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THE CONSTRUCTION MANAGER'S GUIDE TO COMPLIANCE

Six Key Strategies for Risk Mitigation in Construction Management

MANAGING RISK

The job of a construction manager involves some heavy lifting, far beyond roof trusses and dry wall. The role coordinates project deliverables, purchases materials, hires contractors, and maintains the budget. Letting any detail fall through the cracks could bring a jobsite to a grinding halt. But as today's projects grow in size, scope, and volume, staying on top of every detail is more difficult than ever. That gives construction managers another big responsibility — **mitigating risk.**

A split decision to cut corners when it comes to risk prevention and insurance compliance could be the difference between a construction project that makes millions or one that loses everything. Consider these alarming numbers:

- Construction has the sixth-highest rate of incidents involving nonfatal occupational injuries and illnesses.

- Up to 20.5% of U.S. construction companies misclassified their workers as independent contractors or had them working off the books in 2017, depriving them of insurance protections.

- About 75% of US businesses are underinsured by at least 40%.

- Costs and compensation paid in the US tort system totaled $250 billion from general and commercial liability exposure in 2016.

The data clearly illustrates a critical point: construction management is risk management.

Fortunately, these statistics do not need to weigh a construction manager down. A foundation of daily risk mitigation strategies is the best blueprint for success. Discover the tools every construction firm needs to build an effective risk management program before the next project begins.

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REVIEW THE
CONTRACT

The contract represents the first line of defense in protecting a construction project. Issuing a strong third-party agreement prevents litigation and claims by detailing the rights and responsibilities of the signatories. This includes setting operational conditions and insurance requirements. A good contract issues legally binding guidelines for vendors, contractors, and suppliers to work on a jobsite or project.

MATCH THE CONTRACT TO THE BUSINESS

Get rid of one-size-fits-all contracts. The scope of work varies between different contractors and vendors. So do the risks third parties introduce to a project. Ensure the agreement includes language specific to a contracted business's unique operations. If a loss occurs, insurance companies reference the written contract to clear up any ambiguity related to job expectations and requirements.

MAINTAIN SIGNED COPIES

Retain copies of signed contracts and make them easily accessible. In the event of a claim or litigation, insurers may seek to verify specific contract language as it applies to the loss. Construction managers often mistake a request for proposal (RFP) agreement, verbal deal, or Certificate of Insurance (COI) as an adequate replacement for a signed contract. These will not suffice for fighting a contractor's claim.

DEFINE INSURANCE COVERAGES

Require that every vendor, contractor, and supplier operating on a jobsite carry insurance. Define the specific coverages and minimum liability amounts in the contract as they relate to each third party's line of business. Mandating general liability insurance only may not suffice. Specify all policies needed (e.g., Workers' Compensation, Professional Liability, Contractors Pollution, Builders Risk, and Auto).

The contract also should outline if the policy must cover ongoing or completed operations. With ongoing operations, insurance coverage applies only while a project is active. Completed operations extend coverage after a project has finished. This is an important distinction because faulty work, material defects, or negligence often are not found until several years after a project's conclusion.

REQUIRE COVERAGE ENDORSEMENTS

Specify insurance endorsements within the contract requirements. Endorsements amend a standard insurance policy in some way and specify how the coverage applies in the event of a claim. Two important endorsements when working with third parties are:

Additional Insured

This endorsement provides coverage to the upstream construction company under a contracted entity's insurance policy. The endorsement works to prevent financial losses to the construction firm by keeping the ownness of claims closest to the entities most likely to create them—the third-party contractors working on the job.

Primary & Non-contributory

When the same event triggers multiple policies, this endorsement specifies the order in which they apply. The clause should state that the contractor's policy is primary to the loss without seeking contribution from the additional insured's (construction firm) policy.

