

What to Look for in Additional Insured Endorsements

- **Additional Insured Status v. Indemnification**
 - Indemnification agreements unenforceable in some states
 - Indemnity agreements may not cover AIs sole negligence
 - AI provides defense coverage
 - Insulate insurance program from claims
- **Scope of Coverage**
 - All provisions of the policy also apply to the additional insured
 - Separation of Insureds clause
 - Limits shared
 - Certain exclusions and deductibles may not apply
- **Other Insurance**
 - Conflicts between AI coverage and GC's own corporate policy
 - Effect of indemnity
 - Intent of parties – (specify in subcontract)
 - Horizontal vs. Vertical exhaustion
- **Specifically Named vs. Blanket AI**
 - Specifically listed in endorsement
 - Blanket endorsement states: “that insured has agreed in writing”
 - Work performed for AI
- **Liability “arising out of” not “caused by” or “resulting from”**
 - Causation v. Nexus
 - “but for” not “proximate cause”
- **Completed Operations**
 - Liability arising out of “ongoing operations”
 - Ongoing operations v. completed operations
 - Specific exclusions
 - Policy triggered must name you as AI
- **Preventing Subrogation**
 - Subrogation by insurer against third party who caused damage
 - An additional insured is immune from subrogation

CHECKLIST FOR THE ADDITIONAL INSURED

1. The Additional Insured's name should appear on the endorsement if the endorsement is an ISO CG 20 09 or 10 form or Manuscript form. If it doesn't, then send it back and do not accept it.
2. For endorsements beginning with "WHO IS AN INSURED – is amended to include as an insured any person or organization whom you have agreed in a written contract..." the Additional Insured's name need not be typed in.
3. Secure copies of the declaration page of the policy, the additional insured endorsement and the certificate of insurance from each subcontractor.
4. The endorsement should cover "completed operations." Avoid language stating that the coverage is limited to "ongoing operations" or that have a specific exclusion for "completed operations".
5. Make sure that the endorsement reads "liability arising out of your work" as opposed to "liability arising out of your ongoing operations" or "liability caused by..."
6. The endorsement should state that the subcontractor's policy will be primary and non-contributory to all other valid and collectible insurance available to the Additional Insured. It is also acceptable, albeit less desirable, if the endorsement states that it will be excess unless the contract or agreement requires the insurance to apply on a primary basis.
7. The endorsement should contain "liability arising out of" as opposed to "liability resulting from" or "liability caused by."
8. The endorsement should require notification of cancellation to Additional Insured.
9. The endorsement should not state that insurance is subject to the execution of the agreement prior to the "bodily injury" or "property damage".
10. If the Additional Insured is acting as construction manager, make certain that the endorsement states "liability arising out of your work."