

Contract Insurance Requirements

Preliminary Review

- How hazardous is the project?
- What is the anticipated duration of the project?
- What is the project's proximity to the public or employees?
- Will we require insurance?

General Coverage Requirements

- Is the named insured accurate?
- Which coverages will be required?

Specific Coverage Requirements

- General liability
 - Abuse & molestation
 - Additional insured
 - Ongoing operations
 - Completed operations
 - Advertising injury
 - Blanket contractual liability
 - Bodily injury
 - Broad form property damage (Care, custody, control)
 - Damage to premises rented to you
 - Liquor liability
 - Ongoing operations
 - Per project aggregate/project limits
 - Personal injury
 - Pollution liability (Sudden & accidental)
 - Primary & non-contributory
 - Products & completed operations
 - Property damage
 - Railroad – work within 50 feet of right of way
 - Waiver of subrogation
- Automobile liability
 - Symbol 1 (Any auto)
 - Additional insured
- Workers' compensation
 - Part A – Statutory limit
 - Party B – Employers liability
 - Waiver of subrogation
 - No officer or owner may be excluded

Contract Insurance Requirements

Specific Coverage Requirements (Continued)

- Specialty coverages
 - Aviation liability (Drones, drops, ultralight aircraft, hot air balloon, etc.)
 - Builders' risk
 - Course of construction
 - Equipment breakdown (Startup & testing)
 - Installation
 - Property in transit
 - Replacement cost / Agreed value
 - Cyber liability
 - First party
 - Third party
 - Response / Services
 - Employment practices liability (Third party)
 - Environmental liability (Pollution)
 - Excess liability
 - Participant accident (Accident & health)
 - Professional liability (Errors & omissions)
 - Accountants
 - Advice / Counsel
 - Architect, engineer, design
 - Computer programmers
 - Investment bankers
 - Lobbying
 - Railroad protective
 - Technology errors & omissions

Contract Insurance Requirements

Limit Requirements

| | | Hazard | | | |
|-----------|------|--------|----|----|-----|
| | | High | ↔ | | Low |
| Proximity | High | 15+ | 12 | 10 | 5 |
| | ↕ | 12 | 10 | 5 | 3 |
| | | 10 | 5 | 3 | 2 |
| | Low | 5 | 3 | 2 | 1 |

*In Millions (\$)

Non-Coverage Requirements

- Deductible or retention funding?
- Financial stability – Minimum AM Best carrier ratings?
- Loss history evaluated?
- Safety program in place?
- Notice of cancellation?
- Who verifies certificates?
 - Initial review
 - Ongoing
- Copies of policies with endorsements provided?
 - E.g. many special event policies exclude the very events they are evidenced to cover.

**APPENDIX A:
Risk Assessment**

Potential High Risk Situations or Special Insurance Required

- | | |
|--|---|
| <input type="checkbox"/> Crowd exposures | <input type="checkbox"/> Heavy equipment |
| <input type="checkbox"/> Plumbing | <input type="checkbox"/> Computer hardware or software |
| <input type="checkbox"/> Work involving vehicles | <input type="checkbox"/> Work near water, docks, wharves |
| <input type="checkbox"/> Work involving watercraft | <input type="checkbox"/> Work involving aircraft |
| <input type="checkbox"/> Medical services | <input type="checkbox"/> Marine work of any kind |
| <input type="checkbox"/> Legal services | <input type="checkbox"/> Construction management |
| <input type="checkbox"/> Other professional services | <input type="checkbox"/> Handling of funds or assets |
| <input type="checkbox"/> Zoning or planning services | <input type="checkbox"/> Inspection services |
| <input type="checkbox"/> Use or serving of alcohol | <input type="checkbox"/> Electrical work |
| <input type="checkbox"/> Work with natural gas | <input type="checkbox"/> Work near roads |
| <input type="checkbox"/> Work near railroads | <input type="checkbox"/> Work near airports |
| <input type="checkbox"/> Work near waterways | <input type="checkbox"/> Underground work or excavation |
| <input type="checkbox"/> Any pollution or environmental exposure | <input type="checkbox"/> Design engineering or architectural services |
| <input type="checkbox"/> Maintenance or inspection services | <input type="checkbox"/> Surveys, soil engineering, topographical surveys |
| <input type="checkbox"/> Use of caustics, flammables explosives | <input type="checkbox"/> Armed guards, use of armored cars |
| <input type="checkbox"/> Work involving utilities/provision of service | <input type="checkbox"/> Work involving boilers, pressure vessels, turbines |
-

Severity-Related Questions for the Contract Risk Analyst

- How many persons will be involved in the activity?
- What will be the nature of their work?
- How many are exposed to injury from one event?
- Can persons not associated with the project/activity be harmed?
- What is the exposure to natural disaster (earthquake, flood, windstorm, etc.)?
- What effects would a disaster have on the property or people involved?
- What would be the economic consequences of a delay (to the Entity)?
- What is the value of Entity property associated with the activity?
- Can other businesses or entities be harmed/shut down by an occurrence?
- What is the value of the property adjacent to or affected by the activity?
- What types of vehicles will be used, if any? Do they carry passengers?
- How many people will occupy/use the finished product/structure?
- How many could be harmed from an occurrence at the site?
- Could injuries result later from latent defects or poor design?
- Is there any exposure to disease, carcinogens, structural failure, crowd panic, fire, crashes, explosions or other occurrences with catastrophic potential?