VERIFY INSURANCE COVERAGE

Claims and losses are inevitable. Out-of-pocket costs and lengthy litigation when claims occur are not. At any moment a roof could collapse, a person falls off a ladder, or a supplier ships defective materials. Insurance protects construction companies and offers financial peace of mind against the liabilities of contractors and other third-party operations. Clearly outlining and verifying insurance coverage ensures the construction firm is not the "financial first responder" for accidents or wrongdoing outside of its control.

VALIDATE CONTRACT COMPLIANCE

Collect a COI and copies of endorsements from every entity operating within a jobsite. Simply outlining insurance requirements in the contract and then trusting that a third party has adequate coverage creates an unnecessary risk exposure. In fact, if an insurance audit finds a contractor without proper coverage, the construction company gets charged higher premiums to make up the difference. Plus, a breach of contract lawsuit against a contractor takes time and money to resolve. COIs provide legal confirmation that appropriate coverages exist regarding policy lines, endorsements, and financial limits. By reviewing each COI, construction managers and their compliance team protect each entity's operation, including their own.

CONFIRM COVERAGE BEFORE WORK BEGINS

Approve insurance coverage before any third party steps onto a jobsite. Time often passes between the date when an agreement is signed and when operations begin. Plenty can happen during that gap, including insurance policy changes. Even if a COI was checked at contract signing, verify its coverages again before allowing a contractor to operate on the property.

TRACK EXPIRATION AND RENEWAL DATES

Insurance is expensive and easy to cancel. The minute a third party's insurance policy terminates, the upstream construction company becomes liable for all claims and losses. When reviewing a COI, note the expiration date. Proactively notify the contracted party or their insurer that an updated COI is required at least 30 days before the policy's scheduled cancellation. Cease operations immediately upon expiration until receiving an updated certificate of insurance. Periodically request updated COIs throughout a contract to ensure coverage remains active.

CONDUCT
ONBOARDINGS

Onboarding third parties is an important step for construction managers because it sets the foundation for the relationship. Onboardings provide good opportunities for explaining compliance, breaking down contract legalease, and training contractors on operational expectations for the project. Important to any onboarding is a discussion on working safely and mitigating risky practices that contribute to claims.

Include all third parties

Invest the time to onboard all third parties operating on the jobsite. This applies even to contractors doing a one-day job. Start by reviewing compliance documentation. Address contract jargon as it applies to everyday work, distribute contact numbers for questions or issues, and discuss safety and security. Ask third parties to acknowledge the onboarding to eliminate the "I didn't know that" defense should a claim arise.

Set expectations

Establish a well-defined structure for operating on a jobsite. Clear policies and procedures prevent costly issues down the line. Examples include requiring contractors to keep work areas free of debris or conducting two-party safety checks of equipment. Construction managers also should outline policies for a contractor hiring a subcontractor and the insurance requirements involved. Finally, address how claims, injuries, and damages should be managed if they occur.

ESTABLISH KEY PERFORMANCE METRICS (KPMS)

No shortage of key performance metrics (KPMs) exist in business. The adage of "what gets measured gets managed" holds true. Construction managers frequently track materials, expenses, and on-time performance because they easily correlate to overall profitability. Creating KPMs around insurance compliance provides another important way to improve the bottom line. The data establishes benchmarks for current performance and creates improvement goals.

COI COMPLIANCE

Assess performance in this area by verifying Certificates of Insurance (COIs) for all entities and documenting how many are inactive or non-compliant. Strive for compliance above 90% for each project.

LOSS HISTORY

Track the number of incidents resulting in a loss by project. Audit incident reports for causation, as well as timeliness and detail in documenting the event. Measure preventable versus unpreventable incidents. Use the findings to create trainings and processes that help avoid future liabilities. Every jobsite should work toward zero preventable incidents.

ISSUE RESOLUTION

Every project has its problems. From a leaky faucet to a faulty gas line, the price of construction errors add up. The key is catching and resolving them early. Establish a process for routine work checks. Track how long it takes to resolve identified issues. Monitor if work orders and punchlists are completed by their due dates. Use the data to hold staff and contractors accountable.

