XL Insurance

Education Pays

Design Professional

Professional Liability
Education Program Catalog

Updated April 2022

Contents

General Information

AXA XL's Design Professional unit offers risk management education courses, claim case studies and workshops designed to increase your knowledge of liability issues and give you tools to avoid claims and mitigate losses.

Premium Credit – US: Each policy year, firms that successfully complete an approved program can earn up to 10% credit toward their renewal premium—up to the first $5 million of coverage.

Premium Credit – Canada: Each policy year, firms that successfully complete an approved program can earn up to a 10% premium credit—up to a maximum of $10,000 on the first $5 million of coverage.

Annual Policies: To qualify for a premium credit, all required staff must complete and pass the course before you submit your renewal application so that the credit can be reflected on your policy binder. Premium credit is given only at renewal. It is your responsibility to ensure that the course is completed prior to renewal and that the credit is reflected on your policy binder. It's important to remember that no mid-term education premium credits will be processed.

Multi-Year Policies: To qualify for a premium credit firms need only complete ONE Education program to serve as their "banked" credit for renewal.

Unless otherwise noted, courses may be repeated after three years for a premium credit.

Continuing Education Credits: Programs are registered with the national AIA, and units earned by architects are directly reported to the AIA by AXA XL's Design Professional unit. Engineers may use certificates of completion to self-report learning units. Not all states and licensing boards accept these programs for learning units, and some do not recognize the HSW qualification.

To earn continuing education credits for repeating a course, there must be three full calendar years between completions.

Not-for-Premium-Credit Participation: Individuals can enroll in courses on a not-for-premium-credit basis. That means enrolled participants who complete the program will receive certificates and earn learning units, but the firm will not qualify for premium credit. This is useful for new employees who need to catch up on course content, or for those employees that wish to earn learning units.

Questions: Please contact your agent or broker with any specific questions about our programs or our Learning Management Center.

HSW Learning Units

Due to evolving AIA criteria regarding HSW program qualification, agents and brokers can verify learning unit status on AMOS and AXA XL policyholders can contact our Learning Management Center to find out if a course or workshop qualifies.

Contact the Learning Management Center

In the US:
831 657 2524
DPeducUSA@axaxl.com

In Canada:
416 342 8682
Beverley.Dunham@axaxl.com

eLearning Courses

Available on our Learning Management System (LMS), an exclusive online platform, accessible 24/7

Completion Requirement: Each required participant must pass with a score of 80% or higher and is allowed one retake.

Code of Ethics & Professional Conduct (Engineers)

1 AIA/CES LU | PDH | HSW Qualified

Engineers have certain fundamental obligations to society, to clients, to the profession, and to peers and colleagues. The NSPE states guidelines and rules for the conduct of design professionals in fulfilling those obligations.

This course defines ethics and its important role in your profession. It also outlines the NSPE Code of Ethics (canons), Rules of Practice and Professional Obligations, and explains the role of the Board of Ethical Review. The course provides you with tools to help make ethical decisions as well.

Attendance Requirement for Premium Credit: 50% of the principals/partners and professional staff

Code of Ethics & Professional Conduct (Architects)

1 AIA/CES LU | PDH | HSW Qualified

Architects have certain fundamental obligations to society, to clients, to the profession, and to peers and colleagues. Members of the American Institute of Architects (AIA) are expected to adhere to a Code of Ethics and Professional Conduct intended to assure clients, the public, and colleagues of an architect's dedication to the highest standards in professional practices.

This course defines ethics and its important role in your profession. It also outlines the AIA's Code of Ethics and Professional Conduct and explains the role of the National Ethics Council (NEC). The course provides you with tools to help make ethical decisions as well.

Attendance Requirement for Premium Credit: 50% of the principals/partners and professional staff

Communication & Design Professionals

1.5 AIA/CES LU | PDH

Communication influences all aspects of your project cycle. This engaging eLearning course uses the latest web technologies that automatically adapt courses for the best optimal experience. Learn how to:

- Recognize the basics of effective communication
- Determine how poor communication can hurt your business
- Identify common communication breakdowns and challenges
- Assess and know how to respond if there's a problem on a project
- Implement opportunities for improving communication in your firm

Attendance Requirements for Premium Credit: 50% of the principals/partners and professional staff

Contract Basics for Design Professionals

1 AIA/CES LU | PDH

This one-hour course is based on *AXA XL's Contract eGuide for Design Professionals*—an authoritative guide to issues, contract trends, claims and practice management. You'll learn why it's important to have a written agreement and get tips on developing fair, solid professional services agreements. Taking this course won't turn you into a legal expert. But it will give you an overview of some basic concepts about contracts, provide suggestions on how to review client-drafted agreements and help you spot troublesome areas.

Attendance Requirements for Premium Credit: 50% of the principals/partners and professional staff

Contract Review: Focus on Liability

1 AIA/CES LU | PDH

Even the simplest project can be risky. Some contract provisions transfer inordinate amounts of project risk onto your shoulders, jeopardize your insurance or make demands that you cannot reasonably fulfill.

At the same time, there are contractual provisions that can help reduce your risk and maintain the protection of your professional liability insurance. This course will identify and discuss some of these provisions and explain how to negotiate appropriate terms and conditions in your client contracts.

Attendance Requirements for Premium Credit: 50% of the principals/partners and professional staff

Contract Review: Key Provisions – Raising the Bar

1 AIA/CES LU | PDH

Whether you have developed your own standard contract, prefer the use of professional society agreements, or find yourself being asked to use a client-written form, it's important to learn to review and, if necessary, revise professional services agreements. You need to understand your obligations under the terms of the contract. In the event of a dispute, you also have to be able to establish your rights and obligations. In addition, you must be able to recognize unfair, one sided contracts. You need to be aware of what a contract doesn't say, too. When contracts are silent on certain issues, the law may impose its own default conditions. Finally, poor contracts can create additional risks. In this course you'll look at the steps required to review professional services agreements with our recommended Contract Review

Checklist. We will also take a closer look at a few important contract clauses, some of the clauses that we think raise the bar for architects and engineers.

Attendance Requirements for Premium Credit: 50% of the principals/partners and professional staff

Document Retention: Keys to Maintaining Files and Minimizing Risk

1 AIA/CES LU | PDH

A well-written and consistently applied Document Retention Policy is a valuable tool for avoiding or defending against claims. This mobile friendly and engaging course has three 10-15 minute bite-size lessons with interactive video clips that illustrate valuable tips and recommended best practices. It provides a road map for developing and implementing a customized Document Retention Policy for your firm. You'll learn how a consistently applied policy saves valuable time researching and retrieving information and will better protect you in the event of a claim.

Attendance Requirements for Premium Credit: 50% of the principals/partners and professional staff

Lessons in Professional Liability

4 AIA/CES LU | PDH

Architects and engineers face the very real threat of claims on every project they undertake. Given the small profit margin of the typical firm, a single claim can mean the difference between profit and loss on a project—and a large claim can spell disaster. That's why it's so important for design professionals to understand how to avoid claims and mitigate their exposure.

In this course, you'll improve your "Liability IQ" by learning to identify and manage the common risks faced by design professionals. You'll be exposed to strategies and techniques that can increase your effectiveness in practices such as business communications, project evaluation, client selection, contract and scope development, and shop drawing review.

NOTE: The four (4) continuing education units for this course are based on the average time it takes to read the 150-page textbook. Participants should be prepared to download the textbook and read it before taking the online test.

