

Property & Casualty Newsletter

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Accounting for Crane Exposures on Construction Sites

Accidents involving cranes on construction sites frequently make the news. In an already hazardous work environment, the presence of a crane on a project site increases exposures faced by the project participants. The Inland Marine Underwriters Association describes cranes as “the most important, most expensive, most problematic but least understood of all the pieces of contractor’s equipment found on a construction site.”* Accordingly, it is critical for contractors to understand and plan for the exposures created by a crane no matter the type. This includes understanding the regulatory standards governing the use of cranes, the agreements that allocate risk among the project’s participants, and the different insurance products that assist a contractor or subcontractor in mitigating this risk.

A comprehensive risk management and safety program is a key factor in limiting potential liability on all construction projects. These programs should include training and information on the standards imposed by federal regulations for cranes. Title 29 of the Code of Federal Regulations, Part 1926.1440-1442, Subpart CC sets forth the Occupational Safety and Health Administration’s (“OSHA”) standard for cranes. These regulations require cranes to be visually inspected by a competent person prior to each shift the crane will be used and specify the minimum expectation of these inspections. This section also mandates monthly and yearly inspections of different levels. A contractor should be aware of these obligations and plan for them well in advance of the project start date.

In addition to the contract between the contractor and the crane supplier, other project documents and agreements can define the obligations and responsibilities of contractors and subcontractors with respect to a crane on a project. These documents include the prime contract, subcontracts, equipment use agreements, and aerial rights agreements. Given the number of agreements in play, contractors should make sure these agreements are consistent with each other. Contractors should know their obligations, when they begin and end, and what insurance is required by these agreements so they can take steps to mitigate any potential liability.

A crane rental or lease agreement often imposes broad form indemnity obligations upon the lessee. Further, when a crane is leased with personnel such as an operator or rigger, these agreements can make the lessee obligated to indemnify the lessor for claims arising from the operation of the equipment, including operation by the lessor’s employees. The agreements generally make the lessee responsible for inspection, repairs, and maintenance of the crane. Contractors should be aware of these potential obligations and attempt to negotiate a more favorable risk allocation if possible.

Contractors should never assume that equipment rented and delivered to the site is in safe condition. Rental cranes should come with the original manufacturer’s documentation including all booklets, load charts, and maintenance procedures. Assembly and disassembly should strictly follow the manufacturer’s procedures on assembling or disassembling cranes. Personnel assigned to assemble and disassemble should be trained and experienced in those procedures.



Exposures created by the use of a crane on a project site include damage to the crane and the property being lifted by the crane, damage to the project, damage to adjacent property, and injury to workers and third parties, among others. While many risks can be addressed and mitigated through the purchase of one specific insurance policy, crane risk may require multiple policies to ensure optimal mitigation. These policies include contractors equipment, builders risk, installation floaters, rigger's liability, general liability, workers compensation, automobile liability, pollution liability, and professional liability.

For example, property damaged while on the hook could be covered by builders risk and/or rigger's liability, either through a standalone policy or through an endorsement to a commercial general liability policy. However, consideration must be paid to who owns the property, who was operating the crane, who rigged the property, and who signaled to determine potential coverage and responsibility. Contractors should consult with a trusted insurance professional to discuss potential coverage needed well in advance of the crane arriving on the project site.

Proper planning before a project is started is essential to mitigating the increased risk created by a crane on a project site. A contractor's safety program should account for exposures arising from the use of cranes. A contractor should also be prepared to address in its pre-project planning the project documents that allocate risk between the parties with respect to a crane and how this risk can be mitigated via multiple insurance products.

*"Cranes: An Underwriting Guide." Natural Disasters - Country Profile Series - Mexico. 2008. Accessed January 04, 2019. [https://www.imua.org/Files/reports/Cranes An Underwriting Guide.html](https://www.imua.org/Files/reports/Cranes%20An%20Underwriting%20Guide.html).



Colin is a Surety Claims Advocate who assists our clients with risk management through contract review and developing risk transfer strategies. He also provides assistance with surety matters, including surety bond claims.

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Moreton & Company - Idaho
2501 East State Avenue, Suite 200, Meridian, ID 83642
208-321-9300

Moreton & Company - Utah
101 South 200 East, Suite 300, Salt Lake City, UT 84111
801-531-1234
www.moreton.com

Moreton & Company - Colorado
4600 South Ulster Street, Suite 610, Denver, CO 80237
303-385-2100

