

Insurance Certificates of Currency

By Andrew Rennie

The contracts, leases, licenses and other agreements entered into by organisations generally require outside firms or individuals contracted or associated with the organisation such as independent contractors, Associations, clubs, etc, to provide a Certificate of Currency, or other acceptable proof of insurance.

We are often asked "why are Certificates of Currency required?" or when commencing to track such documents, we frequently hear from contractors and others, "we never were asked to do this in the past!" This article should clear up some of the questions surrounding Certificates of Currency. By addressing why they are needed, what to do with them and how to effectively manage them once you have received them.

WHY YOU NEED TO REQUEST A CERTIFICATE OF CURRENCY?

Those organisations tracking Certificates in-house frequently end up with an enormous file of papers, with nobody sure why the certificates are there, where they can be found and what security, if any, they provide. So what is a certificate of currency and how is it used in the organization's risk management efforts?

A certificate of currency is nothing more than evidence that another party can satisfy the obligations it has assumed under contract, among them:

- providing protection for loss or damage to your property arising out of its negligence,
- liability to third parties arising out of its negligence, and
- payment of Workers' Compensation benefits to its' employees etc. for workplace accidents.

Any time your organisation is involved in a transaction with an outside party which increases your exposure to loss, you should obtain a certificate of currency. Demonstrating that the party has insurance will help you to protect you and assist you to enforce any hold-harmless agreement or indemnity inserted in a contract. In the absence of adequate insurance, a contractor will have to fund these losses himself – can you be sure that every contractor, supplier, lessee, or licensee has adequate funds to meet a significant loss?

You should however, recognise the limitations of a certificate of insurance.

Firstly, certificates of currency summarise the policy coverage and in many cases, actually contain a disclaimer along the lines of, "This certificate is issued as a matter of information only and confers no rights upon the certificate holder...". So long as this is understood and you are satisfied that cover did exist at the time of a loss or the time of reporting an incident (Claims Made policies), this may not be a problem since the certificate will enable you to clearly identify the insurer, the policy number and its expiry date to enable you to subpoena the relevant documents at the appropriate time. In the event that you need to be more specific on the extent of cover (eg in large or complex contracts or when you need to ensure that you are a Named Insured), you may need to obtain a certified copy of the whole policy including endorsements.

Secondly, never consider a certificate and the policies described on the certificate as substitutes for your own insurance coverage.

Thirdly, a certificate of currency only demonstrates the coverage and limits available at the time of issuance. This is a major concern today, because most of the policies issued today contain policy annual aggregate provisions that limit the amount of coverage available during a policy year. A certificate of currency may show a limit of liability at the time of issuance. This may be higher than the available limits at the time the contract is actually executed, the work prescribed has begun or at the time of loss.

WHAT CAN YOU DO?

There are various techniques available for transferring or funding risk exposures created by outside parties. Among the options for consideration are:

1. Require the outside party to insure your organisation as a Named Insured
2. Require your organisation to be named as an additional insured

3. Require that the contract include a hold harmless/indemnity clause
4. Assume the risk yourself, or
5. Insure the risk yourself.

Each of the above are valid considerations and should be reviewed with each contractual arrangement since it is possible that if you are not careful, you could unintentionally assume the liability of an outside party.

Whenever you exercise Options 1 or 5 above, the policy itself clearly becomes evidence of insurance however, you should decide whether a certificate of currency will provide sufficient evidence that coverage exists. If you request that your organisation be identified as an Additional Insured you will need to consider whether you will be happy to accept wording to the effect that "the interests of are noted". In cases where the potential for significant loss exists, you may wish to be furnished with a copy of the actual endorsement that lists you as an Additional Insured.

A good example of such application would be the use of premises by a licensee, tenant or lessee. The licensee, tenant or lessee, renting or occupying the premises should provide the lessee with an endorsement naming the lessor as an Additional Insured.

IS THE CERTIFICATE ANY GOOD?

There are three major considerations to be discussed at this point.

First, what are the available limits of liability? When it comes to making a claim on policies which have an annual aggregate, when the time comes to make a claim, some of the limits of liability may have been exhausted by previous claims and the available cover could be less than what is shown on the certificate of currency.