The objective of these questions is to find the lurking catastrophe in the contracted activity or its aftermath. Some real-life examples of extremely severe loss incidents could include:

- Communicable disease (such as Legionnaire's disease) distributed by a ventilating system.
- Collapse of a structure (such as the 1981 Hyatt-Kansas City skywalk).
- Multiple casualties from riots such as at various popular music concerts or international soccer games.
- Plane crashes.
- Ferry sinking.
- Failure of parking structures during earthquakes.

You should determine such issues as:

- What type of activities will take place during the term of the contract?
 - Who could be harmed by these activities?
 - What property could be damaged, and how severely?
 - What is the maximum likely loss for each activity?
 - Is there a possible pollution exposure?
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- Are crowds likely to be involved?
 - Will inherently dangerous activities, such as blasting, be a part of this project?
 - Is the risk sufficient to reject bids not meeting specifications exactly?
 - How likely is it that my Entity would be a defendant in the event of a loss?
 - Should we agree to a mutual waiver of subrogation?

To obtain answers to some of these questions, you may need to confer with your Entity's legal counsel or risk management advisor. The identification of risks involved in the contemplated activity is possibly the most important part of the process of managing risks in contract situations. It requires time and thought.

Checklist for Evidence of Insurance

Certificate(s) of Insurance:

- Evidence provided for each type of insurance required in the contract (e.g., “Commercial General Liability”, Auto Liability, Workers Compensation with Statutory Limits, and Professional Liability or E&O per the contract specifications)
- General liability is on an “occurrence” basis, not “claims-made.”
- Auto liability covers “any auto” (or non-owned & hired if contractor has no autos).
- Limits are at least as high as the minimum required in the contract.
- Workers Compensation provides Statutory Limits & Employers’ Liability of \$1 million
- Policies are current and will be suspended (tickler filed) for renewal follow-up if the contract period runs beyond the policy expiration date.
- Excess liability policies have coverage periods concurrent with primary policies.
- Insured name is the same as Contractor named in the contract.
- The insurer’s A.M. Best and Standard & Poor’s ratings meet or exceed the Entity’s minimum requirements.
- The insurer is admitted in California, or non-admitted is acceptable ___ yes ___ no.
- No self-insured retention (SIR) on liability policies. Any must be disclosed & approved.
- Descriptions of operations, locations, etc. are correct.
- Certificate Holder (your entity) is correct, with attention to correct person.
- Certificate provides for 30-day notification (10 days for non-payment) to Entity of changes or cancellation.
- Certificate includes signature of authorized representative.

Endorsement(s)

- Additional Insured Status** - e.g., Form CG 20 10 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if forms with later edition dates provided
 - Primary Coverage such as ISO CG 20 01 04 13**
 - Waiver of Subrogation**
 - Notice of Cancellation**
 - “Blanket” Endorsement covering one or more of the above endorsements required.**
 - Entity-supplied endorsement provided and signed.**
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(Sample follow-up letter if insurance verification incomplete)

Entity of XYZ

Date of Letter

ABC Construction Company
c/o Insurance Agent _____

Re: Compliance with Insurance Requirements

The documents you have submitted in compliance with contract _____ are being returned to you for the following reasons:

- Need original (or certified copy) of (certificate) / (endorsement) / (policy)
- Need original signature
- Additional insured incorrect, should read: _____
- Description of (operation) / (location) incorrect
- Insufficient limits
- (Deductible) / (SIR) not approved
- Wrong coverages, i.e., _____
- Wrong forms, i.e., _____
- Insurer does not meet minimum requirements
- Policy has expired or is about to expire
- Required waiver of subrogation not included
- Primary language required such as ISO CG 20 01 04 13
- Other information:

Please make the necessary changes and return the correct documentation to me. No order to proceed will be issued until the correct forms have been submitted.

