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The 10 Principles of Good Practice

The following principles of good practice may help you avoid the pitfalls that could potentially lead to professional liability exposures and lawsuits.

1. Sell your firm and your services fairly

- Avoid using superlatives in your corporate brochure
- Use caution when preparing CVs
- Set realistic expectations when developing feasibility studies

2. Educate your client

- About time and cost estimates
- About your services as a consultant versus a contractor
- That you are not a guarantor of the work
- About providing certification without proper field services – this is dangerous ground

3. Insist on an equitable written contract

- Oral contracts rely on memory and may not be enforceable
- Do not cut and paste contracts – this is a recipe for disaster
- Deal in-depth with the issue of field services
- Avoid dealing with uninsurable risks
- Be wary of hold harmless clauses which may void coverage
- Seek legal advice if you are going to deviate from the standard contract
- Tap into ENCON's free contract review service
- There are advantages to using standard documents RAIC#6 and ACEC#31

4. Do not play lawyer when

- Your client hires a lawyer for contract preparation/negotiation
- You are in doubt about by-laws and regulations
- Writing insurance or indemnity specifications

5. Develop a specific project plan and enforce the following

- The early identification of human resources
- All team members should fully understand the job mandate
- A senior person should assume responsibility for inter-disciplinary co-ordination
- Design and calculation checklists
- Develop a schedule of field services – when they should be done and by whom

6. Keep your client informed

- The client makes decisions based on your advice – remember you are the consultant
- Investigate risks such as low bidder, extras, delay, changes or substitutions
- Informed clients = good risk management

7. Deal promptly with problems

- Sweeping problems under the rug is an invitation to disaster
- Keep the client up-to-date – there should be no surprises
- Do not allow the contractor to accumulate extras
- Again, remember that the client makes the decisions
- If you experience persistent problems, inform your insurer

8. Use written records for all of the following

- Changes in the contract or your mandate
- Design changes
- Changes in scheduling
- Substitution of materials
- Job site meetings
- Communications with contractors
- Communications with manufacturers
- Manufacturers' and suppliers' written material
- After an incident or accident, state objective facts only – don't offer opinions
- Be sure to preserve written records

9. Do not certify what you have not seen

- Discuss at the outset what certification is required
- Ensure that the field services mandate is commensurate with the required certification

10. Think before suing for fees

- Consider your billing practice
- Do some self analysis – find out why the client is not paying
- If you decide to sue for fees, be prepared for a counterclaim for malpractice

The information contained in this document should be understood to be general risk management and insurance information only. Insureds should consult with their insurance and legal advisors with respect to individual coverage issues.