

The AOLS Professional Liability Program

By Mark Sampson, BBA, FCIP

Negotiations have already begun for the 2012 Professional Liability Insurance Program. By the time this article has been published, you will have already received the insurance renewal package. Please complete it and return the package ASAP.

I had the pleasure of attending the AOLS AGM in Ottawa this past February. I also had the opportunity to give a presentation on the Professional Liability Insurance Program. For those members who did not have a chance to attend, here is a summary of my discussion.

Background:

The AOLS Professional Liability Program was established in 1985 for the members of the Association to obtain errors and omissions liability insurance. The program allows members to obtain very broad insurance coverage at competitive rates. It has been with the same insurer (Novex Group Insurance), the same adjuster (Maltman's), and the same broker (CG&B) for over 25 years.

Over these many years, the program has been very consistent from both a pricing and performance standpoint. However, in the past 3 years there has been an increase in both the frequency and severity of claims.

The number of claims that are reported each year has increased due to a few factors:

- 1) Survey firms are doing a great job reporting all "incidents" that might give rise to a claim.
 - This is very important because your policy is written on a claims-made basis.
 - It is **IMPERATIVE**, that you report any known claims and/or notice of any facts or circumstances that are likely to give rise to a claim, as soon as you become aware of them.
 - Late reporting of a claim could jeopardize your right to indemnity under the policy.
- 2) It might be a sign of the changing business environment because it seems that when an error occurs, everyone is looking to transfer blame to someone else.

The severity of claims has increased over the past few years because of the rising value of land and increased construction costs. In a nutshell, the cost to correct the mistakes is also increasing.

Key Features and Benefits of the AOLS Professional Liability Insurance Program:

I would like to take this opportunity to summarize some of the many benefits of participating in the Professional Liability Insurance program.

1) Broad Coverage

- We have negotiated an extremely broad insurance wording. It is a manuscript policy that was created specifically for land surveyors. Many of the features of the policy are not available in today's standard insurance marketplace.
- Some coverage features include: broad named insured language, deductible not applicable to adjusting or settlement expenses, reduced deductible for claims under \$10,000, coverage continuity for retirement, termination or sale of business.

2) Discovery Coverage for Retirement, Termination, or Sale of Business

- Firms that have been insured by the Program for at least 5 consecutive years are eligible to receive \$500,000 per claim discovery coverage at **no additional cost!**
- This is an important feature of the insurance coverage because when you retire or sell your firm, you could still be liable for work that you performed prior to retirement or sale of your business.
- This is not available in the standard marketplace.
- Higher discovery limits that may be required are available for additional cost. Please contact me to discuss your individual requirements.

3) Experience, Expertise, Continuity, and Claims Handling

- The insurance partners (CG&B, Maltman's, and Intact Insurance), have been representing the AOLS for over 25 years. We know your business, the issues you face, and the type/nature of your claims.
- Over the years, many of you have had first hand experience dealing with Maltman's and specifically with John Breese. Claims are acted upon quickly, professionally, and are often mitigated by John because of his experience and industry knowledge.
- CG&B works diligently year after year to obtain competitive terms on the program. We also respond promptly to all enquiries we receive from the members.

The Hidden Costs of Claims:

Every year, I give a presentation to the Articling Students on professional liability insurance at the AOLS Professional Lecture Course. Part of my presentation is on the hidden costs of claims. Here is an excerpt from my lecture that will serve as a helpful reminder to all OLSs on the hidden costs of claims:

1) Why Losses occur:

- Losses occur because of an error or omission.
- Errors or omissions occur because of a mistake.
- Mistakes occur because the proper process/procedures were not followed or important steps were skipped.

2) Do not take shortcuts!

- Always follow the proper procedures that you have studied/learned!
- Pay particular attention to construction-related work as that is the source of the majority of errors.

3) Hidden Costs:

- Negative Reputation: to the OLS, the firm, and your clients.
- Reduced Productivity: defending an allegation/claim.
- Reduced Profitability: loss of fees, unpaid remedial work, payment of the deductible, and increased premium (claim surcharge).

Frequently Asked Questions:

I often field a number of similar questions from the members regarding the insurance program. Here is a list of the most frequently asked questions; and my answers:

1) How is my premium calculated?


- The premium is based on many factors such as the size of the firm, the type and amount of revenue, the limit of insurance, and the frequency and severity of claims.

2) Am I getting a discount for being claims free?

- Yes!
- Firms that have made a claim under the policy as a result of an error or omission are charged a higher premium. If you are claims free, no surcharge is applied.
- A claim surcharge is applied to the premium that is equal to 12% of the overall claim amount (less the deductible). To minimize the impact in any one year, the surcharge is applied over 3 years for claims that are <\$100,000; and over 6 years for claims that are >\$100,000.
- Firms must pay back any outstanding claim surcharges to the AOLS prior to receiving a Discovery Period insurance certificate.

3) What liability limit should I carry?

- This is a difficult question to answer as every situation is different.
- You are required to carry a minimum of \$500,000 in Professional Liability coverage but the majority of the firms are carrying at least a \$1 million limit.
- The cost to increase this limit to \$1 million is relatively minimal = \$350 per OLS.

If you have any other questions about the Professional Liability Insurance Program, please contact me directly by email at Mark.Sampson@cgbgroup.com. 

Mark Sampson, BBA, FCIP is the Senior Vice President of The CG&B Group Inc.