



Before You Place Coverage, Understand the Provisions of the Proposed Policy

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Large, complex construction projects require builders' all-risk policies, usually with multiple carriers due to the size of the risk. Those policies are frequently placed using underwriting submissions to the market that often include a draft policy with venue, choice of law and dispute resolution provisions. Policyholders should carefully consider and understand the implications of those provisions before accepting the policy and placing the coverage.

A proposed venue provision may specify a particular jurisdiction as the exclusive venue for resolution of a coverage dispute—even when the project's relationship to that particular venue may be tenuous at best. A

policyholder should carefully consider whether an exclusive venue in that jurisdiction is in its best interests. Factors such as geographic location of the project as well as the location of potential witnesses, documents and evidence in the event of a loss should be carefully considered before accepting an exclusive venue provision in a proposed policy.

Similarly, choice of law and dispute resolution provisions can have a profound effect on the ability of a policyholder to resolve subsequent coverage disputes. A policyholder should consider the implications on coverage disputes of specifying the law of a particular state, including issues such

as timely notice, the ability to assert extra-contractual claims and legal interpretations of potentially relevant exclusions. All-risk policies on complex construction projects may also include a proposed arbitration provision. A policyholder should carefully consider whether an arbitration provision is in its best interests. Arbitration may be most suitable and have benefits for resolving certain types of disputes but may also lessen a policyholder's ability to effectively assert certain types of claims in other disputes.

Look for these provisions and carefully consider their consequences to your project. Don't just accept a draft policy as a matter of course. ■

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