Attendance Requirements for Premium Credit: 50% of the principals/partners and professional staff

Managing Construction Phase Risks: When Your Design Becomes a Reality

1.25 AIA/CES LU | PDH

The construction phase of a project brings a design firm's hard work to realization. By approaching this phase proactively, A/Es can exercise greater control over the interpretation of the final design, address questions and problems as they arise, and support the client's objectives more effectively. But anyone who has been involved in construction phase services knows the process also has plenty of traps for the unwary—traps that can leave firms open to a professional liability claim.

You'll get an overview of AXA XL's Risk Drivers research, highlighting how many factors are linked or related to CA services. You will review the purpose and importance of CA services, typical CA activities and best practices in each of these areas. The course identifies how to spot and manage disputes, takes a look at project close-out procedures and wraps up with an opportunity for you to reflect on potential areas of improvement.

Attendance Requirements for Premium Credit: 50% of the principals/partners and professional staff

Negotiations: Strategies for Better Client Agreements

1 AIA/CES LU | PDH

Negotiations can be a great opportunity to forge client relationships, manage risk and set the stage for project delivery. Using knowledge checks and unique exercise scenarios, this course outlines varying negotiations styles and how these styles engage with each other. You'll learn strategies and tactics that can improve negotiation outcomes and walk away with an action plan to put what you've learned to use in your firm. The course takes 60 minutes to complete. For convenience, you can take the course in 15-minute segments or complete it in one session.

Attendance Requirements for Premium Credit: 50% of the principals/partners and professional staff

eLearning Webinars

Select recorded webinars developed in conjunction with PSMJ available on our Learning Management System (LMS).

NOTE: If you leave the recording before its conclusion and return, it will commence at the beginning. Because these webinars were originally delivered live, you will see references to PSMJ special offers that no longer apply. Also, PSMJ is no longer issuing learning certificates for these webinars. Webinar Learning certificates are issued by AXA XL from our Learning Management System.

Completion Requirement: Each required participant must pass with a score of 80% or higher and is allowed one retake.

Cyber Risk and Design Professionals

1.5 AIA/CES LU | PDH

Find out about the duties and associated risks you take on when handling client or employee related data such as: Personally Identifiable Information (PII), Protected Health Information (PHI) or Contracts containing confidential or proprietary information. Understand the types of cyber threats that can jeopardize your reputation and your profitability. Learn what to do if your cyber security is breached. We'll also explain what cyber-related liabilities are covered in an AXA XL professional liability policy and what is covered by a Cyber Suite endorsement.

Attendance Requirements for Premium Credit: 50% of the principals/partners and professional staff

Developing Your Project Management Plan

1.5 AIA/CES LU | PDH

This webinar discusses how to create a successful project plan. Project planning should not only anticipate design challenges, but should anticipate risk, potential mid-project changes, and schedule upsets. Learning how to create a project plan before the project begins allows a firm to think through the potential alternatives and map out a plan of action.

Attendance Requirements for Premium Credit: 50% of the principals/partners and professional staff

Keeping Projects Under Budget & On Schedule

1 AIA/CES LU | PDH

It's bad enough that project budget problems can cost your firm big bucks. Even worse, they can create serious liability concerns. The key to successful financial management of projects is the consistent use of earned value analysis (EVA).

What is EVA? EVA is a way to stay on top of the schedule and budget status of projects so you can see early on when projects are starting to get into trouble. This concept is not new. David Burstein of PSMJ published the first article we know of on this subject back in 1979 and Randy Lewis of AXA XL discusses the impact of failing to effectively manage and respond to budget/schedule changes and illustrate how these failures can lead to professional liability claims against design professionals. Today, there is an increasing array of options to help project managers perform this critical analysis. Some of them are highly useful, others are less effective. This presentation describes what EVA is, how it can help you keep your projects on course, and how to decide if the emerging techniques are right for your projects.

Attendance Requirements for Premium Credit: 50% of the principals/partners and professional staff

Managing Scope Creep & Other Project Changes

1 AIA/CES LU | PDH

Diogenes said, "The only constant is change." Unfortunately, many designers seem to believe that once they have finished their design the project execution is simply a matter of following the check sheets. Change orders appear from all sides, owner and contractor personnel are rotated out, schedules creep, budgets grow: all of these are examples of everyday changes in the design and construction world. This joint webinar by PSMJ and AXA XL's Design Professional group discusses change in the project environment, how you can anticipate it, and how you can manage the change process.

Attendance Requirements for Premium Credit: 50% of the principals/partners and professional staff

Managing Your Risk and the Contractual Duty to Defend

1.25 AIA/CES LU | PDH

This webinar provides a primer on contractual defense and indemnity and explains how the contractual liability exclusion in a professional liability policy can create an uninsured exposure for design firms. This course examines a variety of contractual indemnity clauses since the 2018 amendments to Civil Code section 2782.8, placing an emphasis on the competing theories governing the duty to defend in design professional contracts. The final portion of this course will focus on negotiation and risk management strategies that will assist design firms in avoiding or mitigating the impacts of an uninsurable defense obligation.

Attendance Requirement for Premium Credit: 50% of the principals/partners and professional staff

Quality and Risk Management for Smaller Firms

1 AIA/CES LU | PDH

A/E firms—large and small—know the challenge is to please the client and make a profit doing it. And that creates another challenge: avoiding the risk of errors and omissions. For smaller firms, risk management is an even more important issue—one mistake can wipe out your firm completely! But because smaller firms don't have the resources of larger firms, it's the non-technical risk and quality issues that are frequently overlooked. This webinar will help you understand the importance of quality and risk management and how you can develop the tools to minimize your exposure to claims.

Attendance Requirements for Premium Credit: 50% of the principals/partners and professional staff

Resilient Design and the Evolving Standard of Care

1 AIA/CES LU | PDH | HSW Qualified

This webinar begins with an overview of resilient design and how this concept is shaped by human and natural events, with a primary focus on climate driven change. The standard of care is both defined and discussed against the backdrop of resilient design, with emphasis on how catastrophic events can create additional liability exposures for design firms. A variety of resilient design exposures are explored from the perspective of hazard and exposure analysis. The program concludes with solutions and best practices that firms can implement to help communicate program requirements to owners while safeguarding infrastructure and public health, safety and welfare.

Attendance Requirement for Premium Credit: 50% of the principals/partners and professional staff

Risk Drivers 3: Understanding the Dynamics of Risk in the Design Industry

1 AIA/CES LU | PDH | HSW Qualified

The focus of this program is the identification of the breakdown in practice and project management that could create risks for your project. AXA XL's Design Professional group has defined six catagories of non-technical risk drivers and actions to avoid these risks, as follows:

1) Client Selection
2) Construction Phase Services
3) Project Team Capabilities
4) Communication
5) Negotiations & Contracts
6) Quality Management

We look at non-technical risk drivers from closed claims that incurred a loss or expense over a recent 5-year period. To gain further perspective on the six areas of risk, we delve into the elements of risk within each risk driver. These 30 elements break out the non-technical actions, behaviors, or breakdowns in project or practice management that have resulted in a Loss Prevention file or a claim. Recommendations are provided to avoid claims and improve practice and project management.

Attendance Requirement for Premium Credit: 50% of the principals/partners and professional staff

Scope & Change Management – Effective Management of Project Change

1 AIA/CES LU | PDH

One of the biggest issues that all architects, designers and engineers struggle with is change management. Identifying, communicating and obtaining budget approval for providing additional scopes of work is a key to successful project performance. This program provides the insight and tools to ensure greater success in obtaining client approval for your additional project work.

Who is this program for?

- Architects, designers, engineers who manage projects
- Firm principals/owners looking for information to support and train their PMs on scope change management
- Firms that strive for a consistent, effective approach to their change management process

What does this program include?

