SPECIALTY LINES MARKETS

BUILDING A BETTER CONSTRUCTION INSURANCE BUSINESS

Market picks up, but agents must build an expertise, cultivate underwriter trust

By Dave Willis

There's little doubt that the construction business is better off today than it was just a few years ago. "Builder confidence in the market is up, thanks to low interest rates and improving local economies," explains Steve Florian, director of commercial lines underwriting at Harleysville Insurance. "Trade contractors are adding employees as more work becomes available." He says construction is Harleysville's largest market segment and the company focuses on a broad range of small to mid-sized trade contractors.

Also seeing an uptick is Tom Murphy, RPLU, ASLI, vice president at Quaker Special Risk. "Over the past year we've seen a definite increase in new home starts along the Eastern seaboard, where we write the majority of our business," he says. "With existing home inventories decreasing in many markets and home prices rising by double-digit percentages in the past six months, buyer urgency has picked up." Residential construction makes up a significant part of Quaker Special Risk's contracting business.

Murphy says builders are starting construction on more single-family homes, as well as apartments and townhome/condo developments. "Home prices and new home starts are still well below their 2006 peak, so it's a 'soft' recovery," he notes.

Superstorm Sandy has increased residential construction activity in the New York/New Jersey area. "The rebuilding process will extend for the foreseeable future," Murphy says. "Whether it is building new homes on stilts or higher ground, razing and remodeling existing homes, or gut rehabs from storm damage, the work required is extensive."

Tim Cappellett, vice president of sales and marketing at Oryx Insurance Brokerage, sees signs of growth in many construction segments. "As a whole, the industry is starting to pick up," he says. "Not only are general contractors getting more work, but artisans and other subcontractors are too. It's not a boom economy like we had before, but growth is steady."

According to Cappellett, whose firm focuses exclusively on construction risks, there's still some market hesitancy. "Not a lot of capital is finding its way in, and fluctuating interest rates may be tempering the growth," he says. "We're seeing some leveling out in parts of the business."

An exception is government contracts. "We continue to see federal money being spent on transportation projects," he remarks. "That includes street and road activity—paving and repaving projects—and bridge work."

Bill Wilkinson, national casualty president at Risk Placement Services, sees increases in several construction segments. "We are seeing an uptick in infrastructure, such as bridges and roads; apartment construction, due to instability of the housing market; airport expansions; stadium construction; condo construction, primarily in Texas and the West; and nursing home and hospital construction," he says. Revenue for his operation, which specializes in difficult-to-place general liability, umbrella and environmental coverages, is up by more than 20% year to date.

In some areas, a turnaround is just starting. "The tract home, townhome and condo construction market in the Southeast has been fairly dormant until recently," Wilkinson notes. "We are now seeing new residential subdivisions being built, and have even been asked to re-quote several new condo construction projects in Florida."

In heavy construction, competition is strong. "Public budgets are tight, and the number of bidders per job remains historically high," explains Rick Keegan, president of Travelers Construction. "Some contractors have taken a second look at their operational and geographical scopes. For instance, because of oil and gas industry expansion in many parts of the country, some contractors are seeking work supporting that and the necessary infrastructure related to it."

Keegan says skilled labor shortages are occurring in heavy construction. "The industry needs to replace some of the highly skilled equipment operators who have left the business or are due to retire," he says.

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Brent Moody, assistant vice president of casualty underwriting at NBIS, adds, "Driver shortages are a challenge, especially in Texas. Turnover in the region is high, as the highest caliber drivers are moving to the most lucrative employers." Moody notes that revenue and mileage estimates are up for 2013 and 2014, and many companies are growing by acquiring owner-operators instead of purchasing new equipment and hiring additional employees.

According to Keegan, skilled labor shortages have both short- and long-term implications. "The long-term implications are obvious," he says. "Companies need skilled workers to remain profitable." Short-term implications are less obvious. "Worker and fleet safety practices, employee morale, efficiency, and fulfillment of contractual obligations all could be negatively impacted if firms can't hire safe, reliable employees," he comments.

