

# EC RISK REVIEW

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**FINANCE INSURANCE, LTD.**  
Quality Service For Your Insurance Needs

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## Selecting the Right Professional Liability Insurer for Your Environmental Consulting Firm

*The following material is provided for informational purposes only. Before taking any action that could have legal or other important consequences, speak with a qualified professional who can provide guidance that considers your own unique circumstances.*

When it comes to professional liability coverage, insurance is insurance, is insurance, right? Where once there were only a couple of carriers who offered environmental consultants professional liability programs, today there are many carriers out there, and they all offer very similar basic coverages. So why not just buy the cheapest PL insurance available and then do your best to avoid errors, omissions and claims? That's the perspective of some environmental consultants these days. Is it correct? While it is true that there are many more insurance companies offering E/C professional liability coverage than a few decades ago, and while it is also true that many of the "me too" policy forms are very similar, there are still distinctive and important differences in what the various insurance carriers offer. Many of these differences don't have to do with policy language (although there can be important variances in coverage), but with the services the insurance company brings to the table along with the policy. Here, there can be significant differences and, as with most purchases, you usually get what you pay for. Let's look at a few of the major elements environmental consultants should look for when selecting a PL insurance company.

### A Real E/C Program

Expertise in serving environmental and design consultants should be your number one criteria when selecting a professional liability carrier. Some carriers may say they offer a specialized program for environmental firms, but when it comes down to it, there isn't a whole lot of meat on those bones. One of the best indicators of E/C expertise is a robust risk management education program. The best carriers know your business inside and out and can provide you with in-depth knowledge regarding the professional liabilities facing your industry. They understand that education and training can lead to substantial improvements in the way you operate your business and significantly improve the odds that you will never face a devastating claim.

A strong professional liability carrier is involved with national environmental and design industry associations. It keeps itself up-to-date on the emerging trends in your profession and analyzes how they affect your liabilities. For instance, alternative project delivery methods such as design-build, integrated project design (IPD) and building information modeling (BIM) can greatly change the way you deliver your services and thus significantly impact your risks. These new delivery methods blur the lines between design and construction and can easily lead to you taking on new and sometimes uninsurable risks and liabilities that have traditionally belonged solely to the contractor. Specialized insurers examine these trends, identify where risks may be increased or lines of responsibility blurred, provide needed coverage options and develop educational tools such as newsletters, white papers, seminars and Webinars to help you avoid risks that should rightfully remain with the contractor or project owners. These educational tools can include recommended contract language to propose to your client. Most of the top insurance carriers provide an added bonus with their loss prevention education programs:

their courses earn valuable continuing education credits for consulting engineers:-- often at no or a low cost. The top carriers take it even further. They provide premium credits, often 10% or more, for having your staff complete basic risk management education courses. Some insurers provide additional cost savings for implementing loss prevention practices into your firm. For instance, you might earn a sizeable credit for using Limitation of Liability clauses in your client contracts, or for getting your client to agree to use mediation as your first line of dispute resolution. The best form of continuing education is in-person instruction. The top carriers invest in high quality, research-based programs that provide relevant and insightful education programs to be delivered in person. Equally important they train their agency force to deliver this valuable information.

### **Expert Claims Service**

Ask yourself: why do you buy insurance in the first place? Besides the fact that many clients require it, the main reason you purchase PL coverage is to protect you both professionally and financially in the event of a claim.

Solid claim service is critical when choosing your insurance company, and this is an area where you may find wide differences in the level of experience and quality provided by the various carriers. The best insurers consistently execute a culture of proactive claim service and hire highly experienced claims handlers focused on the environmental consulting industry. They look for ways to provide coverage and encourage their insureds to report, at the first sign of trouble, incidents that may lead to a claim. They will begin providing assistance quickly, often assigning a claims specialist or attorney to your case, without a charge to your limits or to your deductible until a formal demand is made against your firm. Lesser insurers are more apt to try to deny coverage.

And when a formal demand is made against your firm, top insurers work with specialized panel counsel who are attuned to your industry and your interests. They know your business, they know the case studies, they know how to negotiate and settle when necessary. This is not always true with some insurance programs. They may assign the same attorneys whether you are an environmental consultant, engineer, accountant or physician.