Safety Checks

Construction managers hold responsibility for maintaining a safe jobsite. When a project runs behind, it may be tempting to sacrifice safety for speed. That is a gamble no construction company can afford to lose. Low safety and high claims go hand in hand. Create a safety culture by empowering everyone on a project to report unsafe conditions or practices. Quickly address the issue through coaching. Track the number of reports by contractor and eliminate those with pervasive violations. Report number of days without a safety incident throughout the work site.

Staff Training

Employee training makes all KPM insurance compliance goals possible. Identify what positions require training and establish a long-term cadence for education across all projects. Staff should have a good understanding of unique contract requirements, the compliance verification process, emergency management, and how to handle claims and loss events. Aim to have 90% or more of employees current with training at all times.

LEVERAGE
TECHNOLOGY

Developing a sound risk mitigation strategy and finding time to execute on the process can leave even the best construction managers overwhelmed. Technology is here to help. COI management platforms offer time savings, organization, and an additional line of defense in proactively preventing claims.

AUTOMATE COI TRACKING

Eliminate error-prone and labor-intensive spreadsheet tracking. Implement a system with a digital repository for all contracts and COIs. The system should allow for COI uploads directly from insurers and automatically issue renewal notices to contractors, vendors, and suppliers. Good COI management platforms also provide non-compliance alerts and risk insights for preemptive action. Automated COI tracking increases third-party compliance while decreasing the time construction managers and risk teams must spend tackling this tough task.

INTEGRATE SYSTEMS

Remove risk management silos within a business by integrating platforms for shared data. Construction companies often use RFP, contract, accounting, and risk management platforms independently. By connecting the systems, risk can become an actionable priority for all teams. That makes construction managers a key line of defense rather than the only protection.

CREATE CONTROLS

Use technology for process controls that reduce errors and increase accountability. For example, identify disqualification questions within an RFP that prevent a bidder from progressing to the contract stage. Automatically withhold financial payments to contractors flagged as non-compliant. Technology allows for behind-the-scenes checks that busy people on the front lines may miss.

AUDIT
THE PROCESS

Risk management is not a "set it and forget it" process. Just like any construction project, risk requires constant attention. Plus, any strategy needs to be refined over time. As the business evolves, so should the way it works to fight risk.

AUDIT THE PROCESS

Risk mitigation strategies must constantly be adapted to keep pace with your business's growth.

- Test that processes are conducted effectively and identify areas of improvement.
- Address inefficiencies, knowledge gaps, and nonconformities.
- Monitor KPMs daily or weekly and make the data visible to all departments impacting the performance.
- Match incremental enhancements with loss prevention numbers and continue modifying until all goals are achieved and maintained.

Managing risk is no longer a defensive exercise in today's construction environment. Hoping a problem will not occur or that insurance will cover all risk-related issues is a doomed strategy.

Operating proactively is important.

A survey of engineering and construction firms discovered that more than one-third of companies found themselves ineffective at managing risk. Yet the companies saw a direct correlation between profitability and success by identifying and mitigating risk.

Formalizing and following a corporate risk management plan is good for business. It boosts the bottom line while building a powerful reputation among the clients, insurers, lenders, and contractors who want to come onboard.

ABOUT
MYCOI

If your company is ready to solve the compliance juggling act, direct these questions to myCOI. Our intuitive cloud-based solution is backed by a team of insurance experts to keep organizations protected from costly claims. Clients benefit from a comprehensive system for COI tracking, compliance, and risk reporting. Automated processes increase efficiencies and minimize risk. Plus, system integrations create workflow connections that stop noncompliance whenever and wherever it occurs. Make dropping the ball on compliance a thing of the past with myCOI.

For more information or to schedule a free demo visit **mycoitracking.com/request-a-demo** or call **(317) 759-9426**.