

The Loss Prevention Top 10

**TOP
10**

Stay Focused

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- Seek projects that are a fit with your experience and expertise.
- Take on projects for which you have adequate capacity of leadership and staff.
- Work with owners that you know and trust to have the capability to implement the project type in the location where it will be built.
- Partner with owners that treat contractors, CMs, and design professionals fairly.

Define Your Scope of Services

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- Clearly state the services you will provide and those you won't provide, as well as the extent of basic services and the criteria for additional services.
- Clarify the overall project schedule and parameters of your services.
- Disclaim services that belong to others: owner, design professionals retained by owner, governmental agencies, and other authorities having jurisdiction over the project.
- Identify information to be provided by the owner such as surveys, geotechnical reports, and environmental studies.
- Perform your services in accordance with your agreement.
- Ensure that the owner understands—and also fulfills—its responsibilities and duties

Control your Contracting and Project Approval Process

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- Establish a standard process for authorship, review, and approval of proposals and contracts.
- Seek and allow time for legal review and advice on contracts.
- Consistently follow and enforce your protocols.
- Keep an eye on certain contract clauses:
 - Indemnification: Be wary of them and know the anti-indemnity statutes, which vary by state
 - Limitation of Liability: Utilize this strategy to balance risk/reward considerations particularly when your services are limited in scope
 - Waiver of Consequential Damages: Include this important clause to control your potential liability
 - Waiver of Subrogation: Use this clause to minimize lawsuits and claims among the parties relating to property loss

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Establish and Maintain Sufficient Staff Resources

- Maintain continuity of management at the project level.
- Provide sufficient presence and support at the executive level.
- Provide an attractive and supportive work environment through your company culture, facilities, and benefits.
- Develop and nurture staff through training and development.

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Work with Firms You Know

- Enhance the odds for project success by working with design professionals, subcontractors, and others that have experience and expertise in the project type.
- Provide thorough and clear construction documents.
- Ask these questions when considering design team members, in particular:
 - Does the lead design firm work in a collaborative manner with contractors and CMs in pre-construction phases and respond in a timely manner to submittals, RFIs, and change requests during construction?
 - Do the design firms address review and processing of change orders fairly?
- Proactively expand and enhance relationships with leading design firms in the project types and locations of your business.

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Think Globally, Act Regionally

- Know your markets and the legal/regulatory environment.
- Identify potential long-term relationships with owners who build multiple projects.
- Maintain strength and presence in your local market.
- Develop company policies, processes, and protocols—as well as an integration plan—to facilitate quality and financial success for satellite offices or acquired companies as well as the home office
- Recognize when, in a competitive environment, it is best to walk away from a project or client.

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Actively Manage Your Subs

- Make certain your subs live by the same rules that you do in these key areas:
 - Quality construction and diligent client service
 - Contractual responsibilities and terms and conditions, including flow-down provisions
 - Promoting a safe and collaborative work environment
 - Appreciation for the big picture—not just limited to a certain trade or area
- Require your consultants, subconsultants, and subcontractors to be properly insured for PLI, Environmental and CGL – establish criteria for policy limits and track compliance.

Never Begin Complex Services until Your Contract is Fully Executed

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- A carefully negotiated contract that is understood by all parties is the key to establishing responsibilities and managing expectations on a project.
- Working on the fly, without an executed contract and an agreed-upon scope of services, leaves a lot of room for future disputes and cost allocations.
- After executing your contract, adhere to its terms and modify them only by written agreement.

Manage Enhanced Risk in Fast-Track, Complex, and Innovative Construction Projects

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- Fast-Track projects frequently require field changes that may result in unintended consequences.
- Projects that involve untested technologies or cutting-edge design can be inherently risky.
- While challenging projects can be exciting, test your firm's skills, and keep your firm sharp, you need to fully understand and be prepared to diligently manage the associated risks.
- After weighing the risks and rewards, the best decision may be to decline the project.

Establish a Regular Peer Review Process

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- Require peer reviews to be performed within your firm.
- Rotate the responsibility for reviewing the work to offer fresh perspectives.
- Foster an environment where staff is encouraged to challenge each other for the good of the project and that promotes the sharing of best practices.
- Make sure your team knows that quality is top priority, even if it means accepting financial compromise in the short term in order to protect your reputation and client relationship over the long term.

About Berkley Construction Professional

Berkley Construction Professional was founded by a team of insurance professionals with a passion for the construction industry and deep roots in construction professional underwriting, risk management and claims. We are entirely dedicated to serving the professional and pollution liability insurance needs of the construction industry and have the authority to quickly provide solutions that best serve our clients' needs. Our unique blend of innovative product ideas are backed by the resources of W. R. Berkley Corporation, whose insurance subsidiaries are rated A+ (Superior) by A.M. Best Company.

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