

CE News “Risky Business” No. 27

The term “loss prevention” isn’t used as much today as it used to be. People still take steps to reduce their risks, of course, but “loss prevention” seems passé. Besides, “loss prevention” is self-contradictory, because it’s impossible to prevent losses. “To err is human,” after all, and we all are mortals. Not that the distinction matters much, because “loss prevention” was never intended to mean the prevention of loss. What it really means is “litigation prevention”; i.e., confining the cost of damages you cause to the real value of those damages (or less) by avoiding the costly, time-consuming, and oh-so-aggravating posturing and gamesmanship associated with advocacy and adversarial proceedings.

“Risk management” is the new buzzword, but it, too, seems to be misapplied, if only because, in many firms, the risk manager is the person in charge of insurance. Managing insurance is no way to manage risk. In the professional liability arena, for example, many of the claims you have to deal with will result in cash outlays that are less than the deductible, plus additional expenses (lost time, productivity, and opportunity) that insurance does not consider.

Perhaps “risk minimization” is the term we should apply to describe an organized effort to keep risks as small as possible. To achieve that result, the leaders of an organization need to understand where the organization’s risks come from, which, in a word, is *everywhere*. Example: Human resources management has a significant effect on an organization’s exposure to professional liability claims. When applied properly, HR can help ensure that new hires will fit in by virtue of their personality, previous employment history, work ethic, technical skills, and so forth. But, the farther away from entry level they get, engineers do a lot more than engineer. Consider the typical project manager who has to: write, edit, and proofread proposals, reports, project correspondence, and meeting minutes; make presentations; assemble project teams, lead the teams, supervise the teams and their members, and mentor; evaluate clients and projects before accepting them; review and negotiate contracts; relate well with representatives of government, clients, and contractors; collect overdue accounts... and so much more. In fact, ASFE case

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histories show that failures in the management of a firm are the cause or principal contributors to almost all claims.

So what does your HR department do to assess an individual’s nontechnical aptitudes and capabilities? Given the responsibilities that will be dumped into the new hire’s lap, how could that person cause, contribute to, or not prevent a loss by being human and erring? Is the person given a quiz of some type to evaluate strengths and weaknesses? And once strengths and weaknesses are known, where does the training come from?

In fact, risk minimization has almost nothing to do with engineering and almost everything to do with running a business, with project managers serving as franchise owners. If they do poorly at any one aspect of their business, they make losses more likely; e.g., if they don’t market correctly, the firm will find itself accepting projects and clients it would be better off without.

What about client relations? Do you (like most other firms) confuse the terms “client” and “client representative”? It’s not splitting hairs. Clients typically have many representatives and all too many firms have dealings with just one. By trying to establish highly positive relationships with at least several representatives of a given client, you can establish good client relationships that can be hugely important in preventing claims and losses, because of effective lines of communication, the ability to develop better scopes, client willingness to rely on prequalified contractors, and so on.

What about bill collecting? Do you do it properly, or do you resort to litigation or small claims court, approaches that have been shown to be the worst of all? What about contract review? If your organization uses “boilerplate” as a euphemism for “stuff you don’t need to look at that closely,” you could be in a heap of trouble. And on and on. Which is not to say that you don’t have to worry about technical errors and omissions; you do. But, truth be told, if errors and omissions appear in final deliverables, a firm clearly is not managing its review procedures well.

Fact: Well-managed civil engineering organizations experience fewer claims and enjoy more profitability than their less effectively managed brethren. The ones who succeed realize they cannot prevent losses. They also realize that they don't manage risk so much as they manage their organizations and themselves. By striving to manage as effectively as possible, they minimize risk and, along the way, maximize the enjoyment and pride that all civil engineers should experience.