



# Insurance and Bonding



Merriwether & Williams  
INSURANCE SERVICES

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# Surety vs. Insurance

- Apples and Oranges
  - Cannot Compare
- Insurance expects loss
- Surety expects no loss
- You purchase Insurance
- You must qualify for surety bonds



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# Why Do You Need Bonding?

- **Required to bid on all public work**
- **Often required by private owners/GCs**
- **Increased credibility**
- **Another relationship to assist your firm's development**



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# What is a Surety Bond

**A three party agreement that guarantees a contract or agreement**

**Example: Contract between you and a third party**



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# Surety Bond

## Three Party Agreement

- Protects another party
- You cannot buy it
- You must qualify for it



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# Who are the three parties

- **Principal-** the party that is asked to provide the bond
- **Owner –** the party that is protected by the bond
- **Surety-** Insurance company that writes the bond



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# Contract Bonds

**Contract bonds guarantee completion of a contract to the owner's satisfaction**

- **Components**

- **Bid-** guarantees contractor will enter into contract at bid price, if low bidder
- **Performance-guarantee** completion of the contract
- **Payment** – guarantees laborer, suppliers, and subcontractors will be paid
- **Maintenance or Warranty Bond** – guarantees against defects in workmanship or materials for a stated time after acceptance of work



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# Before You Bid

- **Review your specifications and bond forms to understand your contractual requirements**
- **Make sure you can qualify for the required bond before you begin the estimating process**
  - **Be prepared to provide data required by the surety company**
- **Signed and executed bonds by a surety company must be submitted as part of your bid.**



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# Things You Need to Know About Surety Bonds

- **Surety bond producer/agent/broker**
- **Surety bond producer/agent/broker should have adequate markets**
- **Surety companies (markets) should be listed on the Department of Treasury Circular 570 and A.M. Best A- rated**
- **Cost of bonds can range from 0.5 percent to 3 percent or more**



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# Things You Need to Know About Surety Bonds (Continued)

- **Cost and bondline is based on the surety underwriter's evaluation – four Cs:**
  - **Character**
  - **Capacity**
  - **Capital**
  - **Conditions of the Times**
- **The loss or deterioration of any of these factors will cause surety concerns and result in reduced bonding capacity**



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# Indemnification

- **General Indemnity Agreement**
  - **Surety will expect the indemnity of both your company and you personally**
  - **May include your company's assets, home, car, and any other assets**

# Surety Underwriting

- **Surety's Prequalification Process**
  - **In-depth look at a Person's Finances – Company and Personal**
  - **Experience for the required obligation**
  - **Ability to meet obligations**
  - **Necessary resources to perform the obligation**
  - **Professional & Accurate Presentation**



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# How to obtain bonding

## The Process

- Find the right broker
  - Specializes in surety
  - Surety Bond Markets
  - Reputation
  - Relationship

# Benefits of Bonding

- **Professional References:** Surety team knows accountants, bankers and lawyers who understand
- **Business advice:** Surety team can share their personal experience on issues
- **Funding Verification:** The surety will insist on knowing the source and adequacy of funds before it will commit to bonding a project.
- **Contract Reviews:** Many sureties perform contract reviews to identify contract terms, anomalies in the specifications or bond forms that may be onerous or add undue risk to the project.
- **Continuity Plans:** Sureties can assist the contractor with a continuity plan to protect the contractor's family, estate, partner, employees and assets.
- **Thorough Investigation of Claims and Legal Defense**



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# Declination

- **If declined for a surety bond:**
  - **Request letter from Surety Company stating why**
  - **Work on improving situation**



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# Maintain Bonding Relationships

- **Do not hide problems; confront issues directly**
- **Share all your job cost information**
- **Solicit assistance from broker and surety company**
- **Maintain open communication, particularly on difficult projects, so surety is aware of potential disputes**



# Surety Bond Resources

- **Bonding Programs**
  - **City and County of San Francisco**
  - **Alameda County**
  - **BART**
  - **City of Los Angeles**
  - **Los Angeles Unified School District**
  - **San Bernardino Community College District**
  - **San Diego Airport Authority**
- **Programs that can assist you with Technical Assistance; Collateral Support; Contract Support**



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# Insurance

# Insurance – A Practical Understanding

## ■ First Party Coverages

- Coverage for your direct losses to physical assets you own/lease and insure. Buildings, Personal Property, Tools and Equipment

## ■ Third Party Coverages

- Coverage to protect you from others who allege your negligence caused them bodily injury or damaged their property

## ■ Workers Compensation

- Compulsory (Mandatory) coverage to cover medical costs and loss wages to your workers injured on the job



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# What Are the Different Types of Insurance?

