



INSURANCE

PRINT

**MAKING INFORMED RISK
DECISIONS AND THE INSURANCE
DETERMINATION**

This session will help you make informed risk decisions by:

- Understand the importance of assessing project risks
- Learn to identify and evaluate risks using the risk assessment tool
- Understand how contract insurance requirements affect contractors and consultants and what it means to them
- Establish proper actions when the contract doesn't go as planned

Risk Management



<https://youtu.be/lrCOIRGpeeM>

What is Risk Management?

- Technical Component
 - Identify, Analyze, Address Risk
- Practical
 - Prevention & Response
 - Contractual Transfer
 - Purchase Insurance





Why assess Risk in contracts?

- The myth of tort cap limits
- Best business practice
- Ensures the contractor meets obligation under Indemnity (*Risk Transfer*)
- Risk Assessment documents; demonstrates reasonableness

What is Insurance?

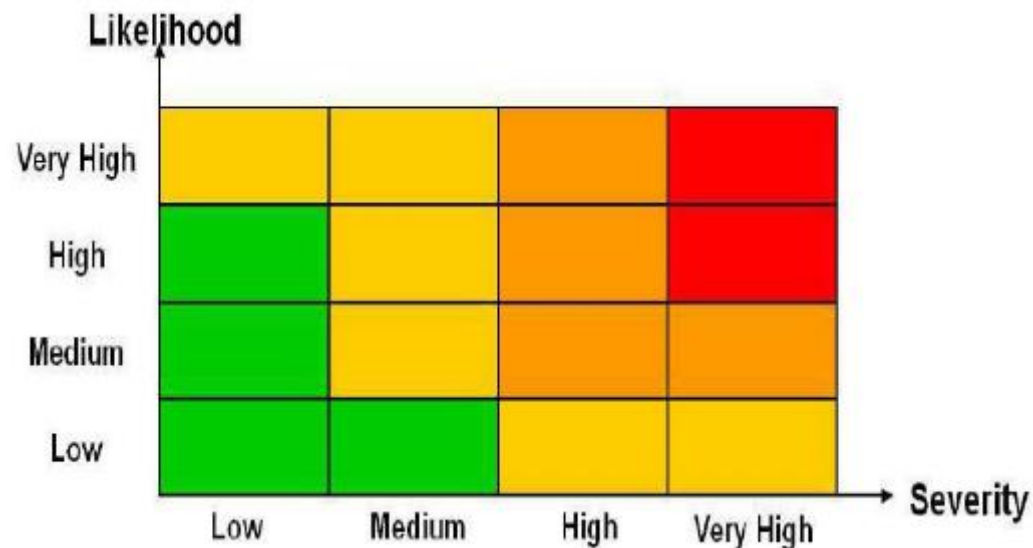


Insurance is the financial ability for:

- Replacing / repairing your property
- Replacing / repairing others property
- Medical Costs / Lost wages
- Defending you from others

Risk Tool: Determining Risks & Insurance requirements

- Risk & Insurance thought process
- Provides Documentation and justification for Insurance requirements
- Increase level of comfort in determining appropriate insurance requirements
- Less pushback



Services Procurements

The furnishing of labor, time, or effort by a contractor or vendor.

WORKERS' COMPENSATION & EMPLOYERS' LIABILITY:

Workers' Compensation does not need to be risk assessed. Requirements are already included in the Insurance Requirements template. Per our template language, if the contractor is legally required to have it, then it is required. It is up to the contractor to know their legal workers' compensation requirements. The contractor can contact the Oregon Workers' Compensation Division at (503) 947-7810 if they have questions or need assistance in determining their workers' compensation insurance requirements.

COMMERCIAL GENERAL LIABILITY: (CGL is required in most all contracts. It is difficult to imagine when CGL would NOT be required. It is perhaps the most important of all insurance policies in a contractual relationship. It insures the Contractor has broad liability coverage for contractual activities and for completed operations. NOTE: CGL does NOT provide coverage for Professional Liability. If Contractor's work is in a professional field requiring specialized knowledge and intellectual skills, Professional Liability will also be required.)