- Defining the scope of work – defining the project, work breakdown structure, having a plan, conducting a kick-off meeting
- Change Management – defining change, internal vs. external change, recognizing and identifying change, obtaining approval for change
- Tools – Change order request, change order log, weekly progress report, documenting change
- Examples of templates for the following: work breakdown structure, kick-off meeting agenda, change order approval, change order log, weekly progress reports

Attendance Requirements for Premium Credit: 50% of the principals/partners and professional staff

Site Visit Guidelines Dos and Don'ts

1.25 AIA/CES LU | PDH

This webinar focuses on developing best practices for design professionals performing construction site observation duties. Detail is spent on preparing for and conducting site visits and what to do when there are unsafe conditions on a construction project. Employee safety is emphasized against the backdrop of communicating challenges in staffing site visits when there is a public health crisis.

This program also explores virtual site visits as a potential tool to accommodate project owners during a health crisis as well as best practices for documenting virtual site visits and protecting the firm from additional liability exposures. The program concludes with an overview of recognizing events that could lead to a claim and the importance of reporting potential claims to the professional liability carrier.

Attendance Requirement for Premium Credit: 50% of the principals/partners and professional staff

Value Pricing: The Easiest Path to Profitability

1.5 AIA/CES LU | PDH

- A typical A/E firm can increase its profits by about $300,000 per year if it can raise its prices by just 5%—it's not easy but consider the alternative. This webinar will show you how to add more value so your client's won't resist your price increases

Learn how to:

- Identify the sources of client value on design projects through specific examples in the design sector
- Measure the impact of different pricing strategies and to determine which most benefits your particular portfolio of clients
- Recognize that cost-plus pricing may underprice the value you add to design projects and short-change the firm
- View the sources of client value as pricing triggers, allowing you to better price the true value you bring to your clients' projects

Attendance Requirements for Premium Credit: 50% of the principals/partners and professional staff

Watch Out for That Project! Project Risk Analysis

1 AIA/CES LU | PDH | HSW

This webinar presents the rationale, methodology, and tools for developing a systematic and proactive approach to eliminating or mitigating poor project outcomes. The program's goal is to reduce project uncertainty while ensuring protection to the end user's or project stakeholder's health, safety and welfare, as well as achieving other project/buildings objectives. It includes detailed definitions and examples of risk analysis and templates for design professionals to follow to align the project outcomes with clients and stakeholders for every project they lead or support.

Attendance Requirement for Premium Credit: 50% of the principals/partners and professional staff

We Are Not a Non-Profit Organization: Understanding the Financial Metrics You Impact Every Day

2 AIA/CES LU | PDH

Business plans drive the firm's decision-making process (including client and project selection and hiring) and impact company culture. Financial benchmarking is one measurement tool to support these efforts. Financial benchmarking allows firms to compare their firm's performance to their peers in the industry and further develop and improve their practice. This program provides and in-depth discussion of six common financial metrics that all members (staff) of a firm impact on a daily basis.
The program accomplishes the following:

- Defines the financial metrics and their relevance to the firm's profitability
- How a firm's staff and their actions can impact these metrics
- The actions you can take to positively impact these metrics, and the importance and frequency of sharing this information with staff

Attendance Requirement for Premium Credit: 50% of the principals/partners and professional staff

Paper Courses

Completion Requirement: Each required participant must pass with a score of 80% or higher and is allowed one retake.

Lessons in Professional Liability

4 AIA/CES LU | PDH

Architects and engineers face the very real threat of claims on every project they undertake. Given the small profit margin of the typical firm, a single claim can mean the difference between profit and loss on a project—and a large claim can spell disaster. That's why it's so important for design professionals to understand how to avoid claims and mitigate their exposure.

In this course, you'll improve your "Liability IQ" by learning to identify and manage the common risks faced by design professionals. You'll be exposed to strategies and techniques that can increase your effectiveness in practices such as business communications, project evaluation, client selection, contract and scope development, and shop drawing review.

NOTE: The four (4) continuing education units for this distance-learning course are based on the average time it takes to read the 150-page textbook. Participants should be prepared to download the textbook and read it before taking the online test.

Attendance Requirements for Premium Credit: All principals and professionals

Loss Prevention Improvement Project

Firm Project

NOTE: This course may be repeated annually.

This project helps firms apply the principles of continuous improvement through the selection, development and implementation of a loss prevention initiative that is relevant and important to the firm.

Attendance Requirements for Premium Credit: Selected team of firm managers/professionals

Completion Requirements: Course project documentation must be completed and submitted by the firm.

Workshops

Workshops are presented by your AXA XL Agent/Broker. Please contact your Agent for workshops planned for your area.

Completion Requirement: Within 30 days of the workshop, the firm must complete a Seminar Data Sheet (provided by your Agent/Broker) demonstrating attendance by required participants.

8 Key Contract Provisions

1.5 AIA/CES LU | PDH

This 90-minute program begins with a summary of the importance of clear and effective contracts and how poor contract terms can negatively impact a claim. The course continues with an analysis of the rules for creating effective contracts and general principles for contract interpretation, and how onerous contract terms can exceed the protections of professional liability insurance coverage, creating contractual liabilities for firms. The session then explores eight key contract terms by utilizing a uniform four-part approach that explains the contractual concept, provides an example of the proper language to use, analyzes how deviations in the contract language can create risks, and concludes with negotiation talking points for firms to use to support their position during contract negotiations.

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

A Question of Ethics

2 AIA/CES LU | PDH

This interactive workshop offers a discussion of the current state of ethics using issues taken from today's headlines. Participants will review the professional code of ethics with attention to the recent changes to the code. Next attendees will be presented with sample contractual provisions that may or may not directly challenge the design professionals' professional code of ethics. After a review of the provision, the participants will determine if a conflict to their code exists. If the provision is problematic, the issue(s) will be highlighted along with the rule or standard of the code that is implicated. In a final step, the participants will discuss how to make these contractual provisions consistent with their code of professional ethics.

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Contract Management: Risk Allocation by Design

2 AIA/CES LU | PDH

Based on AXA XL's Risk Drivers research, this workshop demonstrates how poor project evaluation/selection, scope of services problems and breakdowns in contract protocols can lead

to disputes and claims. You'll acquire tools and tactics to address these issues, review key contract clauses and develop an action plan for your firm.

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Design Professional and Owner Negotiation

2 AIA/CES LU | PDH

You'll learn strategies to successfully prepare for and conduct contract negotiations in this workshop. A mock contract negotiation between a design professional firm and project owner stipulates the items to be negotiated and has point values for each possible outcome.

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Dynamic Delegation & Feedback

2 AIA/CES LU | PDH

This is a 90-minute program. Handing off work can be a challenge for very junior- to very senior-level staff. If this same staff do not recognize the importance of delegating work (other than when they are too busy) to the growth and development of the firm, to staff and to the project, they will remain reluctant delegators. This program addresses three significant areas of successful delegation. First, it presents an opportunity for attendees to understand the importance of value-added work and identify their highest-value activities. It subsequently, provides a clear, proactive process for successfully delegating work and finally, this program steps the attendee through a simple framework to follow when providing feedback that is based on good intent versus a series of compliments and criticisms.

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Email: The Seven Deadly Sins

1.5 AIA/CES LU | PDH

This three-part Case Study Workshop presents examples of self-implicating, subsequently weaponized emails and guidelines for writing appropriate, shorter, clearer messages.

The program includes, Seven Deadly Email Sins, Email excerpts from AXA XL claims cases and disputes exemplifying the Seven Deadly Sins, and Ten (heavenly) steps to optimizing your email.

