



Learn From

DESIGN-BUILD & CONTRACTOR

Professional Liability Claims



Design-build firms and contractors face significant — and growing — professional liability exposures from the work they handle and the jobs they subcontract out.

It's essential to have a specialized insurance policy from a stable provider like Professional Underwriters Agency (PUA) that helps insureds mitigate risk, defends them from potential claims and covers those claims, if needed.

PUA Comes Through For You

In addition to providing best-in-class professional liability solutions for design-build firms, contractors, architects, engineers and other classes of business, our insureds benefit from our comprehensive risk management and claims support.

- ✓ Contract reviews to help identify clauses that may lead to increased exposure or that can be added to contracts to limit exposure
- ✓ Loss prevention hotline to help avoid claims, mitigate damages and assist in responding to routine project communications or subpoenas requesting documents
- ✓ In-house claims team that offers pre-claims assistance, guides insureds through the claims process and works to minimize the scope of claims made on insureds' policies

READ ON FOR CLAIMS SCENARIOS ►



Scenario 1 DESIGN-BUILDER

A design-build firm was hired on an industrial construction project that involved the removal and replacement of oil and natural gas fired burners. A fee dispute arose and litigation was filed. In a third-party claim, a subcontractor alleged that the insured design-builder failed to provide complete and correct designs in a timely manner, resulting in additional work and time for the subcontractor. Specifically, the subcontractor claimed the design-builder failed to perform the design and installation of the project's fire alarm system in a proper manner, which caused the subcontractor to incur damages to correct and complete the design-builder's allegedly defective work. In addition to the significant costs to continue to defend, it was determined that the design-builder had exposure for certain components of the fire alarm system issues and a significant amount was paid to settle the matter.



Scenario 2 GENERAL CONTRACTOR/CONSTRUCTION MANAGER

On a school renovation project, subcontractor sequencing resulted in removal of windows during a particularly hot and humid stretch of the summer. The extreme humidity and inability to run air conditioning units allowed mold to grow in the school. After the insured took initial steps to address the mold, the school district was required to retain a remediation company to address the issue in an expedited manner so students could safely return to school. The expedited remediation cost more than \$300,000.



Scenario 3 DESIGN-BUILDER

An insured design-build firm was involved in a claim concerning the design and construction of a retaining wall at an assisted living facility project. Following unprecedented flooding of a nearby river, floodwaters passed through the wall and damaged the facility. The claimant project owner alleged nearly \$11 million in damages. Liability was disputed and the insured argued that the retaining wall was never intended to act as a floodwall. The dispute was subject to binding arbitration between the owner and the insured pursuant to the terms of their contract. However, the subconsultants and subcontractors responsible for the design and construction of the wall were not subject to an arbitration provision and refused to participate. Therefore, a second related lawsuit was instituted to pursue contribution from those parties. The claim ultimately settled for \$1.5 million.



Scenario 4 GENERAL CONTRACTOR

An insured contractor was retained to construct a multi-use commercial site consisting of two large self-storage unit facilities, a salon, and a coffee shop. The insured's subcontractor improperly installed the concrete flooring system for the storage unit facilities, which resulted in large, deep cracks in the floor, making the facilities unsafe and unusable. Testing by the claimant's expert revealed that the subcontractor substituted a cheaper quality concrete that deviated from the design plans and specifications. The claimant alleged that the insured failed to adequately supervise the subcontractor. As a result, the storage unit facilities must be torn down and replaced. The cost of repair will exceed \$1 million.



Scenario 5 ELECTRICAL CONTRACTOR

An electrical contractor was hired to install a generator during a power shutoff. The client sought to turn its power back on and asked the insured how to determine if the power had been restored. While following the insured's instructions, the client was severely electrocuted. The customer sued the insured contractor, and the contractor's general liability carrier provided coverage for the litigation. The GL carrier subsequently tendered to the professional liability insurer, claiming the contractor was providing professional services when instructing the client on how to test for power. After review of the allegations and the policy, coverage was accepted and the entire \$1 million policy limit was paid.



Scenario 6 GENERAL CONTRACTOR

During the construction of a commercial project, an insured general contractor struck and ruptured a buried fuel tank while performing excavating work, causing the dispersal of diesel fuel into the surrounding soils. The pollution event was reported to the state's department of environmental protection, which developed a remediation plan requiring extensive testing and removal of contaminated soils, quarterly monitoring and reporting, and potential future monitoring and reporting. The cost of the remediation and monitoring was over \$400,000.