

# Property & Casualty Newsletter

September 2021: Construction

## Working Towards the Best Outcomes on Builders Risk Claims

Two recent fires on construction sites in the intermountain area have highlighted the importance of the builder's risk insurance (BRI) policy. BRI is a key component of any successful insurance program on a construction project. When properly obtained, BRI allocates the risk of accidental loss to the insurer and prevents unnecessary disputes and possible litigation that could slow or stop the project.

This article is intended to provide a few key steps to pursuing a BRI claim should property loss occur during the course of construction and help reduce the pain involved with managing a BRI claim.

### Obtain a Copy of the Policy

Reading your BRI policy in detail should be the first thing you do after a loss occurs. However, this is difficult to do if the policy has not been provided to all parties involved in the project. Ideally, a copy of the BRI policy should be obtained by all project stakeholders prior to beginning work on the project site. No matter who is purchasing the BRI policy, it should ideally protect the owner and contractors of all tiers equally as insureds. Given this status, the owner and all contractors should be requesting copies of the BRI policy.

For general contractors, receiving a copy of the BRI will help ensure that any subjectivities placed on the coverage by the insurer, such as perimeter fencing and on-site security, are complied with.

The need to obtain a copy of the policy is underscored by the fact that BRI policy forms vary significantly from insurer to insurer with respect to scope of coverage, terms, and provisions. These differences mean that what was covered on one project may not be covered on your next project. With a copy of the BRI policy in hand, a contractor can verify that the policy complies with all the required terms and conditions of the contract, appropriately names the stakeholders, and provides the intended coverage.

When properly obtained, BRI allocates the risk of accidental loss to the insurer and prevents unnecessary disputes and possible litigation that could slow or stop the project.



Knowledge of the coverage provided by the policy, including the ancillary coverage such as soft costs and delay-in-completion, will help focus the claim presentation and maximize any recovery.

### Form a Dedicated Claims Team

While project managers, superintendents, and other project-specific employees will undoubtedly be involved with the claim process, it is often beneficial to create a dedicated claims team. Formation of this team with the specific responsibility of collecting the required information, documenting all losses, and communicating with the insurance carrier will allow the project-specific employees to focus on construction-related activities. Legal counsel and insurance professionals should be included as part of this team for all significant claims.

To ensure consistent communication with the insurance carrier and the other project stakeholders, one individual on this team should be designated as the point of contact. This individual should keep detailed records of all claim communication with the insurance carrier, claims adjuster, and other project stakeholders, along with all documentation provided in support of the claim.

### Use Separate Project and/or Accounting Codes

Project accountants should create separate project and/or accounting codes from those used for the original project. These codes will simplify the tracking of the soft costs that may be part of the claim recovery. Depending on the policy, these recoverable costs can include project administration costs, overhead, financing costs, design fees, taxes, lost profits, travel, and transportation. Some of these soft costs will need to be preapproved by the insurance carrier and should not be assumed to be covered.



### Be Prepared for the Claim Process

The BRI claim process will be unlike other property claims. This process may include a site inspection, submission of a proof of loss form, the production of detailed project documentation, and an examination under oath. The requested project documentation often includes the contract documents (e.g., contract, general and supplemental conditions, etc.), plans, financing documents, daily reports, meeting minutes, site inspections, progress photos, payment applications, and project schedules. If you are the project owner and you are submitting the claim, much of this documentation will also be in your or your general contractor's possession. Your claims team will need to be proactive and request any missing documentation from others involved in the project to ensure an expeditious claim process. Your legal team will want to provide guidance concerning the proof of loss and examination under oath.

For more information, contact Moreton & Company:  
Phone: 801-531-1234 | Toll Free: 800-594-8949 | Fax: 801-531-6117  
[moreton.com](http://moreton.com)