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Internal Claim Review

This workshop helps firms develop an internal exercise to review a professional liability claim or dispute, drawn directly from the firm's experience.

Requirements for Premium Credit: AGENTS: This customized program may qualify for an education premium credit, but it must be approved by AXA XL at least three weeks prior to delivery. Review the program materials for more information on developing the claim review, securing approvals and submitting for a premium credit.

It's a Matter of Ethics

2 AIA/CES LU | PDH

Participants in this workshop review the ethical cannons that apply to engineers and understand some of the obligations that fall under each of the cannons. After discussing the subjects of the most complaints made against engineers, attendees will look at fact patterns, issues and decisions of the Board of Ethical Review (BER). Two additional situations that are explored involve a state licensing board decision and the ethical responsibility in following FAA guidelines concerning the placement of retention ponds. The discussion concludes with examining current research on ethical behavior.

Key Points:

- Ethical cannons
- Common complaints
- BER decisions
- Current trends

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Loss Prevention Through Better Communications

2 AIA/CES LU | PDH

This workshop explores poor communications as the single biggest non-technical factor that gives rise to an environment in which a technical error can occur and result in a claim against an A/E firm.

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Managing Construction Phase Risks: When Your Design Becomes a Reality

2 AIA/CES LU | PDH

The construction phase of a project brings a design firm's hard work to realization. By approaching this phase proactively, A/Es can exercise greater control over the interpretation of the final design, address questions and problems as they arise, and support the client's objectives more effectively. But anyone who has been involved in construction phase services knows the process also has plenty

of traps for the unwary—traps that can leave firms open to a professional liability claim.

You'll get an overview of AXA XL's Risk Drivers research, highlighting how many factors are linked or related to CA services. You will review the purpose and importance of CA services, typical CA activities and best practices in each of these areas. The course identifies how to spot and manage disputes, takes a look at project close-out procedures and wraps up with an opportunity for you to reflect on potential areas of improvement.

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Managing in Times of Uncertainty

1 AIA/CES LU | PDH

The novel coronavirus (COVID-19) global pandemic created an unprecedented disruption that required A/E firm leaders to manage the immediate and ongoing changes impacting clients, staff and projects. This Webinar is for firm leaders who want to ensure they are keeping an eye on basic short- and long-term needs of their organization and are supporting positive outcomes today and as we progress to the "next normal."

This two-part seminar will include discussions on your firms strategic and contractual needs with opportunities to ask questions and share your insights.

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Managing Your Risk and the Contractual Duty to Defend

1.25 AIA/CES LU | PDH

This webinar provides a primer on contractual defense and indemnity and explains how the contractual liability exclusion in a professional liability policy can create an uninsured exposure for design firms. This course examines a variety of contractual indemnity clauses since the 2018 amendments to Civil Code section 2782.8, placing an emphasis on the competing theories governing the duty to defend in design professional contracts. The final portion of this course will focus on negotiation and risk management strategies that will assist design firms in avoiding or mitigating the impacts of an uninsurable defense obligation.

Attendance Requirement for Premium Credit: 50% of the principals/partners and professional staff

Negotiations: Strategies for Better Client Agreements

2 AIA/CES LU | PDH

Focused on the negotiation of professional services agreements, this workshop will help you understand your own negotiation style. You'll learn the four basic skills of good negotiators, the importance of preparation and how to develop and implement successful negotiation strategies. You'll also develop an action plan for your firm.

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Project Risk Analysis

1 AIA/CES LU | PDH | HSW qualified

Are you able to answer the following questions for each of your firm's projects?

- What are your project risks?
- Who is responsible for those risks?
- What are the warning indicators?
- What is the likelihood that an event will occur?
- What is the potential magnitude of each risk?
- What are the key assumptions that drive the risk event?
- What is the best strategy for managing the risk?

This program was designed to present a process to help your staff recognize, document and mitigate project risk in eight steps. The purpose of risk analysis is to identify the cause, effect and magnitude of the perceived risk and to develop and ultimately mitigate the uncertainty of the risk without any significant impact on project objectives.

Attendance Recommendation for Premium Credit: >50% of firm' principals plus >50% of firm's project managers

Project Team Capabilities: Building a Team for Success

2 AIA/CES LU | PDH

In this practical and interactive workshop, you'll learn how project team capabilities can impact claims and how to successfully choose projects based on your team's capabilities. You'll acquire tools and techniques to help you select the best project manager and team members for your projects, and you'll gain an understanding of the phases of team development. Finally, you'll develop an action plan for your firm.

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Resilient Design and the Evolving Standard of Care

1 AIA/CES LU | PDH | HSW Qualified

This webinar begins with an overview of resilient design and how this concept is shaped by human and natural events, with a primary focus on climate driven change. The standard of care is both defined and discussed against the backdrop of resilient design, with emphasis on how catastrophic events can create additional liability exposures for design firms. A variety of resilient design exposures are explored from the perspective of hazard and exposure analysis. The program concludes with solutions and best practices that firms can implement to help communicate program requirements to owners while safeguarding infrastructure and public health, safety and welfare.

Attendance Requirement for Premium Credit: 50% of the principals/partners and professional staff

Risk Drivers 3: Understanding the Dynamics of Risk

1 AIA/CES LU | PDH | HSW

This updated program looks at six non-technical risk drivers from closed claims that incurred a loss or expense over a recent 5-year period. The six non-technical categories are:

1) Client Selection
2) Construction Phase Services
3) Communications
4) Negotiations and Contracts
5) Project Team Capabilities
6) Quality Management

To gain further perspective on these six areas of risk, we delve into the elements of risk within each risk driver. These 30 elements break out the non-technical actions, behaviors, or breakdowns in project or practice management that have resulted in a Loss Prevention file or a claim.

Recommendations are provided to avoid claims and improve practice and project management.

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Selecting and Cultivating Strategic Clients

1.5 AIA/CES LU | PDH

This 75-minute program focuses on choosing the proper clients by developing objective selection criteria and then employing practices that will strengthen the client relationship. The program will provide an overview of the importance of client selection by analyzing AXA XL's proprietary risk driver's research to better understand how client selection impacts both the frequency and severity of claims. The program will drill down into the various components of client selection to help attendees understand the elements that drive an effective selection process. After laying this groundwork, the program will shift toward cultivating strategic clients that help design firms grow and prosper, and the role that every design professional must foster strategic clients through daily interactions and cross-selling efforts.

Attendance Recommendation for Premium Credit: >50% of firm' principals plus >50% of firm's project managers

Seller-Doer to Indispensable: The 101 of Business Development

1.0 AIA/CES LU | PDH

In today's new normal project managers and young professionals need to understand their role in supporting and growing new and additional work for their firms. This program highlights some of these business development responsibilities and actions all staff can take, particularly project managers to contribute to the growth and sustainability of their firms and highlights important aspects of being a Seller-Doer with existing clients and in developing repeat clients.

Attendance Recommendation for Premium Credit: >50% of firm' principals plus >50% of firm's project managers

Site Visit Guidelines Dos and Don'ts

1.25 AIA/CES LU | PDH

This 75-minute program focuses on developing best practices for design professionals performing construction site observation duties. Detail is spent on preparing for and conducting site visits and what to do when there are unsafe conditions on a construction project. Employee safety is emphasized against the backdrop of communicating challenges in staffing site visits when there is a public health crisis. This program also explores virtual site visits as a potential tool to accommodate project owners during a health crisis as well as best practices for documenting virtual site visits and protecting the firm from additional liability exposures. The program concludes with an overview of recognizing events that could lead to a claim and the importance of reporting potential claims to the professional liability carrier.