While performing the work, could the contractor:	RATING: If something goes wrong, how bad is the outcome likely to be? (determine separately for each question; see "Rate It" tab for assistance.)	Score
Cause damage to state property?	No = 0, Low = 1, Moderate = 2, High = 3, Severe = 4, Extreme = 5	
Cause damage to a third party's property (including a client's or citizen's property)? <small>(Hover mouse here for definition of "client", "citizen", "third party" and examples.)</small>	No = 0, Low = 1, Moderate = 2, High = 3, Severe = 4, Extreme = 5	
Cause bodily injury to state employees? <small>(Hover mouse here for examples.)</small>	No = 0, Low = 1, Moderate = 2, High = 3, Severe = 4, Extreme = 5	
Cause bodily injury to a third party (including injury to a client or citizen)? <small>(Hover mouse here for definition of "client", "citizen", "third party" and examples.)</small>	No = 0, Low = 1, Moderate = 2, High = 3, Severe = 4, Extreme = 5	
Cause a personal or advertising injury to the state, a client of the state, or a citizen? <small>(Hover mouse here for more information and examples.)</small>	No = 0, Low = 1, Moderate = 2, High = 3, Severe = 4, Extreme = 5	
Build, sell or install something that if defective could result in injury or property damage? <small>(Hover mouse here for more information and examples.)</small>	No = 0, Low = 1, Moderate = 2, High = 3, Severe = 4, Extreme = 5	
Based on the total score, require the contractor to have the following limits of Commercial General Liability (CGL) insurance coverage:	Total Commercial General Liability Score:	0
1. If any one item receives a score of 4, then the suggested insurance requirement is as follows, whichever is greater: \$2,000,000 per occurrence with \$4,000,000 aggregate, or The amount indicated per the below chart based on the "Total Commercial General Liability Score."	DAS Risk Management suggested insurance:	
2. If any one item receives a score of 5, then the suggested insurance requirement is: \$5,000,000 per occurrence with \$10,000,000 aggregate,	THIS TOOL IS A GUIDELINE. If you conclude a different limit is appropriate, you may use it. Document your reasoning below.	
3. If none of the individual items received a score of 4 or 5, then base insurance requirement on the chart below.		
Score: Limits:		
0	Commercial General Liability coverage is not required.	
1 - 10	CGL required: \$1,000,000 per occurrence with \$2,000,000 aggregate	
11 - 17	CGL required: \$2,000,000 per occurrence with \$4,000,000 aggregate	
18+	CGL required: \$5,000,000 per occurrence with \$10,000,000 aggregate	

AUTOMOBILE LIABILITY: (regarding contractor's owned, non-owned, or hired vehicles). Automobile liability insurance is typically required in most contracts. Use whenever contracted work requires use of a licensed vehicle on public roads, or on your property. This includes driving between job sites, to and from meetings, or even occasional trips by the contractor to attend a meeting.

Will the contractor:	How Often?	Score
Transport by bus/van 15+ clients or employees per vehicle?	If YES , require Auto Liability Coverage with Combined Single limit of \$5,000,000. If NO , continue with below questions and determine insurance requirements based on the total score.	
IMPORTANT! For an accurate assessment, see "Terms and Examples" tab for definitions of: Limited, Often, Frequent.		
Use a vehicle to accomplish the work? <small>(Hover mouse here for definitions of: Limited, Often, Frequent)</small>	No = 0, Limited = 1, Often = 2, Frequent = 3	
Travel to or from state locations? <small>(Hover mouse here for definitions of: Limited, Often, Frequent)</small>	No = 0, Limited = 1, Often = 2, Frequent = 3	
Transport state property, clients, or employees? <small>(Hover mouse here for definitions of: Limited, Often, Frequent)</small>	No = 0, Limited = 1, Often = 2, Frequent = 3	

Insurance Placement

- General Liability

Limits:

- \$1,000,000 Per Occurrence
- \$2,000,000 General Aggregate
- \$2,000,000 Products/Completed Operations Agg.
- \$1,000,000 Personal & Advertising Injury

Provides certain project requirements

- Additional Insured
- Waivers of Subrogation
- Primary Wording
- Non Contributory

Contract Provisions

- Contractual Indemnity
- Additional Insured on GL/Auto Coverage
- Certificate of Insurance for all Coverage
- Bonds (Construction)
 - Performance
 - Payment Bonds



