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How to Select Your Company's Insurance Agent or Broker, Part 1



All too often insurance representatives act – and are treated – like salespeople who simply provide a commodity to the industry.

This is a missed opportunity because the right relationship with the right person or team can provide your company with so much more ...

Not Your Typical Business

The loss exposures and, thus, the risk management and insurance needs of contractors are highly complex and very different from other types of businesses. For example, contractors face a completed operations liability exposure involving construction defect risks that are both catastrophic in nature and tricky to insure.

In addition, contractors work side-by-side with other contractors – creating unique circumstances in which other contractors' employees may be injured or their property damaged.

Complex contractual arrangements shift risk among the various parties. And, errors in these arrangements, or the insurance programs intended to respond to them, can produce dire financial consequences. *Few, if any, other industries utilize contracts so extensively to shift risk.*

These unusual aspects of construction risk and insurance require a specialized knowledge and experience that, frankly, some agents and brokers do not possess.

At the same time, risk management and insurance are major competitive factors in the construction marketplace. Insurance costs affect the ultimate bid amount for every job.

And safety records, often reflected by workers' comp experience rating modifiers, are increasingly used to pre-qualify contractors eligible to bid on projects.

The Importance of a Specialist

Most contractors are not large enough to employ a full-time person to manage their risk and insurance programs. Instead, this responsibility often falls to a very busy president, controller, or CFM, who then asks an assistant to handle many of the day-to-day activities.

And, with little or no in-house risk management expertise, many risk management functions are delegated by default to the company's insurance representative (e.g., insurance agent or broker).

Insurance agents and brokers play a different, but still important, role with larger contractors who employ risk managers. They can: 1) share methods for managing risk that have worked for other clients, 2) give the risk manager a sounding board to consider new ideas, and 3) provide resources for analyzing and implementing programs.

All of this means that a top-notch insurance representative can substantially increase your company's ability to win jobs, profit from those jobs, and avoid (or survive) those calamities that are so common in the risky business of construction.

The key is to find the most knowledgeable and professional insurance agent or broker possible who will provide you with valuable advice and represent your company in the insurance marketplace.

Here's an important tip: Friendships or relationships should not influence your choice of agent or broker. Instead, undertake a thoughtful and knowledgeable evaluation/selection process – the same type of process you would use to choose an attorney or CPA.

Part 1 of this article seeks to impart much of the knowledge you need and Part 2, which will appear in the November/December 2007 issue, proposes a process to follow.

Types of Insurance Representatives

There are a few basic ways that commercial lines insurance companies market their products. The most common is through independent insurance agents and brokers. These are business organizations that represent or place business with multiple insurance companies on a nonexclusive basis.

Independent agents have contracts with the insurers they represent and are the legal representatives (i.e., agents) of the insurers. *Brokers* are independent businesses that act as legal representatives (i.e., agents) of their clients and shop various markets to obtain appropriate insurance coverage

at competitive premiums. True brokers have no agency relationship with insurers.

Today, however, the distinction between agents and brokers has blurred. Most state insurance regulations make little or no distinction between them and both types of firms claim to “represent their clients’ best interests,” despite the slight legal differences. So, while it might be beneficial to understand whether your company's insurance representative is a broker or agent, this should probably not be a critical factor in choosing an insurance representative.

Independent agents and brokers are usually paid commissions by insurance companies, although fees are becoming more common. Commissions vary by line of coverage and generally range from about 6% for workers' comp to 25% for surety, with an average of about 10%.

In some cases, insurers will have bonus systems (called contingency commissions) that are not tied to specific accounts, but instead, reward the agent or broker for placing a profitable book of business with the insurer. Concern that such arrangements may cause conflicts of interest in the agent's or broker's choice of insurers has sparked controversy (and attorney general lawsuits) in recent years, and the larger national brokers no longer accept such commissions.

Instead of using independent agents and brokers, some insurance companies market their products through *exclusive agents* who represent only that insurer. The exclusive agent is not a salaried employee of the company, but does earn a commission.