Attendance Recommendation for Premium Credit: >50% of firm' principals plus >50% of firm's project managers

Understanding Ethics for the Design Professional

2 AIA/CES LU | PDH

This workshop helps you understand the topic of ethics as it relates to the design professions. You'll define ethical behavior, review professional association ethical canons, explore models for ethical decision making and develop strategies for ethical responsiveness. A case study workshop, materials from professional associations and an excerpt from the *Contract eGuide* are included.

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Watch Out for That Project! Project Risk Analysis

1 AIA/CES LU | PDH | HSW

Can you answer these seven questions about your project?

- What are your project risks?
- Who is responsible for those risks?
- What are the warning indicators?
- What is the likelihood that an event will occur?
- What is the potential magnitude of each risk?
- What are the key assumptions that drive the risk event?
- What is the best strategy for managing the risk?

The purpose of risk analysis is to identify the cause, effect, and magnitude of the perceived risk and to develop and ultimately mitigate the uncertainty of the risk without any significant impact on project objectives. This program was designed to present a process to help your project teams recognize, document, communicate and mitigate project risk in eight steps

Attendance Requirement for Premium Credit: 50% of the principals/partners and professional staff

We are Not a Non-Profit Organization

2 AIA/CES LU | PDH

High performing firms educate their staff on financial metrics and how their actions and project work directly impact these metrics. This program presents six metrics that all employees impact every day. It provides not only the definitions and detailed examples of these metrics but why they are important, what they tell us about firm performance, and what they can do (every day) to support positive outcomes for these metrics. Employees who have attended this program have said they finally "get it", when it comes to understanding why we care about this financial "how are we doing" information.

"We are not a non-profit organization" was designed as a PowerPoint template to be used by you to define, remind and update your staff on the financial status of your firm.

Who is this program for?

- Firm principals/owners who want to train their employees on the importance of financial metrics.
- Firms that want a tool to communicate firm financial updates to their employees.
- All employees who want clear definitions, examples, and an understanding of each metric.
- All employees who want to "get it" when it comes to understanding why we care about firm financial information.

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Your Proposal is Not Your Plan

2 AIA/CES LU | PDH

This session will explain why your successful proposal is not a project plan. The program provides an in-depth discussion of a streamlined approach to efficiently and effectively planning a project that confirms the user's needs of the project are being met, by ensuring that components of the project such as building systems integrity, drawings and specifications, land-use analysis and construction methods incorporate the health, safety, and welfare requirements of the project. Additionally, the project management plan provides a tool to identify and manage project risks.

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers.

Case Studies

Studying claims that have actually happened can help you more readily spot risks, identify opportunities to use loss prevention techniques and decrease your exposure to claims.

Case Studies are presented by your AXA XL Agent/Broker. Please contact your Agent for workshops planned for your area.

Completion Requirement:
Within 30 days of the workshop, the firm must complete a Seminar Data Sheet (provided by your Agent/Broker) demonstrating attendance by required participants.

A Line in the Sand

2 AIA/CES LU | PDH

Discipline: Civil engineer
Project Type: Public school storm-water retention system

When a rain-tank storm-water retention system failed (due to construction issues), the contractor claimed it was a product failure and that the civil engineer should have independently verified the product manufacturer's representations. The case demonstrates the importance of making it clear to the client (and in the client contract) that A/Es cannot be expected to verify manufacturers' claims regarding building material components, performance standards, or independent lab results. In this situation, the A/E's risk management efforts helped salvage a difficult situation.

Key points:

- Serves as a warning of a trend where plaintiff's attorneys are attempting to hold A/Es to a heightened standard of care, claiming that they should be expected to independently verify manufacturers' representations regarding building material components or performance standards
- The importance of having a protocol to scrupulously document decisions
- Discusses why getting help immediately from the insurer and attorney is so important
- •Demonstrates that because the A/E never stopped trying to find solutions for the client, their efforts paid off in the resolution

Attendance Recommendation for Premium Credit: >50% of firm's principals plus >50% of firm's project managers

(The) Alma Mater

2 AIA/CES LU | PDH

Disciplines: Architect, civil engineer
Project Type: Private school roadway

An architect retained a civil engineer to design a roadway/slope embankment as part of a renovation/addition to a prestigious private school. When the roadway failed, the civil verbally accepted responsibility, but later recanted. The civil also pointed to a limitation of liability in their contract that the architect had failed to spot during contract formation, leaving the architect with a $500,000 exposure.

Key points:

- The risks of failing to adequately review a subconsulting agreement
- The risks of agreeing to a limitation of liability in the subconsultant's contract while not having one in the prime-client agreement
- The failure by the architect to document a key discussion with the subconsultant
- The sometimes-contentious issue of betterment

Attendance Recommendation for Premium Credit: >50% of firm's principals plus >50% of firm's project managers

Arch Enemies (formerly Brown/Watson)

2 AIA/CES LU | PDH

Discipline: Architect & Engineer
Project Type: Renovation in a 110-year-old building into two large apartment/condominiums

During the renovation, an arch collapsed, and a patron at the restaurant downstairs was injured when a moose head fell during the collapse.

Key Points:

- lack of written agreements
- incomplete documentation
- inadequate communication
- inadequate observation of the work

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Bench Design

3 AIA/CES LU | PDH

Discipline: Multi-discipline
Project Type: Structural collapse of steel framing

This three-hour seminar is about the structural collapse of steel framing during the construction of a courthouse, which resulted in a worker's death and serious injuries to four others.

Key Points:

- crisis management
- quality control
- contract and scope of services
- the redesign trap
- submittal review
- preserving and documenting evidence
- working with OSHA
- site visits
- duty to the public

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Bon Temps

2 AIA/CES LU | PDH

Discipline: Civil Engineer
Project Type: Renovation of a 105-year-old municipal building

Civil firm hired by city to replace the existing Construction Manager. The project was in crisis with poor construction quality from a low-bid contractor. Firm assigned a new employee as project manager. The PM was shocked by the shoddy work and was so consumed with trying to figure out what went wrong that he did not effectively communicate with the client or firm management. The frustrated city manager gives an ultimatum to the CM firm, and accusations fly.

Key Points:

- poor project evaluation
- inadequate scope of services
- no review of onerous owner-generated contract
- inexperienced project site staff
- design firm inexperienced in project type
- failure to document project progress (or lack thereof)
- breakdowns in communication with client
- mishandling of dispute

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Capital Architects

2 AIA/CES LU | PDH

Discipline: Architect
Project Type: Remodel and expansion of a 25-year-old school

Over 700 change orders were issued during the project, which led to claims for $2.5 million.

Key Points:

- contract
- subconsultant selection and supervision
- client expectations
- documentation
- limitation of liability
- claim notification
- replacement subconsultants
- damage control
- change orders

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Confronting a Crisis

2 AIA/CES LU | PDH | HSW qualified

Discipline: Architect
Project Type: Science/tech museum renovation

An architect was hired to design a major renovation to a publicly owned science/tech museum. After construction was complete, an information kiosk fell and killed a teacher and injured children and causing a media frenzy. While it appeared that the architect had little responsibility for the accident, the plaintiffs' lawyer was determined to ruin all the defendants who were parties to the subsequent claims, and joint-and-several liability laws in the state made for a terrifying exposure for the architect. However, the architect had in place a plan to manage crises, a plan that helped them confront the situation and mitigate the damages.

