

Contractor & Vendor Risk Management

Risk-Taking Excellence

Delivered by Monte Cole, Risk Control LLC, 10/8/14 at:

Virginia Department of Labor & Industry &
Virginia State Association of Occupational Health Nurses Conference
Hampton, VA.

Conference Theme: Back to the Future

Contractor & Vendor Risk Management

- Pure Risk
- Speculative Risk

Contractor & Vendor Risk Management

- Manage Contractor Risks:
 - Risk Control
 - Risk Financing

Contractor Risk Management Back to the Future

- Back to the Future 30 Years
- PS Article: Quality & Safety 1984
- Employee Participation (New '84)

What's New Today?

Chuck it's your cousin Marvin Berry.

You know that new sound you've been looking for?

Contractor Risk Management Back to the Future

- **Good: The Basics**
- **Better: Basics Plus**
- **Best: Contractor Participation '14**

Good: Basics

- Loss History
- Insurance (For Perils)
- Contracts

Better: Basics Plus

- Assess Scope of Work
- Tailor Safety (Risk Control)
- Tailor Insurance (Risk Financing)

Best:

- Collaborative Risk Management
- Supply Chain Customer Focus
- Contractor Participation (New?)

Losses

- ABC Hires Cleaning Contractor
- XYZ GC Hires Drywall Firm:
Chinese Drywall

The Players

- Customers
- Risk Manager
- Insurance Broker

The Players (Continued)

- Insurance Carrier(s)
- Service Companies
- Contractors & Vendors

Good (Cont'd)

- Contracts with:
 - Insurance Provisions
 - Risk Transfer
 - Indemnification

Insurance (Perils)

- General Liability (GL)
- Auto Liability
- Workers' Compensation
- Professional
- Miscellaneous

Buyers vs. Believers RE: GL

<u>Type Coverage</u>	<u>% Buy</u>	<u>% Believe</u>
• Directors & Officers	28	65
• Employment Practices	30	60
• Errors & Omissions	27	52
• Fiduciary	26	51
• Cyber	5	39

Survey by Chubb Insurance 2013

Other Buyer vs. Believer

- Environmental
- Sexual Abuse & Molestation
- Dispensing Medication
- Flood, Quake, Nuclear, War
- Terrorism—Special: Kept in GL

Good (Cont'd) Risk Transfer (IRMI) Do:

- Have Counsel Draft Indemnification Clauses
- Back up Indemnity with Insurance
- Require Additional Insured Status
- Keep Requirements Reasonable

Good (Cont'd) Risk Transfer (IRMI) Do:

- Be Flexible (Big Corp: Just Deliver)
- Update Insurance Specs Regularly
- Verify Insurance Specs Met—Certs.
- May Pay > If Others Accept > Risk

Good (Cont'd) Risk Transfer (IRMI) Don't:

- Invalidate them by Exceeding Permissible Levels
- Require Additional Named Insured
- Ask Coverages w/o Valid Purpose

Good (Cont'd) Risk Transfer (IRMI) Don't:

- Expect Major Coverage Changes
- Copy Old Requirements without Advice
- Make Unreasonable Policy Demands

(Do & Don't Slides Adapted From "Effective Contractual Risk Transfer", Ann Rudd Hickman, *International Risk Management Institute*, 2009, irmi.com)

Good (Cont'd)

- Legal Advice: Indemnification
- Contracts: Onerous or Fair
- Safety Clause: Stop Work, Cards

Good (Cont'd)

Indemnification Clause

- Example Real Estate Listing Doc
- Indemnification: “Liberal”
- Changed to: Fairly Construed

Better: The Good ... Plus: Review of Loss Targets:

- OSHA Stats < Industry (VPP)
- Experience Mod. Factors < 1.0
- ABC Model < 0.80 & < 0.70

Better: The Good ... Plus:

- Assess Site Risks
- Review Insurance Needs
- Set Safety & Risk Control Plans

Better: The Good ... Plus:

- Contracts
- Add EHS Compliance Clauses
- Negotiate! Watch Me!
Example

Better (Cont'd.)

- **Verify: Certificates of Insurance**
- **Your Broker's Review**
- **Obtain from Broker of Others**

Better (Cont'd)

Certificate Basics

- Carriers
- Coverages
- Limits
- Notice of Cancellation

Better, Certificates of Insurance (Cont'd)

- Carriers AM Best Ratings (A to F)
- A's Usually OK—B+ “Watch”
- Require Certs < Pay Invoices

Better, Quality (Continued)

- $> \text{Quality} < \text{Product Liability}$
 - Completed Operations
- Quality Procedures
- ISO 9000, 14000, 28000, 31000

Better, Quality (Cont'd)

- Six Sigma & Lean
- Incident Analyses, Zealousness
- Spreadsheet Analyses Easy

Best

- Collaborative Safety & Risk Mgmt.
- Partnership Approach
- Contractors: Customer-oriented

Best (Cont'd)

- Assess & Treat Risks as Team
- Avoid Duplication
- Assessment and Review Process

Best (Cont'd)

Specific Loss Targets

–OSHA VPP or Equivalent

–Exp. Mod. $< 0.80 \dots < 0.70$

–ABC STEP Model

Best (Cont'd)

- Outcome Based Models
- HBR Video Rental Example
- Health Care Outcomes, ACA

Best (Cont'd) Incident Mgmt.

- Pro-Active, Non-punitive
- Quality Nonconformance
- Examples: HOA, Home Health

Best (Cont'd)

Apple Apps

- Developers 70%, Apple 30%
- Ideal Supply Chain Collaboration
- Apple Maintains Quality Control

Best (Cont'd)

- Owner Controlled Insurance (OCIP)
- WWII Need: Munitions Fast, Cheap
- Contractors Bid Net of Insurance

Best OCIP (Cont'd)

- Big Savings
- Centralized Safety & Claims
- Future Hybrid For Supply Chain?

Best (Cont'd)

- Kaiser Permanente 1942 “HMO”
- WWII Shipbuilding CA
- Integrated Supply Chain Vendor

Best

Doc Brown re Marty's question about "enough road":

Roads? Where we're going we don't need roads.

Best

- Manage Pure & Speculative Risks
- Innovate the Best Supply Chain
- Lead in Global Competition
- Be Good Risk Takers

Questions

Examples