

Beazley Insight

Design Firms Widen Target, Hike Risks

by Jerry Sullivan

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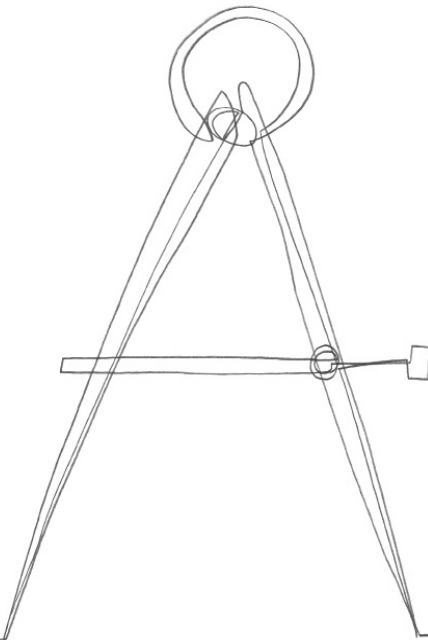
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It never rains but it pours. The economy is not just sapping revenue from architects and engineers, it is increasing professional liability risk. To keep revenue flowing, many architects and engineers are taking on projects outside their traditional realm and comfort zone. Some are scooping up “quick,” smaller jobs they would have passed up a few years ago. They may let contract language slide and kick off projects before all the contract’s i’s are dotted and t’s crossed. Anxious to win bids, some firms may agree to indemnification language in an owner’s contract that they never would have accepted when business was booming.

Approximately 60 percent of the A&E design firms responding to a recent Beazley poll cited maintaining sufficient revenue to avoid staff layoffs as the most critical challenge they face in 2010. Staff reductions are major risk management red-flags. Already, layoffs at many firms have left in-house resources stretched thin and therefore, more susceptible to making mistakes. Former employees are on the street – or knocking on the doors of competitors, where the temptation to share sensitive client information may be irresistible.

Indeed, a depressed economy brings out the worst in most everyone. Customers are more likely to sue in such a climate, even those with whom a firm has enjoyed a long, productive relationship in the past.

As with many other lines of business, now is not the time to make risk management cuts that may quickly prove to be false economies. Insurance brokers and carriers need to make sure that already stressed design firms receive full value from their professional liability insurance. Focusing on risk management is time well spent – otherwise these already beleaguered firms may be vulnerable to extra expenses they can ill afford.



Scrutinizing Risk Management

Now is the time to put risk management services under the microscope. A firm should both look internally to assess its own proactive approach to risk management, and reach out to see how their insurer and insurance broker can support (and reward) their efforts to mitigate exposure.

Complimentary contract reviews have long been standard fare in risk management services offered by insurers. The quality of these reviews takes on greater importance now, since sound contracts are a firm's first line of defense in a claim. With time (and travel budgets) limited, we have found that firms appreciate the convenience of risk management seminars delivered online to their desktops: more than 400 design firms recently convened for a Beazley webinar sharing information on using proper documentation practices to mitigate risk. Along with practical advice, participating professionals can obtain both continuing education credits and premium credits.

Recognizing that firms need to actively manage risk and costs, some insurers have also begun reimbursing some policyholders toward the cost of peer reviews to enhance their risk management efforts. Premium credit can be gained for peer reviews as well.

Unearthing Value

But it is not just risk management programs that must move with the times. New risks are testing the limits of coverage as well. One risk – privacy liability – is becoming an increasing concern to A&E design firms as data becomes more dispersed and more portable and the ways in which data can be lost or stolen multiply. A few scenarios show the scale of the problem. A professional laid off by one firm moves to another, sharing with his new employer information on a client from his former firm that had been protected under a confidentiality agreement. A company

laptop containing sensitive personal financial information on a firm's employees is stolen from an airport waiting area. You don't have to look far to see how A&E firms are impacted by the same privacy liability concerns now confronting all professions.

In addition, prudent E&O insurance buyers can sidestep many typically unbudgeted expenses that can strain their business when they (or their client) face a claim. Examples include:

- the cost of appearing at an Americans with Disabilities Act, Fair Housing Act or other regulatory or administrative proceeding to support a client;
- fees to secure proper legal representation should they face a disciplinary hearing;
- and lost billable hours spent appearing in court to defend a claim.

Professional liability insurance can also cover the substantial costs firms incur simply to combat negative media attention if they are involved in a claim. Broader policies will pay toward the fees of public relations experts to provide reputation management expertise on a firm's behalf.

As economic challenges continue, building revenue will remain a struggle. Firms will continue to balance the desire for new business with the need to effectively manage risk. Fortunately, working closely with their insurer and broker, smart A&E firms should find opportunities to guard against the exposures that can make a tough economy far tougher.

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