Key points:

- The risks of high-profile public projects
- The danger of failing to adequately document a decision (not closing a key "email loop")
- The basics of a crisis management plan, including appointing a crisis management team, hiring a public relations firm, and handling staff and communications during a crisis

Attendance Recommendation for Premium Credit: >50% of firm's principals plus >50% of firm's project managers

Cow County Fairgrounds

2 AIA/CES LU | PDH

Discipline: Structural Engineer
Project Type: Fairgrounds complex

Out-of-state architect engaged local SE to design the structural foundations for the complex's pre-engineered metal buildings. SE began work after a letter proposal. Snow load calculations were made for the foundations based on the type of building occupancy. Four years later, when the roof on one of the buildings deflected after a massive blizzard, the calculations for all of the structures came into question. County asserted a claim for $27 million to make things right.

Key Points:

- high-profile public project
- unsophisticated owner
- low-bid contractor
- lack of a written contract/scope
- failure to document
- overextended design firm and inexperienced staff

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Desert City

2 AIA/CES LU | PDH

Discipline: Multi-discipline
Project Type: A new prototype big-box store

Multidiscipline firm engaged by a long-time client to design a flagship big-box store. Learned that a subsidiary entity of the client would actually hold the design and construction contracts, which meant that the "client" had just become a whole new group of people to deal with. In addition, the store was to be ultimately handed off to a franchisee. The project timeline for the 60,000 square foot building was an extremely aggressive seven months. There were permitting difficulties and some mysterious consultants brought in by the subsidiary entity, and communication issues abounded. The claim, itself, involved the HVAC system, which was dubbed ineffective by the franchisee, although built as specified by the client. However, issues are tempered by a good contract, with a key clause that "saved the day," and a terrific job at project documentation.

Key Points:

- lack of project and client evaluation
- perils of an aggressive schedule
- not proactively dealing with issues and potential disputes
- failure to seek help

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Design-Build-Sue

2 AIA/CES LU PDH

Disciplines: Architect and Mechanical
Project Type: Chemical research lab

An architect and contractor form a joint venture to deliver a research facility for the Army Corps of Engineers. The JV hires an MEP firm to design the highly specialized mechanical systems. The MEP agrees to a reduced scope and fee, but shortly before the 95% set of MEP drawings is due, the MEP is told they must take responsibility for a more robust scope of work with no increase in fee. After the lab opens, the contractor sues their architect JV partner for $1,000,000; the architect in turn sues the MEP for $1,500,000. Let the finger pointing begin.

Key Points:

- importance of a well-drafted agreement
- client selection considerations
- importance of a clear scope of service
- risks and complexities of joint venture relationships
- need for clear dispute resolution provisions in JV partnership agreements
- failure to manage and document decisions and changes
- lack of procedures to identify and act on problems as they arise

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Express Engineering

2 AIA/CES LU | PDH

Discipline: Electrical & Mechanical Engineers
Project Type: Review of the HVAC system

In the review of a one-year-old building, there was a miscommunication regarding the cost to repair, which resulted in a substantial claim.

Key Points:

- poor communication and documentation
- weighing risk vs. fee
- benefits of a written agreement

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Field of Bad Dreams

2 AIA/CES LU PDH

Discipline: Architect
Project Type: Stadium

This program focuses on the challenges faced by an architect on a fast-track stadium project that ultimately experienced problems with the chilled water cooling system resulting in a $20 million claim. The course explores project team capabilities and the legal significance of stamping submittals, and problems with quality management, contract administration, site observation and photographic documentation by the architect of non-conforming work. Insurance and contracts feature in this claim case study as well as some unique challenges in dealing with quasi-governmental entities.

Case Study Workshops use the Harvard Business School Method of analyzing actual claims to learn how to avoid the same thing happening to an architect's firm. The case presented in this program is not a compilation of various claims relating to other projects.

Key Points:

- project team capabilities
- legal significance of stamping submittals
- quality management
- contract administration
- site observation
- documentation of non-conforming work

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Green Acres

2 AIA/CES LU | PDH

Discipline: Civil Engineer
Project Type: Residential subdivision

Civil firm hired by a developer (and its secret partner) to perform surveying and engineering services for the project site. Developer refused to contract directly with the geotechnical, so the CE firm hired the geotech. The CE told the developer that three of the lots would require unique structures because of their slope. The CE firm loosely observed the site preparation and moved on to the next project. The houses went up and then the claims started rolling in. Two of the houses on the unique lots were showing signs of cracking and settlement problems

Key Points:

- no formal project review
- prior history with client ignored
- use of a letter agreement
- poor communication
- failure to document recommendations
- insufficient site observation

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Holy Smokes

2 AIA/CES LU | PDH

Discipline: Architect & Structural Engineer
Project Type: Church renovation and expansion

Poor coordination between project manager and structural engineer results in a design that can't be constructed. The contractor works with another engineer to move the project forward. When the contractor removes the shoring from the free-span ceiling, the roof drops several inches and causes an outward deflection on the beams. Accusations fly.

Key Points:

- project team capability issues
- failure to get subs involved early
- failure to read the contract and to check insurance
- documentation problems
- billing and payment issues
- communication breakdowns
- failure to respond properly to problems and to report to the insurance company

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

(The) Incredible Shrinking Dorm

2 AIA/CES LU | PDH | HSW qualified

Discipline: Architect
Project Type: Public university student housing

A university retained an architect to design wood-frame student housing. The construction manager had no experience in wood-frame construction. The contractor proposed substituting conventional sawn-lumber framing with a patented wall system and employed a separate design firm with specialized knowledge in wood structures to provide design calculations. There were problems during construction, however, and when the completed structures showed significant shrinkage, the finger-pointing began.

Key points:

- A construction manager with no experience in wood-frame construction
- The lack of coordination on a design-delegation issue
- Inadequate documentation of key decisions and meetings
- Vague specifications by the design team
- The failure to anticipate issues with a crucial product substitution
- The failure to address problems on the jobsite

Attendance Recommendation for Premium Credit: >50% of firm's principals plus >50% of firm's project managers

Interstate Engineering

2 AIA/CES LU | PDH

Discipline: Highway Design Engineer
Project Type: Design of an overpass and associated ramps that would link to a major state highway

During design, the engineering firm hired a traffic safety engineer to develop a temporary traffic safety plan. This plan included diverting traffic away from the edge of the deceleration lane during construction. The "routine" project was handed over to a recently hired engineering school graduate. During construction, the cones marking the deceleration lane were not placed as specified in the traffic safety plan. However, the engineer did not notice this deficiency during construction observation. A motorist, surprised by the cones, was unable to change lanes, caught his tires in the uneven pavement, flipped his car and ended up a paraplegic. The driver sued everyone involved.

Key Points:

- unqualified on-site staff
- failure to check insurance
- inadequate scope of services
- failure to perform adequate site observation
- complacency

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

It's All Downhill

2 AIA/CES LU | PDH

Discipline: Landscape Architect
Project Type: Street design adjacent to an upscale pedestrian mall

An out-of-state LA firm with experience in road projects won an RFP to redesign the mass transit route to bring more shoppers to the mall. The project called for snowmelt technology and easy access to subsurface utilities, all while maintaining the Old World look of the mall. The LA retained a mechanical engineer subconsultant for the snow removal system design/technology. To save money, the ME recommended an innovative use of a product. Construction completed in the off-season and the mall opened as scheduled. Everyone was happy...until the concrete pavers on the roadways started to shift. The city brought in an expert who opined that it was the result of the "innovative" use of materials. The city sued the design team for $4 million.