Sincerely,

Entity of XYZ

Project Name/Purchase _____

Check One: Construction Services (specify) _____
 Purchase Lease (specify) _____

Insurance Company Ratings, Coverage and Limit Guideline

BEST Secure Ratings

NOT RECOMMENDED

| | | | | | | | | |
|----------|-----|----|-----------|---|----|-----------|-----|----|
| Superior | A++ | A+ | Excellent | A | A- | Very Good | B++ | B+ |
|----------|-----|----|-----------|---|----|-----------|-----|----|

BEST Financial Size Categories

NOT RECOMMENDED

| | | |
|---------------|---------------|--------------|
| Class XI – XV | Class VII – X | Class I - VI |
|---------------|---------------|--------------|

Coverage Minimum Limit Guidelines

| Form | Basis | High Risk | Medium Risk | Low Risk | NOT RECOMMENDED | | Approved Amount | N/A |
|---|-------------|--|-------------|-------------|-----------------|-----------|-----------------|-----|
| CGL | Occurrence | \$5 million | \$2 million | \$1 million | \$500,000 | \$250,000 | | |
| | Aggregate | \$10 million | \$5 million | \$2 million | \$1 million | \$500,000 | | |
| BAC | Occurrence | | \$2 million | \$1 million | \$500,000 | \$250,000 | | |
| WC and EL | | Statutory Limits | | | | | | |
| | | \$1 million | | | \$500,000 | \$250,000 | | |
| ++++ Option for sole proprietors and excluded employees +++++ | | | | | | | | |
| | Health Ins | Employment related injuries not excluded | | | | | | |
| | Disability | Comparable to Statutory limits | | | | | | |
| CC/BR | | Completed Project Value | | | | | | |
| Property | | Full Replacement-No Coinsurance | | | | | | |
| E&O/PL | Occurrence* | \$10 million | \$5 million | \$1 million | \$500,000 | \$250,000 | | |
| | Aggregate | \$10 million | \$5 million | \$1 million | \$500,000 | \$250,000 | | |
| Pollution | Occurrence* | \$10 million | \$5 million | \$1 million | \$500,000 | \$250,000 | | |
| | Aggregate | \$10 million | \$5 million | \$1 million | \$500,000 | \$250,000 | | |
| *Claims Made | | | 5 year tail | 3 year tail | 1 year tail | no tail | | |

Indicate approved amount unless recommended coverage is not applicable

Recommendation _____ Date _____
 Project Manager/Purchasing Agent

Approval _____ Date _____
 Director Facilities Planning/Director Support Services

Contract Review Checklist

HOLD HARMLESS / INDEMNIFICATION REVIEW

1. Contract Date/Parties:
2. Party(ies) Accepting Risk:
3. Type of Risk Accepted Negligence Other
4. Breadth of Risk Accepted Own Joint Sole
5. Nature of Damage/Injury Accepted: Direct Consequential
- Property Damage: Our property Other party's property Property of third persons
- Bodily injury/personal injury: Our employees Other party's employees Third party employees

INSURANCE REVIEW

No answer means either it is not mentioned in the contract or it is specifically rejected.

| | Required of you | | Required of Other Party | |
|--|------------------------------|-----------------------------|------------------------------|-----------------------------|
| | YES | NO | YES | NO |
| 1. Liability Insurance | | | | |
| a. Is it required? | _____ | _____ | _____ | _____ |
| b. Limits of Liability | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| c. Special coverages required | _____ | _____ | _____ | _____ |
| d. Occurrence vs. claims made coverage | _____ | _____ | _____ | _____ |
| e. Named as additional insured | _____ | _____ | _____ | _____ |
| f. Cross liability | _____ | _____ | _____ | _____ |
| g. Contractual limits required | _____ | _____ | _____ | _____ |
| h. Cancellation notice | _____ | _____ | _____ | _____ |
| i. Certificate or other evidence | _____ | _____ | _____ | _____ |
| j. Other: _____ | _____ | _____ | _____ | _____ |
| 2. Workers' Compensation | | | | |
| a. Is it required? | _____ | _____ | _____ | _____ |
| b. Contractor's employee / borrowed servants | _____ | _____ | _____ | _____ |
| c. Waiver of subrogation | _____ | _____ | _____ | _____ |
| d. Federal acts | _____ | _____ | _____ | _____ |
| e. All states and employer's stop gap | _____ | _____ | _____ | _____ |
| f. Cancellation notice | _____ | _____ | _____ | _____ |
| g. Certificate or other evidence | _____ | _____ | _____ | _____ |
| h. Other: _____ | _____ | _____ | _____ | _____ |
| 3. Property Insurance | | | | |
| a. Is it required? | _____ | _____ | _____ | _____ |
| b. Valuation method required | <input type="checkbox"/> ACV | <input type="checkbox"/> RV | <input type="checkbox"/> ACV | <input type="checkbox"/> RV |
| c. Additional named insured / additional insured | _____ | _____ | _____ | _____ |
| d. Waiver of subrogation | _____ | _____ | _____ | _____ |
| e. Cancellation notice | _____ | _____ | _____ | _____ |
| f. Certificate or other evidence | _____ | _____ | _____ | _____ |
| g. Other: _____ | _____ | _____ | _____ | _____ |
| 4. Automobile Liability Insurance | | | | |
| a. Is it required? | _____ | _____ | _____ | _____ |
| b. Valuation method required | _____ | _____ | _____ | _____ |
| c. Additional named insured / additional insured | _____ | _____ | _____ | _____ |
| d. Waiver of subrogation | _____ | _____ | _____ | _____ |
| e. Cancellation notice | _____ | _____ | _____ | _____ |
| f. Certificate or other evidence | _____ | _____ | _____ | _____ |
| g. Other: _____ | _____ | _____ | _____ | _____ |

