Construction

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Materials Theft Growing

Theft of building materials has increased drastically in recent years, according to *The New York Times.* Experts say thieves are stealing as much as $5 billion worth of materials annually, hoping to cash in on under-the-table deals and thriving black markets.

Experts report that there doesn't appear to be much discrimination in what thieves will steal from a construction site: copper pipes and wiring, siding, lumber, bags of cement, tools and equipment. Theft is so common that it is estimated to drive up the cost of building a commercial or residential structure by as much as 10%.

Contractors need to take steps to protect their building materials. Set up adequate security wherever you are storing materials. Keep an accurate inventory of what's on your site and what is stored elsewhere. For higher-end items, keep receipts and photos. Enforce basic anti-theft procedures with employees and subs, and remember to adequately insure for theft, both employee-committed and external.

Talk to your agent about the details of materials theft, getting the right coverage and reducing risk. We'd like to help you with a comprehensive plan. ■

Stimulus Stimulating Business?

Federally funded infrastructure projects are allowing beneficiaries to increase payrolls in some sectors, particularly construction. After a long downturn in the economy and many layoffs, such growth in employment ranks is welcome. With big, new projects come new insurance responsibilities, too.

A rapid increase in business can strain administrative personnel, and, sometimes, legal and risk-management needs can get overlooked. Contractors participating in federal "stimulus" projects should make sure their liability, workers compensation and other commercial insurance policies are adequately amended to reflect increased payroll, use of subs, leasing of equipment, and other important insurance information.

They should also see that required notices on workers' rights and occupational safety are posted. Proper use of safety gear, adequate training and regular inspection of machinery must be ensured to avoid regulatory penalties and unnecessary risk.

Give us a call to update your insurance policies. ■

Insuring Against the Cost of Delays

A standard builders risk insurance policy does not include coverage for expenses resulting from delays in construction; however, many such policies can be amended with a soft costs endorsement.

This endorsement ensures that the policy will chip in to help with certain costs resulting from the delay, but it doesn't cover all delay costs. The scope of coverage offered by the soft costs endorsement is usually limited to those specifically named in the endorsement. Some endorsements limit payment to taxes and interest and/or one or two other items, and more often than not, they don't cover the full range of the exposure created by the delay.

The good news is that soft costs endorsements and builders risk insurance policies are often amendable to adequately cover costs resulting from delays. To discover your options, give our service team a call. ■

Builders Risk Expiration Dates

Contractors often purchase a builders risk insurance policy to provide important property insurance on a building that is currently under construction.

It is essential that the contractor work with the property owner to avoid a dangerous gap between the expiration of the builders risk policy and the procurement of permanent insurance on the property.

When does a builders risk policy expire? It varies by policy, but here are some likely triggers:

- The date of policy expiration or cancellation
- At the time the project is accepted by its purchaser or owner
- At the time the project is abandoned with no intention to complete it
- The contractor no longer maintains insurable interest in the property
- The property is put to its intended use
- Construction has been completed for a defined period of time, such as 90 days.

Further complicating the issue is that most construction contracts also state how long builders risk insurance should be maintained.

The termination provisions in your builders risk policy are critical to you as well as to those for whom you are performing the work. For assistance in understanding your firm's builders risk insurance information, call our service team today. ■

Completed Operations Limits on Subs

Traditional general liability insurance extends completed operations coverage to contractors named in a claim for injury or damage that occurs after the work is done. Typically, the same coverage is provided for contractors brought into the claim even though the work that caused the damage was actually performed by a sub.

Unfortunately, an avalanche of construction defect claims over the last several years, particularly in residential construction, has caused many liability insurance companies to limit completed operations coverage. Common provisions that cover the policyholder for liability arising out of work performed by a sub are being removed.

If this important provision is removed, it could leave the policyholder exposed to out-of-pocket expenses for damages caused by the sub's negligence.

If the work performed by one of your subs results in a property damage claim, will your liability insurance adequately protect you? If you aren't sure, we can help. Call our service team today. ■

Employee or Contractor?

The answer to this question is particularly important in the construction industry. The pervasive use of subcontractors and "subs of subs" makes understanding whom you're working with essential.

Learning the answer when it's too late could result in substantial costs in back taxes, penalties and other issues with the IRS. Workers compensation providers will join in as well, conducting payroll audits and requiring additional premium for previously unlisted workers.

How do you answer the question? According to smallbusinessnotes.com:

An independent contractor:

- Operates under a business name
- Has its own employees
- Maintains a separate business checking account
- Advertises its business' services
- Invoices for work done

- Has more than one client
- Has its own tools and sets its own hours
- Keeps business records.

An employee:

- Performs duties dictated or controlled by others
- Is given training for work to be done
- Works for only one employer.

Of course, the ultimate authority on the issue is the IRS, which relies on the facts in each case to make a determination. It's important to note that the IRS does not recognize the validity of any written agreement between the parties as trumping its own regulations. A ruling can be obtained from the IRS by completing Form SS-8. For more information, refer to the IRS Guide to Independent Contractors vs. Employees, available at www.irs.gov. ■

Heavy-Equipment Theft Risk Control

The National Equipment Register (NER), an ISO company, and the National Insurance Crime Bureau (NICB) released their first joint heavy-equipment theft report in October 2009. The report illustrates how equipment owners and insurers pay hundreds of millions of dollars a year to replace stolen equipment. The report also highlights the significant indirect costs to the economy, such as project delays to critical infrastructure projects and delayed building occupancy.

The report draws on data from the National Crime Information Center (NCIC), NER, and NICB to produce a comprehensive analysis of heavy-equipment theft. In 2008, 13,511 theft reports were submitted to NCIC. In descending order, the five states with the most incidents of stolen heavy equipment were Texas, Florida, North Carolina, California and Georgia. Together, those five states accounted for 43% of total equipment theft. Rounding out the top 10 were Oklahoma, South Carolina, Tennessee, Illinois and Missouri. The top 10 states accounted for 61% of all thefts.

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In 2008, only 21% of heavy equipment stolen was recovered. That compares with a 57% recovery rate for all other motor vehicles.

David Shillingford, president of NER, noted that, "Information sharing is a force multiplier. Equipment owners and insurers have joined together to provide law enforcement with the information needed to quickly identify suspicious equipment, leading to millions of dollars of recoveries each year and significantly increasing the risk of arrest for equipment thieves. Those buying used equipment should exercise due diligence through IRONcheck before making a purchase. That will make it harder for thieves to sell stolen equipment."

Participating in heavy-equipment registries and conducting due diligence in your purchases help in controlling theft. Consider joining the effort. ■

Thank you
for your referrals.

If you're pleased with us, spread the word! We'll be happy to give the same great service to all of your friends and business associates.

Highway Worker Safety Program

A national, worker-safety training program was introduced in July 2009 to reduce highway worker deaths. The Highway Worker Safety Program is designed to teach construction crews ways to make highway construction zones safer working environments. The program focuses on controlling traffic, operating heavy equipment and setting up worksites in a way that reduces risk to construction workers.

Construction companies may tailor the two-disc DVD set to meet individual training needs. Training materials include an instructor guide and participant manual. The program was co-developed by the Associated General Contractors of America and Zurich North America. The two organizations recently offered a similar injury prevention program for construction workers that resulted in a greater than 30% reduction in strains, sprains and lower back injuries.

For more information on this valuable program, visit www.agc.org. ■