Key Points:

- failure to document conversations, concerns and assurances
- use of new and unproven technology
- lack of research and failure to obtain client's informed consent
- use of client-written agreement that had only limited construction phase services and no LoL
- risks of being from out-of-town

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

(The) Lobster Trap

2 AIA/CES LU PDH

Disciplines: Architect
Project Type: Restaurant

This claim case study involves a restaurant renovation that falls under the authority of a coastal zoning agency. The architect fails to properly vet the inexperienced limited liability partnership client, who purchases the existing iconic restaurant with the intention of redeveloping the property into a trendy oceanfront eatery. The architect's contract with the client contains a prevailing party fee clause and an arguably unenforceable limitation of liability provision. The architect verbally hires an uninsured solo structural engineer whose technical error delays the project. The architect is unable to properly educate the client as to the strict zoning and development requirements, neglects to memorialize the client's attempts to circumvent agency review and fails to document important project events. Neither design professional keeps adequate records of the project, an issue that becomes apparent after the architect is replaced by another design professional and the project renovation exceeds the permit restrictions, resulting in additional delays and litigation.

Key Points:

- Poor client selection and a failure to educate the client as to strict zoning requirements
- Poor communication and documentation of key decisions and project changes
- Prevailing party fee clause and limitation of liability
- Uninsured subconsultant hired without a contract
- Failure to take appropriate measures after being replaced by another design professional

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus > 50% of the firm's project managers

Longhorn Engineering

2 AIA/CES LU | PDH

Discipline: Civil Engineer
Project Type: Property survey and design of a sanitary sewer system

This out-of-state project included a property survey and design of a sanitary sewer system, water treatment plant, site drainage/ retention system and grading/street plans. Numerous survey errors became apparent during construction followed by an $11 million claim.

Key Points:

- poor project selection
- unqualified and uninsured subconsultants
- poor project management
- poor technical procedures

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Mesa Architects

2 AIA/CES LU | PDH

Discipline: Architect
Project Type: Design and construction of a public library

The final installation of newspaper and magazine racks was delayed by the city project manager. However, once their positions were finalized, the racks were never affixed to the walls. A claim arose when a rack toppled onto a library patron.

Key Points:

- certificate of final completion
- uninsured subconsultant
- incautious or vague wording on plans and/or specifications
- lack of documentation
- ignoring the safety factor

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Muddy Waters

2 AIA/CES LU | PDH

Discipline: Civil Engineer
Project Type: Sewage treatment plant for a waterpark and hotel resort

This complex project involves a developer, multi-prime agreements, a sensitive permit application for waste water treatment, major program changes that took place after permits were issued, value engineering, plant operation problems and, ultimately, citations for the illegal discharge of untreated sewage into a local stream. Not surprisingly, the developer claimed $20 million in damages.

Key Points:

- lack of communication about unique project requirements, permitting restrictions and changes to the owner's program
- lack of coordination between disciplines
- multi-prime agreements
- value engineering
- owner's inexperience with project type
- binding arbitration
- no waiver of consequential damages
- no limitation of liability
- choice of governing law
- statutes of limitation
- joint and several liability
- sub not privy to the terms of the prime design contract
- unqualified operations staff
- lack of insurance and written contract for geotech

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Nast Engineering

2 AIA/CES LU | PDH

Discipline: Civil Engineer
Project Type: Project to design a five-mile waterline

A year after project completion, the waterline burst, causing portions of the street to collapse and partially flooding the surrounding area. The City sued for over $1 million.

Key Points:

- contract language: inspection, stop work authority, and contract administration
- inadequate inspection
- inadequate communication

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Rising Tides

2 AIA/CES LU | PDH

Discipline: Civil Engineer/Surveyor
Project Type: Survey for a residential community and individual homeowner.

When surveying and developing plans for a waterside residential community, a partner in a small civil engineering firm relied on out-of-date FEMA flood zone maps, later siting a homeowner's dream home in a high-risk flood zone. Although the engineer provided additional services for the homeowner over the years—all without a written contract—he missed several opportunities to use the current maps. Only when the homeowner tried to change flood insurers did she learn her home was in a high-risk zone and worth far less than previously thought. When the homeowner sued, it was learned the engineer had kept virtually no documentation for the project.

Key Points:

- lack of signed contracts
- failure to adopt new technologies
- lack of QA/QC procedures
- poor internal communications
- lack of project documentation
- absence of record retention policy

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Rocking Chair Senior Living

2 AIA/CES LU | PDH

Discipline: Mechanical Engineer
Project Type: Senior living center

The ink on the contract for the new nursing home design had barely dried before the project changed dramatically. Rather than risk alienating the public client by asking for a revised budget and schedule, the design firm decided it would somehow make it work. The firm's management continually agreed to client demands for aggressive cost-cutting and "value engineering" even as the firm's own staff voiced concerns. When the client directed the design firm to scrap a plan for a central HVAC and replace it with small mechanical rooms in each "pod" of the new senior center using less-than-robust air-handling units, the design firm's mechanical engineers were worried. They complained to their PM and management, but management disregarded their concerns and said nothing to the client. When the HVAC air handlers were started up, however, problems became apparent.

Key Points:

- project selection
- public project
- unsophisticated owner
- high-profile project
- only team members from out of town
- failure to address significant changes
- compromised design standards

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Rockridge Elementary School

2 AIA/CES LU | PDH

Discipline: Architect
Project Type: Elementary school design

Under a tight schedule and even tighter budget, the architecture firm designed a 600-student elementary school. The school district insisted on the lowest-bidding contractor and cut construction observation services to save money. The district insisted on changes during construction and substitutions were approved on other items to cover the increased costs. The school opened on time, but six years later, cracks in the roof trusses were discovered along with construction defects and poorly performing substituted materials. In this highly publicized case, the initial demand against the architecture firm was $5 million.

Key Points:

- financial constraints
- inexperienced client
- low-bid contractor
- failure to provide a full scope of services or to obtain a signed contract
- unqualified staff
- inadequate QA/QC processes
- communication breakdowns
- failure to require or check insurance
- schedule control issues
- failure to cooperate with insurance company

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

(The) Shops at Galilean

2 AIA/CES LU | PDH

Discipline: Architect
Project Type: Retail complex

An out-of-town developer engaged the lowest-bidding architecture firm to design a shopping complex and then required the firm execute a purchase order agreement. Construction bids came in over budget. To cut costs—and without consulting the architect or even the contractor—the developer went to a metal building manufacturer to get an alternative roof system. The contractor, the architect and the structural all disavowed responsibility for checking the roof manufacturer's shop drawings. The shopping complex was completed a little behind schedule, but the real problems started when the shops began to leak. Forced into arbitration by the purchase order fine print, the architect and the structural engineer got dragged into a $2.25 million claim.

Key Points:

- no formal project or client review
- use of a purchase order form
- no mediation clause—binding arbitration, instead
- certifications
- failure to document concerns
- failure to adhere to normal shop drawing review procedures
- uninsured subconsultant

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

This Dam Project

2 AIA/CES LU PDH

Discipline: Civil Engineer
Project Type: Dam/water impoundment

This claim case study focuses on a dam removal and replacement project and the problems that can arise when inexperienced and geographically dispersed engineering staff fail to properly communicate with one another and fail to perform adequate site observation. As a result, the engineer fails to note non-conforming construction and approves of a substitution request without properly researching the substitution. Problems are compounded by an inexperienced low bid contractor and a small public agency that is under scrutiny surrounding the dam failure. The insured's situation is further compromised following the dam failure by

admissions of liability and promises to fix the project that were made prior to placing its liability carrier on notice.

