

Risk Management Advisory

ARCHITECTS AND ENGINEERS PROFESSIONAL LIABILITY INSURANCE

Controlling exposure to risk

The first step in controlling risk is the identification of risk. Just as the design consultant identifies design parameters in a programming process, the design consultant must identify the risk parameters of a specific project.

There are many factors that influence risk. At a minimum, firms should always consider the following:

- **The nature of the project**—aspects such as sufficiency of scope, site, budget and schedule; community sensitivity or opposition; unusual regulatory requirements; or a history of a high incidence of litigation.
- **The firm's capabilities and experience**—the appropriate design expertise and ability to spend the time necessary on the project.
- **Specific client attributes**—client attitude, funding, understanding of the nature of professional services and level of sophistication.
- **Construction industry factors**—the influences on the delivery of a project, such as the type of contractor selection process; the inclusion of other parties in the design and construction process; and the state of the local construction economy.
- **Constraints on time and cost**—the compensation for design services, the project budget and scheduling constraints.

- **Forces external to design and construction**—the general economic climate and the attitude of the community and government to new projects; the overall political situation, and laws, rules and regulations that might be forthcoming.

Risk assessment

Once a firm has identified as many risk factors involved in the project as possible, it must assess the impact of the risk factors on the firm's ability to provide services in a professional and profitable way. The assessment should include looking at the possibility of loss—of something bad happening—but also thinking about the probability that the services will be affected by one of the identified risk factors. In addition, this exercise should include assessing the potential impact of risk factors on a firm's reputation.

Such an analytical effort is usually best conducted not by an "expert" in the firm, but through the combined efforts of those who will be involved with the project—the staff who will interact with the client, consultants and construction contractors.



With a realistic understanding of the risks that might impact the delivery of services and the long-term financial health of the firm, the firm must evaluate its ability to manage the risks and must examine both its professional duties and its proposed contractual obligations. The firm must assess the power and authority the client is willing to provide to the firm to carry out its professional and contractual duties.

Perhaps most important in assessing the level of risk faced by a firm is whether or not the firm, both objectively and subjectively, feels it can be in charge of its own future with respect to the particular project—objectively in that the firm knows its resources, abilities and power, and subjectively in that the experience of the firm's staff can give a valuable "gut feeling" about the project.

Risk management options

After a firm has gone through the process of identifying risk factors and assessing their impact, it must explore the options available for managing the risk. The basic options should be well understood within firm management and, in many cases, should be a matter of discussion, and perhaps negotiation, with the client. In most cases, the following five categories of conceptual risk management should be considered:

1. Avoidance of the risk by declining the project
2. Retention or acceptance of the risk with compensation for the exposure
3. Transfer of the risk to a third party (i.e., through insurance)
4. Allocation of the risk by contract provisions, such as indemnity or limitations of liability clauses
5. Mitigation of the risk through practice management techniques and increased capabilities

How each risk mitigation technique is adapted to the characteristics of each project represents a skill acquired through education, expertise, and the assistance of specialists such as lawyers and insurance advisors.

Risk management is not a reactive process once a problem surfaces; it is a proactive effort to identify the best method to control the risk environment in which the design consultant practices. The prudent management of risk allows a firm to pursue its practice objectives and to not ignore professional opportunities because of unfounded concerns.

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