- **Commercial General Liability (CGL)**
- **Workers' Compensation (WC)**
- **Automobile Liability**
- **Contractor's Equipment Floater**
- **Professional Liability (PL), also known as Errors & Omissions (E&O)**
- **Builder's Risk**
- **Owner Controlled Insurance Program (OCIP)**
- **Contractor's Controlled Insurance Program (CCIP)**



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# Standard Insurance Requirements

## ■ Commercial General Liability

- Limits as stipulated by Owner or GC, never less than \$1M per occurrence / \$2 M Aggregate
- Naming Owner / GC as Additional Insured
- Coverages typically include:
  - Bodily Injury
  - Property Damage
  - Products / Completed Operations
  - Personal / Advertising Injury
  - Medical Payments



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# Standard Insurance Requirements

(Continued)

## ■ Commercial General Liability

### ■ Umbrella / Excess Liability

- Higher Liability Limits

### ■ Underwriting

- Loss History
- Scope of Work
- Payroll or Gross Receipts

### ■ Exclusions

- Watch out for limitations
  - Residential
  - Townhouse
  - Condos



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# Workers Compensation

- **Mandated by law**
- **Statutory Limits by State**
- **Employers Liability Limits (egregious negligence)**
- **Underwriting**
  - **Loss Experience (EMR)**
  - **Classification of Employees**
  - **Payroll – Hourly Rates**
- **Safety Safety Safety**
- **Most impactful Insurance loading in bids**
  - **Good Experience – Competitive Advantage**
  - **Bad Experience – Harder to Compete**



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# Auto Liability

- **Limits as required, no less than \$1M**
- **Should schedule for Excess Liability – Catastrophic Losses**
- **Seek no less than “Scheduled Non-Owned and Hired”**
- **Underwriting**
  - **Schedule of Vehicles / GVW / Values**
  - **Number of Employees for Non-Owned**
  - **Driver MVR’s**
  - **Consider DMV “Pull” Program**



# Contractors Equipment Floater

- **First party protection for owned / leased equipment / tools**
  - **Cover for Replacement Cost Values**
  - **Inland Marine form covers at any location**
  - **May include earthquake**
  - **Must carefully schedule and update all equipment to be covered**
  - **Underwriting**
    - **Losses**
    - **Storage Security**
    - **Values X Rate**



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# Professional Liability or Errors & Omissions

- **Needed for any form of Construction Management / Consulting**
  - **Design and/or Engineering**
- **Limits dictated by Owner or Prime Consultant – No less than \$1M per Occurrence**
- **Can be project specific or “practice” policy**
- **Claims made – when coverage expires, it expires retroactively**



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# Builders Risk

- **Coverage for property damage to a structure under the course of construction including loss or damage to materials intended to be part of the building**
  - Sometimes covered by Owner/GC under a project blanket limit
  - Can purchase a blanket policy to apply to all work throughout the policy period
  - Project specific coverage
  
- **Underwriting**
  - Loss History
  - Construction Values – Hard & Soft Costs



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# Builders Risk (Continued)

- **Read contract to confirm who is responsible for procuring and who is responsible for deductible**
- **What specific coverages are required: Earthquake? Flood? Water Damage? Mold?**
- **Make sure you are part of “Named Insured” if others purchase coverage**
- **Contract may stipulate waiver of subrogation disallowing the Builders Risk Carrier from pursuing responsible party**



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# OCIP's & CCIP's or Wrap Ups

- **Project specific coverage being provided by Owner – OCIP or GC – CCIP**
  - **Coverages which may be provided**
    - **General Liability, Builders Risk, Workers Compensation**
- **Evidence of Offsite General Liability and Workers Compensation still required**
- **Coverage only applies to “on-site” work**
- **Read bid specs and contract closely**
  - **Do you bid with or without insurance loading**
  - **Are you responsible for any deductibles**
  - **Carefully calculate your normal insurance load as it may be deducted from your bid, get help from your broker**



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# OCIP's & CCIP's or Wrap Ups (Continued)

- You will be informed of coverage limits and terms.  
Compare to your own standard coverage
- Compliance – You may be required to submit insurance rating information to validate insurance credit
- Owner provided coverages should be excluded from all change orders
- If Workers Compensation is provided you will have to provide monthly payroll information



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# OCIP's & CCIP's or Wrap Ups (Continued)

- **Workers Compensation losses will be included in your own statistical data and experience modification rating**
- **Familiarize yourself with OCIP/CCIP manual including claims reporting procedures and occupational clinics**
- **You may have to participate in a mandatory project safety program**
- **Maintain compliance with OCIP/CCIP requirements it may effect progress or retention payments**



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