Keegan says work zone safety practices continue to get significant emphasis in heavy construction. "The U.S. Department of Transportation just concluded its 11th annual 'National Work Zone Awareness Week,'" he says. "While more must be done, the campaign is having a positive impact on work zone safety awareness from both the public's and industry's standpoint."

Insuring contractors

As growth varies in the construction market, so does construction insurance pricing. "In years past, we've seen hard markets extend across all lines," Cappellett observes. "Today it's line by line. For example, the umbrella market was hit very hard last fall."

Florian says, "Premiums are increasing in the range of 6% to 10% due to growing payrolls and carrier reaction to loss trends. More policyholders are shopping renewals given these increases." He says the New York metro area is seeing the biggest increases as carriers respond to increasing New York labor law claims.

Murphy sees the same trend. "The New York insurance market is quite difficult for many classes of contractors," he says. "Availability of coverage that includes labor law claims in New York is limited, leaving agents and brokers with fewer options and typically higher rates for their insureds."

Florian points to a growing trend toward higher general liability limits. "This is driven by construction contract requirements, umbrella reinsurers, and liability requirements from municipal authorities issuing building permits," he explains. Also, more upper-tier entities are making stringent demands on subcontractors relative to risk transfer through contractual indemnification, waiver of workers compensation, waiver of subrogation and additional insurance requirements.

"Some carriers have chosen to restrict coverage with Action Over exclusions, which can prevent general contractors, construction managers or owners from transferring a loss to a negligent contractor," says Murphy. "Certain carriers don't clearly identify these exclusions but simply refer to 'Additional Conditions Endorsements.' This could leave some general contractors, developers and trade subcontractors potentially unaware of the serious exposure that they are 'self-insuring.'" Wilkinson says he is hearing that New York courts may not uphold these exclusions.

Another trend is affecting many paper general contractors, who subcontract all or most of their work. "Many are seeing the CG 2294 'Damage to Work Performed by Subcontractors on Your Behalf' exclusion added to their GL policies," Murphy explains. "Some carriers use proprietary forms, and it's difficult to determine whether the exclusion has been added."

Previously, paper general contractors may have had coverage for damage caused by subcontractors because it was an exception to the "Your Work" exclusion in the ISO wording, he notes.

Cappellett says competition is growing in some insurance lines. "Workers comp combined ratios have been coming down and we're starting to see carriers quoting in territories they had closed off before," he explains. "There's cautious optimism that they can get rate, where appropriate."

For comp and other lines, carriers are managing underwriting more closely. "They're taking a county-by-county or zip code-by-zip code approach," he says. "They're getting very granular." He's seen risks in otherwise acceptable territories declined because they're in zip codes that have been unprofitable or have seen adverse loss development.

"We're also noticing more use of predictive modeling, something we've been doing for years," Cappellett adds. "It's healthy for the industry, but it can frustrate agents. Carriers want more data, but that doesn't mean they'll quote a risk, even if they get all the requested information. The data just helps underwriters analyze risks."

Moody has seen some market contractions, at least for specific lines in selected areas. "For example, a number of carriers have pulled out of commercial auto, particularly in states that have been identified as riskier," he notes. "If carriers do entertain business in these areas, often they're increasing rates per vehicle."

This leads to extra work for agents and brokers. "Producers find themselves marketing clients heavily to carriers in an effort to find an alternative market that just wants modest increases," Moody explains.

Keegan sees more contractors becoming interested in loss-responsive programs and customized risk control services from carriers and agents. "We're also seeing more interest in Contractor-Controlled Insurance Programs (CCIPs)," he says. "This is largely driven by the need to ensure consistent coverage terms for a particular project."

He also points to an increase in the use of GPS telematics to track workers. "This is becoming pretty much standard," he says. "Firms that use telematics effectively to promote safe driving practices should see their long-term auto and workers compensation loss costs go down."

Wilkinson says that, with some exceptions, plenty of capacity exists in

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desirable classes and favorable jurisdictions. "This is holding rates down," he notes. The biggest E&S opportunities he sees from a primary general liability standpoint involve projects ranging from $10 million to $50 million.

