

FIVE SITUATIONS WHEN PRACTITIONERS SHOULD CONTACT INSURANCE PROFESSIONALS

By José Vera, P.Eng., MEPP

There are a number of scenarios that could require an engineering practitioner to contact their firm's insurance broker or professional liability insurance provider. Here, we share five common situations that require early communication with insurance professionals due to the risks involved.

1. Walking away from a project

PEO's practice advisory team regularly receives calls from frustrated practitioners who are considering having their professional engineering firm walk away from a project—for example, firing a client due to non-payment. Payment is a complicated issue because sometimes the client intends to pay, but due to circumstances, is simply late.

PEO practice guidelines are silent in this matter, since payment is an issue outside of the *Professional Engineers Act* (PEA); therefore, it is up to the firm's management to decide how to proceed. However, terminating a contract can have serious consequences, so management should think twice before walking away from a project, and they should consult their firm's professional liability insurance provider as well as their firm's legal counsel to review all available options first. If payment is an issue, depending on the circumstances and the advice of legal and insurance professionals, it may make better business sense for a firm to simply complete a project and seek payment afterwards than to walk away and be exposed to the risk of legal action for unlawful breach of contract or even claims of negligence.

2. Creating contract language

Unlike large professional engineering firms, small- and medium-sized firms often do not have their own legal department to assist with the drafting of contracts. Nonetheless, to manage contract risk, firms that do not have their own legal counsel can still consult with external lawyers. Furthermore, professional liability insurance providers can recommend contract language to use as well as contract language to avoid. Additionally, practitioners who develop contracts should consider taking a contract-writing course to help manage contract risk.

3. Developing a document retention policy

Developing a document retention policy in a professional engineering firm is an issue outside of the PEA that can cover several different laws and therefore requires the input of insurance, legal and tax professionals. Consequently, practitioners are encouraged to contact their firm's professional liability insurance provider for information on developing an effective document retention policy for their firm.

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4. Obtaining assistance with pre-claim disputes

Some professional liability insurance providers offer pre-claims assistance to help practitioners resolve potential disputes with clients before a claim is made. Although PEO takes no position on this matter, it should be noted that taking a proactive approach vis-à-vis client disagreements can sometimes stop potential problems from going any further. Consequently, if practitioners foresee that there might be a claim made by a client, it could be a good idea for their firm to contact their professional liability insurance provider at an early stage.

5. Understanding insurance requirements beyond the PEA

The PEA and its regulations set out the minimum requirements for professional liability insurance, which applies to certificate of authorization holders. Contracts and other laws may call for insurance requirements that go beyond these minimum requirements. Furthermore, the recent COVID-19 pandemic could lead to greater risks for practitioners, such as those who make site visits. Consequently, practitioners should consult insurance professionals to better understand insurance requirements that go further than the PEA.

PEO as a regulator cannot offer insurance advice. The above examples illustrate some situations where professional engineering firms should contact insurance professionals. Nonetheless, there are likely many other situations when insurance professionals should be consulted. Consequently, professional engineering firms should contact their firm's professional liability insurance provider or broker to understand all the services they provide. [e](#)

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