



Answering Your Questions on Professional Liability Insurance

By Victor & CNA
The AIA Trust Professional Liability Program

1) Why and when do I need to buy a Professional Liability insurance policy?

In many cases, architects are contractually required to purchase professional liability coverage. Often, this is the main driver for the need to purchase coverage. But when coverage is not mandated by a contract, why should an architectural firm carry it? When design professionals provide their services, the law states that they must act in accordance with the professional standard of care. In other words, each design professional must act just as any other design professional would when facing the same situation. If a design professional makes a mistake on the job and is faced with a lawsuit as a result, that professional could face significant defense costs as well as damage awards against their firm.

Professional liability coverage allows you to transfer this risk to an insurance company. You pay a premium so that, if a lawsuit is brought against you, the insurance company will not only pay out damage awards on a covered claim, but also pay your defense costs.

Professional Liability coverage is provided on a claims-made basis. That means that if a mistake is made that leads to injury and/or damage the subsequent claim must be made during the policy period for coverage to apply. The appropriate time to buy a policy is prior to the commencement of your professional services.

2) How does one acquire/shop for a P/L policy?

Most firms will approach a local broker or agent to assist them with obtaining their professional liability policy. As an underwriting manager for the AIA Trust Program, Victor does not accept applications sent directly from potential policyholders; you need to work with a broker or agent of your choice to place the coverage and if you do not have a broker, will assist you in finding one. Information on purchasing insurance can be found on Victor's website and their Small Firm Purchasing Guide.

Victor has designed a specific program for Small Firms that provides broad coverage, a wide variety of risk management services as well as expert claims services. With Victor, you can get all the coverage your design firm needs from a single, financially stable carrier. One carrier for P&C and professional liability coverage means fewer gaps in coverage and no arguments over who pays out a claim.

3) What insurance companies sell P/L policies, and how are they rated?

In today's market, there are many insurance companies that offer some form of professional liability coverage to architects. When making your insurance decisions you need to consider what you are getting, or more importantly, what you are giving up. When you have choices, you need to consider whether the carrier has experience handling architects' professional liability claims since it is your reputation, profit and deductible dollars on the line. You should consider the carriers financial stability and highly rated by one of the rating agencies that review insurance companies. The financial rating of your insurance company doesn't matter — until they're not around to pay a claim.

As to Professional Liability policies specifically, there are many factors that affect your final premium. The primary factors are the services your firm performs, your annual revenues, your claims experience, experience in the industry, and location of your practice all are significant drivers in the premium that you are charged year to year. The rates that we apply to an insured's revenues are filed within the appropriate state that the firm is domiciled. We are an admitted carrier and as such subject to the rules and regulations of the state insurance department. Along with the rates, we can apply an appropriate credit and/or debit to your base premium based on individual factors such as good loss experience, longevity with our program or a credit for having more than 50% of your licensed staff as members of the AIA.

4) What is a P/L insurance application?

A professional liability application is a tool that underwriters use to evaluate the risk and exposures that you present to the insurance carrier. The application is designed to provide us with the needed information to properly determine your premium and provide a broader understanding of your firm and the specific risk profile that you present to a carrier. It also serves as a legal document (by signing and dating it) confirming that the information provided is correct and accurate to the best of your knowledge.

5) How are project types rated by the carrier's underwriting staff?

Project types are but one of several factors that we look at both evaluating a firm's risk profile and in determining their premium. Unique exposures such as condominium projects, fast-track projects and design/build may affect the pricing upward while other projects may present a better exposure and result in a premium reduction. Other factors are wrapped around the issue of project including; the use of a written contract, the percentage of repeat clients and the type (public v. private) and experience of the client is also a factor. We continuously look at the project type and its claim impact against the program as we stay ahead of trends in the industry.

6) How do insurance companies acquire information about claims histories, and how does this information effect the premium calculation?

If you are applying for coverage with a company for the first time or applying for coverage with a new insurance carrier, the application will ask that you provide confirmation as to whether you are

aware of a claim or circumstance that could give rise to a claim. If the answer is yes, an insurance company will ask that you provide details on the claim including any settlement amount or insurance company reserves. If an insurance carrier is responding to the claim on your behalf, often insurance companies ask for loss runs that provide the underwriter with a breakdown of your firm's claims history.

The information is used as a gauge of the risk that you present to the carrier. It is also used to determine a loss ratio that represents the total claims paid on your behalf divided by the total premium paid to an insurance carrier over a set period of time. That loss ratio is then used as a factor in your premium determination. If you have a low loss ratio, you may have the benefit of an experience credit against your premium. Conversely, if you have a high loss ratio you may see a premium debit in recognition of poor loss experience.

7) Does it make sense for me to “shop” my P/L insurance every year?

Not all policies offer the same coverage so you may not be covered in all the same areas from policy to policy. For example, if coverage for your prior services (prior acts coverage) is dropped during any changes of insurance companies, you will be left with a significant gap in coverage. Therefore, if you have a prior acts claim, you are now left with an uninsured loss.

We find value in working with firms that are looking for long term solutions and value both the relationship and the specialized risk management, claims and underwriting expertise that we provide to our insureds each and every day. Firms that “shop” every year may not benefit from additional premium credits that they could be eligible for and therefore end up paying more substantial premiums over the long term.

8) Are the rates and premiums for small and large architectural firms calculated the same way?

In general, many insurance companies view this issue differently. In the Victor and CNA, the AIA Trust Program, separate rates are used for small and large firms as they see both a difference in the claims frequency and severity of the firms and in the risk profile presented by a small firm as opposed to a large firm. Different approaches are needed based on several different factors including:

- Geographic profile of the firm (multi-office versus single location)
- Claims history (small firms tend to have less claims both in frequency and severity), and
- Discipline of the firm (multi-disciplined versus single discipline)

Either way, our goal is to develop an appropriate and fair premium for the profile presented to the underwriter through the application.

9) In general, how do rates for small architectural firms compare to medium and larger firm?

In the Victor and CNA program, the rate that we apply against an insured's revenues is lower relative to medium and large architectural firms. The reason for that is that in our 55 years of experience, small firms present a lower exposure than a comparable medium or large firm.

10) How can I submit a better application in hope of receiving a lower premium?

There are several areas of an application that a firm can distinguish themselves from their peers for purposes of lowering their risk profile and in turn, their premium. Two of these areas are largely found in the application. The first area is the billing and revenue information.

- Every firm should make sure to delineate and categorize their revenues (including sub consultant revenue) into the proper categories of the application. The benefit is that we can provide a discount to billings involved with feasibility studies, reports, opinions, land surveying, landscape architecture, interior design and abandoned projects. Your ability to categorize those billings effectively could have a dramatic and favorable impact on your premium.
- Providing a more detailed description of your client information is important so that we see the mix of public and private work and may better categorize the services you are providing. An example would be focusing on repeat clients. We find firms with a high percentage of repeat clients have a better impact on loss experience and provide the opportunity to improve the premium.
- Your projects are also important but more so from the need to delineate the projects as specifically as possible.

Another area to focus on is the firms risk management and loss prevention services. Taking the time to answer questions regarding your use of standard contracts, legal review on non-standard AIA contracts, continuing education is another way to differentiate your firm and show the underwriter the focus that your firm places on effective tools and quality control.