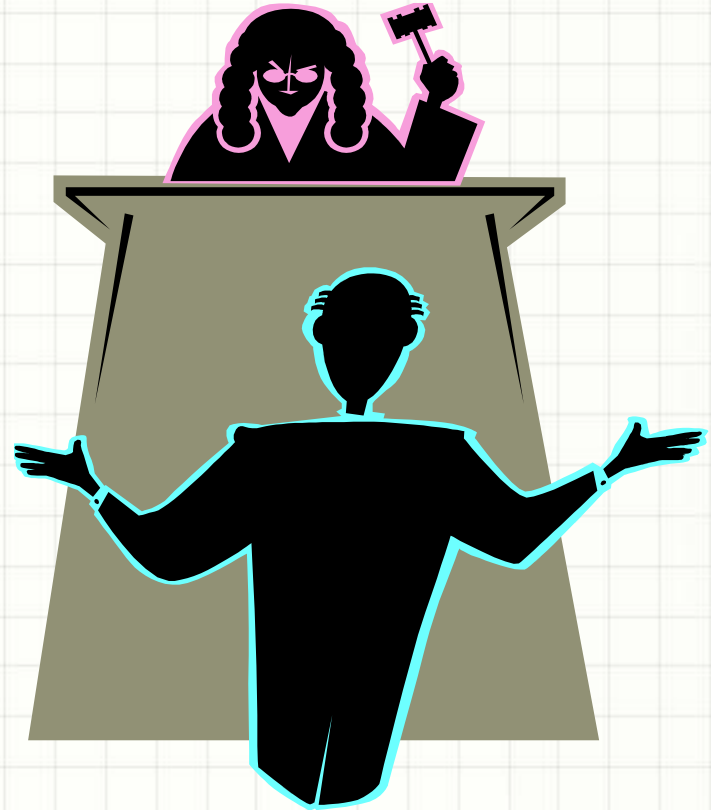
Contractor Responsibilities

- Understands Contract Requirements
- Properly Price Insurance Requirements
- Provide Appropriate Documentation
 - Certificate of Insurance
 - Additional Insured Endorsement
 - Primary/Non-Contributory Language
 - Waiver of Subrogation Endorsements
 - Other Coverage
- Language in Policy
- Blanket Endorsement

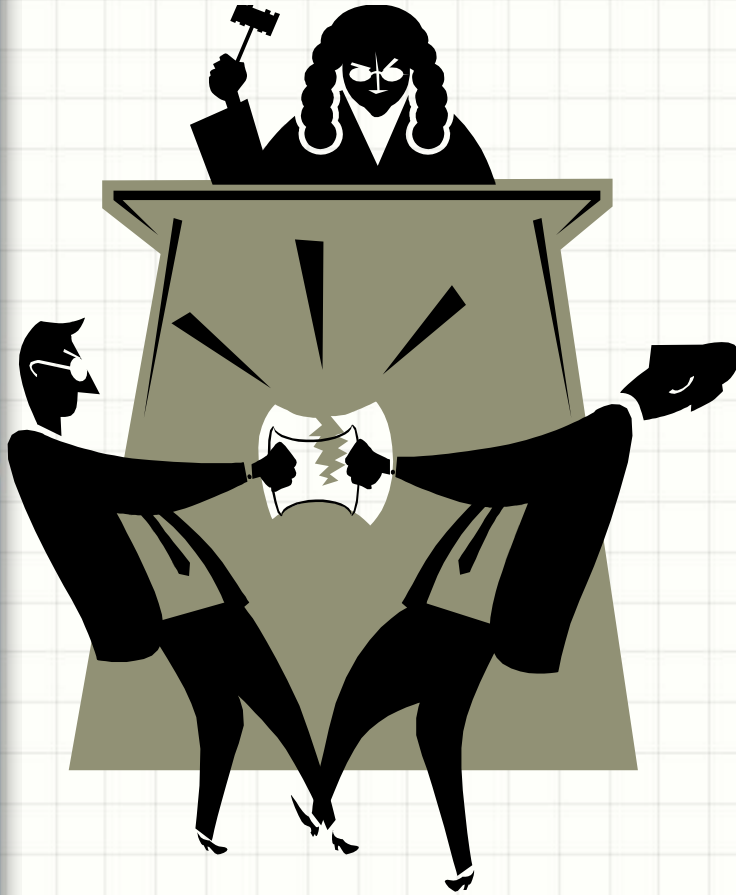


Remedies v. Architect

- Breach of Contract
- Contractual Indemnity
- Claim on GL as additional Insured
 - Early Notice to carrier is essential.
 - Defense costs are only reimbursed as of tender
- E&O Process
 - Timely notice is essential



Remedies v. Contractors



- Breach of Contracts
- Claim of Performance Bonds
- Claims on insurance coverage
- Contractual Indemnity

Questions?

