construction Consultants Program.** The program is for eligible construction managers, acoustical consultants, air balancers, roofing consultants geotechnical engineers, geologists, testing labs, lighting designers, elevator consultants, kitchen consultants and other construction consultants.

## Contact Us

Visit either [www.PlanetAEC.com](http://www.PlanetAEC.com) or [www.PlanetContractor.com](http://www.PlanetContractor.com) for more detailed information. You can also contact Eric Myers at 301-951-5428 or at [Eric.E.Myers@Schinnerer.com](mailto:Eric.E.Myers@Schinnerer.com).



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