Other insurance companies, usually referred to as *direct writers*, market their insurance products and services through sales representatives who are company employees. These salespeople represent the insurer exclusively and earn a salary, a commission based on premium volume, or both.

Today, there are only a handful of direct writer or exclusive writer insurance companies serving the construction industry. Those that do often focus on high-quality risk control and claims services to distinguish themselves from the insurers who rely on independent agents and brokers as their marketing arms.

The primary disadvantages typically cited with respect to such insurers are: 1) the loss of the advice and services that a professional agent or broker can provide, and 2) the inability of some of these insurers to offer all the lines of coverage that contractors may need, such as design or pollution liability.

Whether your company's insurance representative is an independent agent, broker, exclusive agent, or direct writer employee is probably not that important. Rather, the representative must be experienced and able to provide the advice, insurance coverages, and services your company needs.

How Many Should You Use?

As a general rule, your company should retain only one or two insurance representatives. The most effective approach to risk management will generally result from a long-term partnership with your insurance representative(s).

The opportunity to develop an in-depth understanding of your company's risks, preferences, and needs will yield more effective advice and better representation in the insurance marketplace. Why? Because the best agents and brokers learn their client companies "inside and out" and provide valuable advice and services far beyond the delivery of insurance policies.

By concentrating your business with one or two firms, you can: 1) maximize your company's buying power, as it becomes a more important client, 2) increase your ability to develop a trusting business relationship, and 3) reduce the possibility of communication breakdowns.

For these reasons, many contractors choose to work with only one insurance representative. Certainly most mid-size and small contractors should use only one. However, some contractors believe that involving two or more insurance representatives on their accounts provides a healthy element of competition and a backup in case the relationship with one of them sours.

Also, using more than one agent or broker helps to secure specialized expertise. For example, an agent or broker that specializes in professional liability or surety might be best for those types of placements, while another agent or broker is used for the more traditional insurance lines.

If your company chooses to split its account between multiple representatives, it's wise to divide the insurance program logically to avoid dangerous communication breakdowns. For example, one insurance representative might manage all the casualty insurance (e.g., workers' comp, general liability, auto, and umbrella), while another provides all the property insurance (e.g., building and contents, equipment, and builder's risk).

Failing to do this can create errors in reporting claims, in addition to requiring duplicate reporting of exposure data for renewals. For example, splitting general and umbrella liability

insurance between two insurance representatives would require that losses be reported to both of them, rather than only one – increasing the chance of omissions and the possibility of a claim denial.

When to Make a Change

Your insurance representative should be your partner in finding the most efficient ways to manage your company's risk and enhance its competitive position in the construction marketplace. When you find an insurance representative or team that does this, nurture that relationship for the long-term.

It's a good idea to review the level of your representative's service annually, just as you conduct employee reviews on a regular basis. If you decide that your company is not receiving superior service on a timely basis, or you don't trust your representative's team to put your company's interest above its own, then definitely consider a change.

But, never conduct a selection process if you are not willing to change firms. Wasting other people's time on an exercise designed to keep your current representative "honest" will result in a loss of credibility that can only hurt your company in the future.

Important Company Attributes

Construction-Specific Experience

To choose a *superior* insurance representative, you must consider both the firm and the team that will actually service your account. Given the unique nature of construction risk and insurance, it's best to find a firm and a team with substantial construction knowledge and experience.

This does not mean that the firm or account team must be dedicated *only* to the construction industry, but you definitely want a firm and a team that both knows construction and works with other contractors.

Size of the Construction Business Book

To some extent, the size of the construction business book the firm places with insurers will influence its ability to obtain the best prices, coverage, and services for their construction clients.

Thus, consider a firm with a sizeable book of construction business, preferably from contractors of similar size and with similar operations, since they tend to be attractive to the same insurers.

