

# Construction

EXECUTIVE

## Executive Insights

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FROM LEADERS IN  
CONSTRUCTION  
INSURANCE

BY DONALD BERRY

“Insurance procurement and management has become increasingly complicated,” observes Henry Lombardi, President and COO of Allied Group Holding, LLC. “At the same time, it has become more frequent that a project’s profitability depends on recovery of insurance dollars.” With this in mind, you’ll want to examine the fine print in your policy more closely after reading what these industry experts in insurance, bonding and construction law have to say.

**“What advice do you have for contractors to compare one additional insured endorsement to another?”**



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There are dozens of Additional Insured (AI) forms.

Here are a few key areas of concern:

*Does the additional insured form provide coverage meeting the indemnity obligation the contractor has to the owner/GC?* ISO forms changed dramatically in July 2004 in several ways. The new ISO forms diminish coverage under the contractual liability and the additional insured endorsements to eliminate coverage for the additional insured’s sole negligence. If the actual contract calls for the additional insured party to be provided coverage for their sole negligence by the contractor, there will probably be a gap in coverage under most additional insured forms and contractual forms.

*Does the ‘Blanket Additional Insured’ form solve the problems?* Not always. Here is just one recent example. We insured a

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—Jeff Burton, INSURICA  
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contractor who had a written contract with a school to build the structure. The written contract with the owner [school] required that the school and numerous school officials be included as additional insureds. The ‘Blanket Additional Insured’ applied. Before starting work, however, the city where the school was located required that the city itself, and several of its departments, be additional insureds for the project. They were not a part of the written contract and separate AI endorsements were necessary.

*Does the AI form put any burdens on the AI party which are unattractive or which*

*you would feel an obligation to inform the AI of in advance?* Sometimes the AI form will set forth trigger conditions of which the GC is aware (since it is the GC’s own policy) but of which the AI may not be aware. Consider the example of an AI form which stipulates that the AI must notify the insurance carrier of any occurrence that may lead to a claim. This type of AI endorsement presents a dilemma for the GC. The GC is presenting an AI form that has requirements that the AI should know about. Does the GC have an obligation to present these restrictions to the owner, perhaps creating a burden for himself?

*Does the AI form exclude ‘action over’ claims?* These are the types of claims where the GC’s employee is injured, collects under worker’s compensation, but then sues the AI for their alleged negligence in the injury. The expectation of the AI is that the GC’s AI endorsement will protect them in this instance. Many AI endorsements provide exclusions for this scenario.

In short, “A rose, is a rose, is a rose,” does not apply to AI forms.