Secondly, after the certificate of currency has been on file for some time, is there still coverage in force that can be called on to support losses of this outside party? This is particularly important with PI and other Claims Made policies.

Thirdly, Section 59 of the Commonwealth Insurance Contracts Act 1984, provides for notice of cancellation to be provided by the Insurer to the Insured *so if you are shown as a Named Insured on the certificate of currency*, you can be reasonably sure that you will be notified if the policy represented by the certificate of insurance has been cancelled or altered.

HOW TO MANAGE CERTIFICATES.

Having begun a program of requesting certificates of insurance, you will have to manage them to avoid ending up with a bulky, outdated file of paper and to ensure they are available when required. Consider using a central source of control, usually kept with the contract itself or possibly with your portfolio of liability policies.

Unfortunately, in most organisations, contracts and agreements are managed by a number of people who may be geographically separate from each other. This makes the centralised filing of insurance and other compliance documents difficult to achieve.

A certificate of insurance can be an effective risk management tool if used and managed properly.

Be sure to discuss your individual needs or requirements with your consultant, risk manager, insurance company or solicitor and implement an effective certificate of insurance program.

PROTECTUS PTY LTD

Could you benefit from a certificate of currency tracking and verification system that allows you to efficiently and cost-effectively evaluate, manage and archive certificates of insurance online?

If so, look no further than Protectus. We have combined the talents of insurance and certificate management professionals with the skills of programming experts to develop a robust system that solves certificate tracing challenges in a user friendly environment.

Protectus provides a unique outsourced professional service which relieves you of the burden of having to pursue, verify and manage the insurance documentation of your contract partners.

The core of Protectus' certificate tracking service is a unique software application which has been developed and purpose-built for tracking insurance documentation by experienced insurance and IT personnel

Businesses are increasingly realising the importance of tracking certificates of currency.

- A retailer or manufacturer, for example, needs certificate tracking to protect itself against liabilities such as product liability inherited from vendors.
- Councils and construction companies on the other hand, need certificate tracking to track and monitor contractors and subcontractors', Workers' Compensation, Public Liability and, where applicable, Professional Indemnity insurance and lessees and licensees Public Liability insurance.
- A leasing company needs certificate tracking to guard itself from its lessees' liability.

While collecting and tracking certificates is a vital component of any risk management program, many organisations fail to adequately protect themselves. These companies generally fall into one of two categories: those that don't track certificates of insurance at all and those that do it once when they're initiating a contract but then let the certificates expire. Both are exposing themselves to considerable risk.

IMPROVED COMMUNICATION

Protectus promotes communication with named insured's (vendors) by providing them with customised communication detailing the status of each certificate. In addition Protectus turns an often decentralised process into a centralized one, ensuring your organisation's certificate management policy is communicated and implemented in a consistent manner

- Access 24 hours a day, 365 days per year.
- Logon to the system from work or home

ADVANCED TECHNOLOGY

Our Windows based system has taken a complex process and made it simple. When Protectus identifies a coverage deficiency, it automatically generates letters-via email, fax or regular mail to advise vendors of non-compliance, certificate expiration, cancellation and initial certificate requests. Along with these day-to-day functions, Protectus provides you with the ability to measure against an appropriate financial strength rating for each certificate using Standard and Poor ratings as well as access disaster recovery and database backup services.

COST SAVINGS

- Web based, no interference with existing system
- No license fees
- Does not require technical support from client
- Reduces storage costs by providing an electronic central location of all certificates
- Saves money on postage and handling if you choose to communicate with suppliers using emails or fax

GETTING STARTED IS EASY

You simply:

- Define your requirement sets
- List your current vendors/suppliers/tenants
- Identify the requirement sets from which your vendors and suppliers must comply

Once this has been completed, Protectus will:

- Electronically scan and archive incoming certificates of insurance
- Validate the insurance coverage against your requirements
- Using Standards and Poor, verify the financial strength and insurance industry rating of the carrier for each policy
- Automatically generate letters to vendors advising them of non-compliance, renewal. Cancellation and initial certificate requests
- Allow you to access your reports/certificates in real time

For further information on the Protectus system please refer to our web site at www.protectus.com.au or call (02) 9439 9119.