On the other hand, it's often better to be a big fish in a small pond than a little fish in a big one. You will be a more impor-

tant client if you are one of the larger accounts served by the firm (or the local office of a large firm).

So, when choosing a firm, you should first establish that it has a substantial presence in the construction marketplace and then consider how both the firm in general and its local office matches your company in size and operational scope.

Ethical Considerations

It's also wise to consider the overall ethics and integrity of the firm and of the individual team members dedicated to your company's account.

For example, does the firm have a written ethics policy, and can team members tell you specific ways that ethical behavior is encouraged and rewarded? Has the firm earned a solid reputation in the business community for integrity and professional service?

Important Representative Attributes

Here's another important tip: The team that actually works on your company's account is more important than the firm that employs them. After all, it will be the team's responsibility to keep the promises made during the sales process.

The lead account executive or producer and the customer service representative(s) (CSRs), or marketing representative(s), must have substantial construction knowledge and experience. So, ask for references from other construction companies and compare the operations and size of these contractors to your company.

Agents and brokers are required to take continuing education (CE) courses to keep their licenses, and there are many construction risk and insurance CE options available. So, ask your team members what courses or seminars they've taken in the last few years that are *specific to construction*. If all the courses they've taken are generic or apply to other industries, they may not be that committed to serving the construction industry.

And, make certain that the answers *apply to the actual people*

who will work on your account. Sometimes, sales presentations include specialists who will have little or no involvement with your company's future program. While the availability of such experts is a definite plus, it's important to know just how involved they'll be on a day-to-day basis, and to weigh such resources accordingly.

Also, participation in construction associations provides another indicator of construction-industry focus. Do team members belong to CFMA or other associations representing your company's construction specialty? Do they attend meetings regularly, and do they seem knowledgeable and professional?

Insurance Certifications

Insurance certifications prove both general knowledge of the industry and specialized construction-insurance expertise. Four of the more important insurance certifications are described below.

The *Chartered Property Casualty Underwriter (CPCU)* certification is a true professional designation because recipients pledge to abide by a code of ethics that requires them to put their clients first.

The CPCU has the most rigorous curriculum and testing process of any property and casualty insurance designation and is, therefore, the most prestigious. However, it is general in nature and does not focus specifically on construction risk and insurance.

The *Certified Insurance Counselor (CIC)* designation is awarded to those who attend five seminars covering insurance topics and pass a final exam following each seminar.

To maintain this certification, recipients must attend a CIC seminar every year after it is earned. Like the CPCU, the CIC curriculum is general in nature, covering commercial and personal lines insurance topics.

The *Construction Risk and Insurance Specialist (CRIS)* certification is awarded to those who study and pass the final exams for five construction-focused risk management and insurance courses. Once the certification is earned, CRIS designees must periodically update their construction risk knowledge through CE courses.

Agents and brokers who obtain and maintain this certification demonstrate a strong commitment to serving the construction industry. You can verify that an agent or broker has the CRIS designation (or find an agent in your area who has one) at www.CRIS-CE.com/CrisceCom/Directory.



Web Resources:

1. **CPCU:** www.aicpcu.org/flyers/cpcu.htm
2. **CIC:** www.scic.com/CIC/CICmain.htm
3. **CRIS:** www.CRIS-CE.com
4. **ARM:** www.aicpcu.org/flyers/arm.htm

The *Associate in Risk Management (ARM)* designation is earned by completing three college-level courses focusing on the risk management process and techniques. Though it does not focus on the specific needs of contractors, it is an excellent program overall.

Conclusion

Construction risks and the approaches to managing and insuring these risks are complex. Effective and efficient construction risk management requires specialized knowledge and expertise that some agents, brokers, and insurer representatives simply do not possess.

On the other hand, a carefully selected insurance representative can provide ideas, resources, and superior insurance coverages to increase your company's competitive position and ensure its survival in the event of an unforeseen catastrophe.

In the next issue, Part 2 of this article will outline a process for selecting the best insurance representative for your company.

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