Risk Analysis Worksheet

| <i>Activity Contemplated in Contract</i> | General Liability | Automobile Liability | Workers' Comp. | Errors & Omissions | Builder's Risk | Aircraft Liability | Special Coverage |
|--|--------------------------|-----------------------------|-----------------------|-------------------------------|-----------------------|---------------------------|-------------------------|
| <i>Advertising, publication</i> | ✓ (1) | | | | | | |
| <i>Aircraft; use, ownership or maintenance of</i> | | | ◇ (Statutory) | | | ✓ (10) | |
| <i>Animals; care use of, maintenance of</i> | ✓ (1) | | ◇ (Statutory) | | | | ✖ (?) |
| <i>Caustics; use or handling of</i> | ✓ (3) | ◇ (5) | ◇ (Statutory) | | | | ✖ (3+) |
| <i>Child care</i> | ✓ (5) | ◇ (1) | ◇ (Statutory) | | | | ✖ (5+) |
| <i>Construction, remodeling</i> | ✓ (5) | ✖ (5) | ✓ (Statutory) | ✖ (1+) | ✖ Value | | |
| <i>Crowd (more than 10 persons)</i> | ✓ (5+) | ◇ (1) | ◇ (Statutory) | | | | |
| <i>Docks/wharves; use, ownership or maintenance of</i> | ◇ (5) | ◇ (1) | ◇ (Statutory) | | | | ✓ (5) |
| <i>Electricity; use of, electrical work, repair</i> | ✓ (3) | ◇ (1) | ◇ (Statutory) | | ◇ Value | | |
| <i>Emission or discharge of potentially</i> | ✓ (5) | ◇ (1) | ◇ (Statutory) | | | | ✓ (5+) |
| <i>Explosives; use of, storage, transportation or handling</i> | ✓ (10) | ◇ (5) | ◇ (Statutory) | | ◇ Value | | ✖ (5) |
| <i>Flammables, usage of</i> | ✓ (5) | ◇ (1) | ◇ (Statutory) | | | | |
| <i>Food; service, sales</i> | ✓ (3) | ◇ (1) | ✓ (Statutory) | | | | |
| <i>Medical services, skilled</i> | ◇ (1) | ◇ (1) | ◇ (Statutory) | ✓ (3+) | | | ✖ (?) |
| <i>Nuclear/radioactive material; use of</i> | ✓ (1) | | | | | | ✖ (5) |
| <i>Plumbing/sewer; maintenance, construction, repair</i> | ✓ (3+) | | | | ◇ Value | | |
| <i>Professional services, other than medical or design</i> | ◇ (1) | ◇ (1) | ◇ (Statutory) | ✓ (1+) | | | |
| <i>Professional services; engineering, architectural</i> | ◇ (1) | ◇ (1) | ◇ (Statutory) | ✓ (1+) | ◇ Value | | |
| <i>Railroads; use, ownership or maint. of, operations near</i> | | | | | | | ✓ (RR sets) |
| <i>Toxics; use or handling of</i> | ✓ (3) | ◇ (5) | ◇ (Statutory) | | | | ✖ (5+) |
| <i>Trucking, transportation, solid waste hauling</i> | ◇ (1+) | ✓ (5+) | ◇ (Statutory) | | | | |
| <i>Tunneling; excavation</i> | ✓ (10) | ◇ (1+) | ◇ (Statutory) | | ◇ Value | | ✖ |
| <i>Watercraft; use, ownership, maintenance of</i> | ◇ (1) | | ◇ (Statutory) | | | | ✓ (1+) |
| <i>Weapons; use, ownership or maintenance of</i> | ✓ (5+) | ◇ (1) | ◇ (Statutory) | | | | ◇ (?) |
| <i>Welding, cutting with torch</i> | ✓ (5) | ◇ (1) | ◇ (Statutory) | | ◇ Value | | |

Key: ✓ = Required ✖ = Probably required ◇ = May be required

Courtesy of the California Joint Powers Risk Management Authority

Identify the types of risks involved in the contract you are analyzing.

For each required category of insurance, use the activity with the highest risk number to determine limits to require.