

Blades, Crout & Proulx LLC

Risk Management Consultants - Established 1926

Certificates of Insurance – Collection versus Compliance

Introduction

The collection of certificates of insurance from third party's does not mean you have coverage under their insurance, even if in the "Description of Operations" section it identifies coverage extensions to you. You need to take the next step and review the third party's key insurance policy language and/or endorsements, to confirm that their insurance policies have been properly issued and/or modified to extend the desired coverages to you.

Taking this next step is critical, since when there is a claim, it is not the collected certificate of insurance that will be used to determine coverage, but rather the effected insurance policy and all endorsements to that policy.

Today, most certificates are issued using ACORD forms (updated every couple of years) and include the Certificate Holder as an additional insured. We will examine these two topics in more detail as it relates to the collection of certificates versus third party compliance with insurance requirements.

ACORD Forms

The language at the top of the **ACORD 25 (2009/09) Certificate of Insurance** states:

"This certificate is issued as a matter of information only and confers no rights upon the certificate holder.

This language is the same as what was on the prior ACORD 25 Certificate. What is different is that they have stretched this information across the entire top of the new certificate. This is to make more prominent the designed purpose of ACORD certificates; which is to provide basic information about a third party's insurance in place on the day the certificate was issued.

In addition, ACORD has modified the next part of this section as follows:

This certificate does not affirmatively or negatively amend, extend or alter the coverage afforded by the policies below."

The underlined language was added. This new language is to emphasis that no matter what is reflected on the certificate, whether it is to the benefit or detriment of the Certificate Holder, the insurance policy is what matters and not the certificate.

Right below the top of the new ACORD 25 Certificate, there is language which states:

Blades, Crout & Proulx LLC

Risk Management Consultants - Established 1926

“IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).”

There is no grey area with this new wording; it overtly states that the certificate does not modify an insurance policy, and that if a certificate reflects additional insured status, the insurance policy must be endorsed before the Certificate Holder can look for additional insured coverage under that policy. Consistent with the new format of these statements, it is also spread across the top of the new ACORD 25 Certificate in a prominent fashion.

What does all this mean for the collection of certificates?

It means that simply collecting a certificate of insurance, even if the certificate reflects extensions of coverage, is not enough anymore. You need to collect and review the key policy language and/or endorsements to confirm the desired coverages extend to you as reflected on the certificate.

Additional Insured Endorsement

There are thousands of variations of additional insured endorsements in the insurance marketplace today. When you compare these different forms to the Insurance Services Office (ISO) standard additional insured forms, almost all narrow the scope of coverage to the detriment of the additional insured.

This is done by making it more difficult to trigger coverage and by putting more onerous requirements on the additional insured as respects the claim process.

Here is an example of the wording difference found in additional insured endorsements:

ISO Standard:

*Who Is An Insured is amended to include as an additional insured **the person(s) or organization(s) shown in the Schedule**, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:*

Non-Standard

*Who Is An Insured is amended to include as an additional insured **any person or organization when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy**. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising*

Blades, Crout & Proulx LLC

Risk Management Consultants - Established 1926

injury" caused, in whole or in part, by:

[Yellow highlighting and underline added for emphasis]

The Non-Standard language expands the requirement for coverage to include *"have agreed in writing in a contract or agreement"* rather than *"the person or organization shown in the schedule"* as is found on the ISO Standard wording. In the absence of such a requirement in a written contract or agreement, the Non-Standard endorsement would provide no coverage. Also, if there is no contract or agreement in place, then again, this wording would preclude coverage as well.

When we compare this to the ISO Standard, which extends coverage to the organizations scheduled, there is no requirement for a written contract or agreement; all that is necessary is that the endorsement list the organizations who desire coverage.

What is gained by the proliferation of Non-Standard additional insured endorsements?

It allows Insurers to respond to their policyholders (third party's) need to appear to extend additional insured coverage to organizations that require it, while at the same time minimizing the potential impact to their insurance policy and the policyholder; by not having to defend and indemnify additional insureds under their insurance policy.

This makes it important that once you collect the insurance policy endorsements for review, that you have the knowledge and understanding to interpret the endorsement language correctly and compare that to your insurance requirements. This will allow you to confirm that the third party is either in compliance with your insurance requirements or needs to provide alternative endorsements to get into compliance.

Summary

If all you need to do is confirm that a third party is maintaining certain types of insurance on the day the certificate is issued, then nothing more needs to be done but to collect a certificate. On the other hand, if you need to confirm additional insured coverage is being extended to you under a third party's liability policy, a certificate is not enough.

You need to collect a copy of the specific additional insured endorsement from the third party's general liability policy and review it to make sure it provides the coverage you are looking for. By undertaking this review process prior to the start of any work or services by a third party, you will help lessen the uncertainty when a claim does occur.

Please visit our web site: www.bladesrisk.com