So how do you determine who offers the best claims service? You can ask your peers who have had the ill

fortune of having gone through a claim; though they may not be totally forthright or unbiased in their answers. Another resource are surveys that have been conducted by some of the national industry associations. ACEC, for example, publishes an annual Professional Liability Insurance Survey of Member Firms. ACEC members share their experiences and opinions regarding insurance availability, rates, types of coverage, pre-claim assistance, claim processing and related issues. Your insurance agent or broker can be a great help here as well; but more on them later.

### **Longevity**

An important question to ask is: How long has the insurance company been in the business of serving environmental consultants? Obviously, you want an insurer who has a long history of providing professional liability insurance and related risk management services to environmental firms. You don't want someone who enters the E/C insurance arena during hard markets, when insurers are making money, and then bail out of the market when times get tough.

This type of "in-and-out" activity by insurance companies is particularly concerning due to the nature of professional liability coverage. An insurance company could enter into the PL market with cut-rate prices, trying to gain immediate market share. They can afford to do this because PL claims have "long tails" -- that is, claims don't typically begin to mount until years after the insurer has begun collecting premiums. An insurer may come into the market, gather a lot of income and then bail out of the market as soon as claims start multiplying. The environmental firm is then left in the lurch and forced to find alternate coverage. And those with claims typically find that the claims service from the lame duck company is lacking. Unfortunately, because of the high rate of acquisitions and mergers in the financial industries, it's not always easy to determine how long a particular insurance company has been serving environmental firms. A strong, long-standing program may be acquired by a new parent financial company. So, while the PL program may only have operated a year or two under its new name, the program itself may have been around for decades and be run by a very experienced team of lead underwriters, claims managers and loss prevention experts. With a little digging, you should be able to discover who is running a program and how much experience their underwriters, claims people and loss prevention specialists have.

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## **Customization**

Top insurance carriers realize that professional liability programs are not a one-size-fits-all proposition. You want an insurance company that can customize its coverages and services to fit the particulars of your company.

For instance, size matters when it comes to PL insurance. Many insurers offer small firm programs that tailor coverage and services to the needs of firms with annual fees of \$2 million or less. Some also offer special risk control convocations for their larger insureds. Larger firms may also need special features such as world-wide coverage as well as high policy limits of up to \$10 million or more.

The types of environmental services you provide will also determine which insurance company is best for you. Some insurers shy away from the higher-risk disciplines, such as environmental remediation, inspections and testing, and geotechnical engineering. Others show a greater appetite for insuring these activities. If you use drones as part of your services, you'll want to make sure you are protected against wrongful acts arising out of those activities. If you are hired for a job that involves BIM, IPD or other nontraditional project delivery methods you'll likely need a policy with broad definitions of professional services.

## **Financial Strength**

Certainly, you want the security of knowing that you are with an insurance company with substantial financial strength. So check the financial ratings provided by agencies such as A.M. Best, Fitch, Moody's and S&P.

Bear in mind, however, that choosing an insurance company with the highest financial rating is not necessarily the best course. For instance, it probably makes more sense to choose an A rated company with a reputation for excellent claims and risk management services than an A+ rated company with lesser claims and education programs.

## **Don't Forget Your Agent or Broker**

As illustrated, there are many factors you need to consider when choosing the best insurance program for your situation. Finding the right insurer may appear to be a daunting challenge. That's where we, your specialist agent or broker, come into the picture.

As a member of the Professional Liability Agents Network, we are specialists in helping you find the best fit for your practices. We can recommend one or more carriers to consider, help you complete applications that put your firm in the best light and work with underwriters to deliver you competitive quotes. Indeed, how you fill out the application can make a significant difference in the premium you pay. If you need special coverages, we can often help you secure endorsements to the standard policy that fill important gaps.

Once you select an insurance company, we can help you get the most out of your program. We can make sure you don't leave any dollars on the table when it comes to premium and deductible credits. We can assist in getting your needed personal development hours and other education credits. We can provide guidance regarding the insurability of your client contracts and provide recommended language that you can discuss with your attorney.

And, in the event you need or want to change insurance carriers in the future, we can help you search for a new insurer who will provide full prior acts coverage -- or at least retain the same retroactive date of the prior policy -- and avoid any new coverage gaps.

## ***Can We Be of Assistance?***

*We may be able to help you by providing referrals to consultants, and by providing guidance relative to insurance issues, and even to certain preventives, from construction observation through the development and application of sound human resources management policies and procedures. Please call on us for assistance. We're a member of the Professional Liability Agents Network (PLAN). We're here to help.*