Manager/Supervisor Risk Management
#108– 11/20/12
A twice weekly e-mail training for YCPARMIA members

TOPIC: PROOF OF INSURANCE – ACCORD FORM AND ENDORSEMENTS

In the great majority of contracts, the contractor will submit a liability ACCORD form as proof of insurance. It is a standardized industry form signed by an"authorized representative" of the carrier, and is segregated by coverages: general liability, automobile liability, umbrella/excess, and workers' compensation. If the form includes a policy number and limits in any of these categories, there is an insurance policy. The form also identifies whether the coverage is under a claims-made or occurrence policy, and identifies any deductibles or retentions. The entity can then verify compliance by comparing the coverage and limits listed on the form to ensure that the requirements are met; they can confirm that the insurance carriers listed have the required A.M. Best ratings, and that any declared deductibles or retentions are reasonable.

At the same time that the ACCORD form is submitted, the contractor should, if additional insured status is required, provide a signed copy of the additional insured endorsement. It is never sufficient to rely on a notation on the ACCORD form that the entity is an additional insured. While the insurance industry has standard additional insured endorsements, various carriers might have more restrictive language on their own endorsements.

There are two somewhat labor intensive things left to do. First, someone has to file the forms where they can be located in the future. The potential exposure does not end with the contract, and it would not be unusual to need to identify the insurance carrier years later. Secondly, someone has to monitor, or track the coverage to make sure that it does not expire while the work is being done. If the contract continues into a new policy period, a new insurance certificate and a new endorsement are needed – and both the old and new forms kept for an indefinite period.

A related issue involves completed operations. The contractor has coverage while they do the work, but what happens if, after they are through, the work causes damage or injuries? The indemnity agreement is usually silent on this, so there is likelihood that the contractor remains responsible for defense and indemnification. Insurance coverage unfortunately is usually not as broad. Back in the 1980's additional insured endorsements referenced "your work" – language broad enough to include completed operations. In the 1990's the industry's language was changed to "ongoing operations;" when the work ends, the coverage ends. Today, usually the only way to get completed operations coverage as an additional insured is to have a special endorsement on the contractor's policy. Insurance carriers would probably balk at this, so it should be recognized as a potential issue of confrontation.

The completed operations issue serves as an important reminder: contract risk transfer has two basic elements, the indemnity/hold-harmless clause, and the insurance requirements. While both interact, each confers separate and important protection while standing alone.

Next topic: Proof of Insurance – Cancellation and Non-Compliance