"These projects are typically smaller than what a traditional OCIP/CCIP market wants to entertain," Wilkinson explains. "General liability and excess, including pollution and professional coverage, are our biggest opportunities for smaller projects."

He notes that contractors' pollution liability coverage is being contractually mandated more frequently. "We're seeing a rise in our CPL writings," he says. Claims also are a concern. "What our next EIFS (synthetic stucco), mold or tainted drywall claim issue will be is anyone's guess," he remarks.

Blueprint for success

Agents and brokers who understand construction risks and construction insurance can do well. "Post-Sandy opportunities for agents and brokers on the liability side and the builders risk property side are enormous," Murphy notes. "Many retired paper general contractors have started up new operations and are bringing back together their long-trusted subcontracted trades. They expect to be busy for the next couple of years."

He says agents and brokers with construction risks should work with superior carriers and program specialists. "Selecting the best insureds, with tight underwriting guidelines and strict adherence to proper contractual risk transfer, is key to writing profitable construction business."

Florian adds, "Construction payroll growth is great news, but that can lead to less experienced workers entering the field. This is the right time to use carrier risk control services to augment existing client safety training."

A hardening insurance market calls for greater expertise on the producer side, says Moody. "The 'shotgun blast' approach to marketing—sending a prospect to every available market so multiple carriers battle it out—isn't effective in this climate," he says.

"Agents and brokers need to be more thorough in presenting and marketing risks," he adds. "Now more than ever, producers must truly 'sell' prospects to insurers, as the options available are much more limited than even six months ago."

"Knowledgeable agents should provide an overview of exposures, prior loss experience, safety programs, and risk transfer requirements that get the underwriter's attention," says Florian.

"You need to be able to explain to underwriters why they should take on certain accounts, what's good about them, and how they can be profitable long-term customers," adds Cappellett. "That's easier to do that if you have strong relationships with underwriters."

Florian encourages agents and brokers to stay current with changes in the construction marketplace. "Staff should be fully educated on the insurance requirements clients need to fulfill for bids, so proper coverage can be secured from the right carrier," he says.

Staying on top of client activities also is important. "Get copies of contractual agreements signed by clients," Florian says. "This will let you identify and resolve gaps in coverage resulting from expanding insurance requirements and other risk-transfer clauses."

Murphy says, "Limitations and exclusions used by certain carriers offer savvy agents and brokers a huge opportunity to land new risks, as they can solve coverage gaps and educate clients on potential pitfalls of their current coverage."

Agent expertise in specific construction markets builds trust with contractors. "A good example is understanding the major differences between the standard construction contract and the more common Master Service Agreement used by the oil and gas industry," Keegan comments. "As contractors explore opportunities in that industry, they need to know how indemnification provisions differ from what they are used to."

Another example is accelerated bridge construction. "We see many positive aspects to this emerging technique, in terms of both productivity and work zone safety," Keegan notes. "Partnering with a carrier that has an extensive breadth of product is also important in order to efficiently serve a client's needs over the long term."

Moody says agents and brokers should encourage clients to increase participation in their insurance programs. "Taking on a deductible or a self-insured retention can, for larger companies, offset or reduce proposed rate increases," he explains.

Producers also should be sure that clients and prospects have controls in place to manage growth. "Insurance carriers are especially interested in hiring and management practices, which can help them gauge whether increased business activity will correlate with an increase in claim occurrences," Moody says.

"The construction industry is always evolving and responding to legal trends, economic forces, regulations, emerging construction techniques and a host of other things," Keegan notes. "It is imperative to be knowledgeable about the challenges faced by contractor clients and prospects. Partnering with a carrier that specializes in the industry can give agents and brokers a major edge and can help strengthen their client relationships."

Cappellett sums it up like this: "Know your client's market, and be educated in the product you're selling. Know your underwriters and what they want. Really focus; that's how we've been successful over the years. Instead of being a jack of many trades and master of none, focus your time and energy and training on one thing. Be known for it, and be better than your competitors." ■

The author

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