



## First Party Insurance and the FFE Project

By Kevin J. Connolly, Esq.

A project limited to fixtures, furnishings and equipment generally does not need “builders risk” insurance. In a large interiors project, the FFE elements may be covered under the project’s property insurance program. When there is no other work or larger project going on, the building’s existing property insurance sometimes covers the FFE project. One point of vulnerability for FFE projects, however, is when the purchased goods are in transit.

Most often, there will not be any first-party insurance on the shipment until it arrives at the purchaser’s loading dock. Common carriers are subject to a heightened standard of care, and most claims for transit damage are honored, but a carrier’s policy of legal liability is not the same as first party insurance.

If the shipment is really important, the property should be covered by floater insurance while in transit. A “floater” is an insurance policy that covers property that is in transit or changes from day to day. Purchasers can obtain floater coverage by adjusting the terms of sale to “CIF,” which means that the stated price includes the cost of the goods, freight charges and insurance procured by the seller. Before incurring the expense of floater coverage, check the insurance coverage under the existing Building & Personal Property (B&PP) policy or other coverage available for the building or project. Some package policies include “installation floater coverage” that may cover shipments, either automatically or upon request. In this author’s experience, the extension is often available at no charge or for a nominal processing charge.

If a shipment cannot be received (typically because the space is not ready), the goods may be stored in an offsite warehouse – which may open up a gap in coverage. If the goods had a floater policy during shipment, it may be most effective to have that floater endorsed to reflect the extended duration and different nature of the exposure. Compare the cost of that extension to the price of buying first party coverage through the warehouse.

When the work includes building alterations, remember that the existing building insurance usually includes limited coverage for additions, alterations and repairs. When this is insufficient, it is possible to secure builders risk coverage under a special endorsement to the ISO commercial property coverage form. Remember that when the project is completed and occupied, the builders risk coverage will lapse and the B&PP coverage for the existing building will need to be amended to reflect the property’s increased value. Failure to attend to this detail can result in coinsurance penalties.

Sometimes, a project involves the installation of peculiarly valuable objects, such as replacement HVAC systems, medical imaging suites, trading floors or art galleries. For such projects, the inland marine installation floater can attach to the property as soon as it leaves the seller’s dock. Unlike a pure transit floater, an installation floater covers the property even after it has arrived at the site, and extends coverage through the process of installation.

In most jurisdictions, this kind of coverage is “unfiled,” which means that the policyholder can negotiate terms freely, particularly in tailoring the description of the insured property. Coverage for extra professional fees following a loss is sometimes contentious because coverage for these fees and other “soft costs” is often limited, but the resulting problems are usually resolved in practice by agreement with

the design professionals. It is especially straightforward to limit your exposure for soft costs by reference to the available insurance when the architect and engineers are likely to be asking to limit their own liability to their own insurance coverage. Even without that edge, design professionals are usually willing to perform a finite amount of work at a reduced rate in order to complete the project and earn their complete fees.

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