

Contractors face a wide variety of potential liability exposures every day. Internal exposures, such as poor employment practices or management of workers' compensation claims, can be minimized with effective planning and administrative execution.

As you begin to take steps to minimize your liability exposures, it's important to consider both your organization's past performance and current operations. Examine your operating procedures and recent incidents—don't forget to include near-misses, as well. Review claims under your different lines of insurance coverage: general liability, commercial property, commercial auto, employment practices, inland marine and workers' compensation. Take a look at your company policies—everything from human resources activities, such as hiring practices and drug testing, to how you actually perform your work at the job site.

Internal Administration

Develop a post-offer strategy for new employees you hire to help control costs associated with medical care, workers' compensation and disability payments. Such a strategy can be used even when working in a collective bargaining environment if there is verification of the language in the collective bargaining agreement. An effective post-offer strategy could include:

- Post-offer, pre-employment physicals based on the performance requirements of a detailed job description
- Drug testing and notification of the potential for future random, suspicion-based and post-accident testing
- Meaningful return to work programs for injured employees
- Injury prevention or maintenance programs, including stretching programs and physical therapy if an injury is suspected
- Wellness or work fitness programs for employees, possibly through a health insurance provider partnership



Develop and implement a procedure for reporting injuries and incidents, including near-misses. Train all employees—from those working in the field to the project managers in the office—on the elements of the policy. Early reporting of injuries is essential and can prevent a small claim from becoming a large, costly one.

Organize your handling of workers' compensation claims. EMC's Select Provider Program can help you set up standardized procedures and designate a specific medical facility for injured employees, depending on the laws of your state.

External Administration

If you are a general contractor, maintain records of your current safety and injury statistics in an easily accessible format. Understand and be able to explain the current status, history and outlook of:

- Your experience modification rate
- Your incidence rates and how they compare to your industry as a whole
- Your OSHA 300 logs for the past three years

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If you use subcontractors, have a plan in place for prequalifying them before they begin work. Request to see their experience modification rate, their incidence rates and their OSHA 300 logs. Determine if there is a certain experience modification rate that will disqualify them as your subcontractor. You can also view their inspection data on the OSHA website to see if they have been issued citations for specific standards.

Review your contracts for clarity of insurability, additional insureds and liability transfer. Make sure everyone has a clear understanding of what the standards will be for on-site safety and health requirements. Responsibility and accountability are keys to the success of multicontractor jobs. It's also a good idea to have all contracts reviewed by legal counsel.

Seek assistance from your insurance provider. Loss control representatives from EMC or your agent can help you mitigate and reduce losses on your job site or in your facilities.

Develop a relationship with your local OSHA Consultation Office and consider using their services on your jobsite. The OSHA Strategic Partnership Program is designed to encourage, assist and recognize the efforts made to eliminate serious hazards and achieve model workplace safety and health practices. You might also consider participating in OSHA's Voluntary Protection Programs (VPP). This program promotes effective worksite-based safety and health. Approval into VPP is OSHA's official recognition of the outstanding efforts of employers and employees who have achieved exemplary occupational safety and health.

Before Starting a Job

If you are a general contractor, require your project managers to conduct preplanning meetings with the superintendent for the project to plan sequence of work, storage of materials, crane and equipment rentals, and any high hazard or nonroutine work that will take place. While all projects will have a long range planning component, it's important to emphasize ongoing safety, health and risk management for the site.

If you are a subcontractor, the same types of planning should take place. Your main focus, however, will be your scope of work and how it fits into the overall project. Identify hazards, eliminate them where possible and provide the tools, materials, equipment and personal protective equipment for employees to perform the work safely. Again, any high hazard or non-routine work should be specifically addressed.

Both general and subcontractors should provide ongoing safety training for employees in the specific areas that are involved in their scope of work. Employees should receive appropriate personal protective equipment before they start work on a job site. You should also research, develop and actively monitor the emergency action plans for your job site. Each building and building site has unique characteristics that can change frequently during the life of a project. Plans for fire, weather and domestic emergencies should be addressed and communicated to employees and updated frequently.

For Additional Information

EMC Insurance Companies: www.emcins.com

- EMC Services: www.emcins.com or email losscontrol@emcins.com
 - ▶ Select Provider Program
 - ▶ Return to Work Programming Assistance
 - ▶ Medical Management Services
 - ▶ Wellness Program Assistance