Key Points:

- ineffective management of a geographically dispersed team of engineers
- inexperienced staff charged with roles they were ill-equipped to take on, including project management duties and site observation
- substitution approvals that are made without properly investigating and vetting the substitution request
- failing to note changed field conditions and non-conforming construction, and inconsistent site visit frequency
- inability to recognize the risks associated with an inexperienced low bid contractor, an inexperienced public agency client and a high-profile project subject to heightened media scrutiny
- Admitting liability prior to researching the facts that gave rise to the loss and prior to reporting the loss to the professional liability carrier

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Trouble in Paradise

2 AIA/CES LU PDH

Discipline: Architect
Project Type: High-end hospitality

This claim case study focuses on an architectural firm that significantly underbids a high-end fast-track project with a low-bid contractor as a means to develop the hospitality section of its portfolio. Client selection and poor communication feature prominently in this program as does the failure to properly manage staff due to excessive workloads, and the failure to amend the contract to memorialize a key change in the project billing. As the claim develops, internal emails are found that effectively undercut the architect's defense to an E&O claim that was filed in response to an action to recover unpaid fees. This program also addresses the enforcement of statutory design professional lien rights.

Key Points:

- failure to properly amend the contract to represent key changes to the billing structure
- reluctance to negotiate adequate fee and time extensions
- agreeing to coordinate subconsultants not under contract with the prime
- poor communication and documentation, including internal emails admitting liability
- unsophisticated client and poor project selection
- inadequate quality management and staff supervision
- enforcement of statutory design professional lien rights

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Under the Bus

2 AIA/CES LU PDH

Discipline: Mechanical Engineer
Project Type: High school

A school district, when faced with a funding shortfall, decided to value engineer the new high school's foundation from a crawl space with suspended piping to a carton form design with plumbing pipes buried in native soil that was highly expansive. The soils later activated at the end of a prolonged drought and pipes were crushed and broken, resulting in excessive moisture under the foundation and damage to the school. The mechanical engineer had a long-standing relationship with the district that quickly changed following the retirement of a key district official. The district focused its lawsuit on the mechanical engineer for allegedly failing to consider the geotechnical report and structural foundation changes despite having been left out of the value engineering process. And the architect who was required to hire the mechanical engineer did them no favors during the lawsuit.

Key Points:

- Underfunded public school project that undergoes value engineering without the input of the mechanical engineer who should have better communicated and documented its concerns over the revised foundation design and its impact on the plumbing design
- A new client representative that is inexperienced in dispute resolution who makes ill-informed litigation decisions that deflect liability from potentially responsible contractors
- Reluctant prime architect who is required to retain the mechanical engineer subconsultant and then refuses to cooperate during the claim
- A loosely worded scope of services that is vague and overly broad, and does not exclude geotechnical investigation
- An evolving standard of care as it relates to the perceived duty to check the accuracy of the geotechnical report and soil conditions on site

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus > 50% of the firm's project managers

Uneven Pavement

2 AIA/CES LU | PDH

Discipline: Civil Engineer
Project Type: Highway

Renovation of an eight lane highway takes a bad turn when a civil engineer agrees to team up with an inexperienced contractor on their first design build project. Besides signing agreements with the contractor with onerous flow down provisions, the civil engineer failed to implement sound quality management procedures and coordinate staff changes, leading to a claim for $1.2 million dollars.

Key Points:

- inappropriate contract provisions
- communication breakdowns
- inexperienced staff
- staff shortages
- lack of QA/QC
- contractors lack of experience and awareness
- hasty admission of liability

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Val U

2 AIA/CES LU | PDH

Discipline: Architect
Project Type: Upscale hotel complex

Val U highlights a prime architect and its interior design and mechanical subconsultants in the development of multimillion-dollar hotel complex on the Valkyrie University campus. Add a tight schedule and a low-bid contractor, and it gets really interesting. But wait, there's more. When faced with cost overruns, the contractor suggests value engineering, Val U agrees, and a product substitution leads, ultimately, to water intrusion and mold—and a $20 million claim.

Key Points:

- lack of communication
- poor change management
- lack of documentation regarding decisions
- poor field observation and reports
- failure to update specs
- personnel continuity problems
- low-bid contractor
- value engineering
- use of a client-written agreement
- mandatory arbitration, lack of mediation and LoL clauses
- no written agreements with subconsultants
- failure to verify subs' insurance coverage limits

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

When Money is No Object

2 AIA/CES LU | PDH

Discipline: Structural Engineer
Project Type: High-end single-family residence

Architect engages a structural engineer sub-consultant for a very high end residence. Failures in client and contract management result in a loosely defined budget and ill-defined scope set the stage for a host of owner driven changes on the project. Contractor personnel changes and a volatile owner create the perfect storm for this claim. All of these issues collide when the owner files a claim for $16 million, and life-safety issues are discovered.

Key Points:

- high-end residential project
- unsigned contracts
- poor follow up on non-conforming work
- scope management and documentation
- client selection
- risks of loose project budgets
- scorched earth mentality of the client

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

You're Fired

2 AIA/CES LU PDH

Disciplines: Architect
Project Type: Church, school and community center

An experienced architect decides to take on a project for a local church that involved a remodel of the church, the demolition and construction of a new school and a new community building. The project, with an unrealistic budget and schedule, quickly got off track with cost-overruns and schedule delays caused by a contractor who had little incentive deliver on a cost-plus-fee contract. As tempers flared between the architect and the self-dealing owner's representative, the groundwork was laid to bypass the architect on the project, resulting in key project decisions being made without the architect of record. The owner's representative ultimately orchestrates the firing of the architect in an effort to coerce the architect into approving contractor pay applications only to have the plan backfire. The architect is vindicated by an arbitration panel, thanks in large part to its excellent project documentation, and is able to recover its unpaid fee.

Key Points:

- A client consisting of multiple decision makers who are inexperienced in design and construction
- An inexperienced and unscrupulous member of the congregation who acts as the owner's representative
- Cost-plus-fee contract and no incentive for a builder to keep project costs down
- Collusion between the contractor and owner's representative to circumvent the architect on a multitude of project decisions and orchestrate a termination for cause

- Excellent project documentation by the architect and remaining firm in refusing to approve of contractor pay applications when construction was deficient

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

You're Toast

2 AIA/CES LU | PDH

Discipline: Architect
Project Type: Tenant improvement

An architect is hired under a master agreement by a national fast food franchisor to design all of its franchisees' build-outs. During subsequent negotiation with one franchisee, the architect agreed to remove CA from its scope of services in exchange for a reduced fee. Not long after occupancy, the franchisee experienced several electrical issues. A year after completion, the building burned to the ground, resulting in cross-complaints by multiple parties and several years of litigation.

Key Points:

- poor client evaluation
- lack of formal project evaluation
- foregoing construction administration services
- inadequate subconsultant agreements
- stamping drawings prepared by another party
- failure to identify incompatible CAD programs

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Learn More. Pay Less.

At AXA XL's Design Professional unit, we believe it pays to be proactive about risk management. We're committed to getting ahead of the issues and trends that affect the A/E industry, and we help policyholders reduce the cost of loss through a variety of exclusive loss prevention education initiatives. Through our professional liability education program, we offer free, hands-on courses and workshops that bring design professionals the tools they need to improve business practices and keep up with emerging trends.

Contact:

Published by AXA XL's Design Professional unit
505 Eagleview Blvd
Exton, PA 19341, USA
800-227-8533
831-657-2500
axaxl.com/dp

First Canadian Place,
100 King Street West, Suite 3020,
Toronto, ON M5X 1C9 Canada
416-342-8682
axaxl.com/dp-ca

6811_04/2022