



RISK NOTE

Subject: **Construction FAQs for Projects Under \$75MM**

Acronyms:

Canadian Construction Documents Committee – CCDC
Commercial General Liability - CGL
Course of Construction policy - COC
General Contractor - GC
Health Care Agency - HCA
Health Care Protection Program – HCPP
Million – MM
Provincial Construction Insurance Program – PCIP
Risk Management Branch - RMB
Wrap Up Liability policy - WUL

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Q1. How do I fill out the Construction Application Form properly?

Please refer to our companion publication “Completing the Under \$75MM Construction Application: Helpful Tips and Hints.”

Q2. What are some of the key steps to ensure coverage is placed under the PCIP?

1. Complete the Construction Application Form as available on the HCPP website (www.hcpp.org) and forward it along with the Supporting Documents (site plan, time chart) to HCPP **at least four (4) weeks prior to commencement of construction.**

2. Answer all questions on the Construction Application Form and provide the required additional documents (including soils reports or geotechnical reports), as the information is used for underwriting purposes. Please make a note (N/A) on any sections which are not applicable. Incomplete forms will be returned to the sender.

Special considerations:

For some projects the broker will need extra “lead time” to place the insurance.

Four months lead time required for:

- Wood frame, mass timber construction projects valued over \$25MM.
- Complex projects that involve multiple phases, hot roofing, or that will exceed ten stories in height.

For any of these types of projects the broker will also require a copy of the project budget, and water mitigation plans for the insurers to review.

3. Any material changes, such as an increase in project value (affecting the limit of insurance), an extension of the project completion date from that which was stated in the original application, or a substantive change in project scope must be reported as soon as known to the HCPP. Failure to do so may void your coverage.

4. Once the insured project is completed, tested, and accepted by the Owner, the completion date and final construction costs must be reported to HCPP. Please note the PCIP requires the owner to report the final project costs as accurately as possible within the first 30 days of project completion. This information is used to calculate the Final Premium Adjustment and may result in a refund or additional premium being owed. If you are unsure regarding the appropriate time to lapse the COC and WUL coverage, please contact your Risk Management Consultant.

5. Applications and updates should be sent to hcpp@gov.bc.ca.

Q3. What is the threshold for placing Owner-controlled COC and WUL insurance under PCIP?

As of October 1, 2021, the new threshold for all HCAs construction and renovation projects is \$5MM to \$75MM.

Q4. Can I still get PCIP insurance on projects where construction has already started?

Maybe – but this is not guaranteed.

Late reported construction projects may result in a denial of coverage! If the procurement process specifies that the construction insurance coverage will be arranged by the Owner under the PCIP, you may be unable to obtain coverage. This could put you in breach of contract. If no coverage is in force, and there is a loss that could have been covered by the PCIP, your health authority will need to absorb this expense. The HCPP Property Coverage Agreement will **not** cover the loss because there is an exclusion for property under construction where the construction work is being undertaken by a contractor. The **mandatory** PCIP exists to address this exclusion by providing COC and WUL coverage.

If you want PCIP coverage on a project that has already started, you may need to prove there have been no losses to date (e.g., formal letter from the project manager). As noted above, PCIP coverage is not guaranteed for projects that have already started - it will be determined on a case-by-case basis by the insurer.

Q5. What is the max duration a project can be insured under PCIP?

No project may be on the PCIP for longer than 36 months, plus a maximum completed operations period of 24 months after the termination date. If you think your project may extend beyond 36 months, please let us know right away. We need to contact the insurance broker to request an extension from the insurer. Please note, extensions are not guaranteed on projects exceeding the 36-month term.

Q6. What if I already started procurement for a project under \$5MM (but above \$1MM)? Can I still obtain insurance under PCIP?

Yes. There will be a transition period for projects where the procurement process has already started.

Construction phases that fall below the threshold of \$5MM should generally be contractor insured. However, there may be situations where it makes sense to place the insurance through the PCIP. For example, if the project will involve any specialized or high hazard work, it may be best to obtain insurance coverage through the PCIP. In addition, if the contract requires the Owner (health authority) to place the insurance, we can obtain coverage for you through PCIP program even if the project is valued at under \$5MM.

Q7. What does the COC policy provide coverage for?

The COC provides coverage to insure property under construction or renovation from insured perils. This insurance closes a gap in operational coverage because property policies do not provide coverage for buildings under construction.

Q8. What does the WUL policy provide coverage for?

WUL coverage provides liability insurance for the project owner and all parties involved in the project (construction manager, general contractor, and subcontractors). It “wraps up” all the parties into one unit for the purposes of insurance. WUL insurance is the most economical way of arranging insurance on large construction projects and avoids the potential for subrogation.

Q9. Can we add other Parties as “additional insured” to COC policies?

Under the COC wordings all the following Parties are automatically added as Additional Insureds **under the COC**:

All Contractors, Sub-Contractors, Construction Managers, Consultants, Architects, Engineers, other consultants and subconsultants engaged in the Project, and/or subsidiary and/or affiliated and/or associated firms and/or other interests as may be hereafter constituted

If any other Party asks to be added on the COC policy as an additional insured, we will ask what the relationship is before making this request to the insurer.

Q10. Can we add other Parties as “additional insured” to WUL policies?

Yes. You will need to notify HCPP of the Party’s legal name and the reason for the request. HCPP will make this request to insurer and the Party will be noted on the individual certificates of insurance.

Q11. Are Supplementary Conditions and Risk Provisions the same document?

No. RMB has made available insurance, contract security and indemnification clauses (Risk Provisions) to be inserted into Supplementary Conditions for various CCDC documents. The RMB Risk Provisions are provincially negotiated on behalf of B.C. government ministries, HCAs, K–12 public school districts and most B.C. public post-secondary institutions and should **not** be amended.

Q12. Where can I find the RMB approved Risk Provisions for the various CCDC contracts?

They are available on the HCPP website www.hcpp.org under the Construction Tab/CCDC Risk Provisions dropdown. The indemnities in the Risk Provisions have blanket approval by the Executive Director of RMB. HCAs can simply add them into their Supplementary Conditions.

Q13. Why aren’t the Risk Provisions for the CCDC 5B contract available on HCPP website?

The CCDC 5B is not the recommended form of contract for HCA new construction projects or renovation projects because the indemnity language is not favourable to the B.C. government. In addition, it is our experience that the Supplementary Conditions change for the CCDC 5B and can impact the indemnity provisions. For these reasons, the CCDC 5B Risk Provisions have not received blanket approval and are not posted on the HCPP website.

If you want to use the CCDC 5B contract, please email the CCDC 5B contract and Supplementary Conditions, which have RMB’s recommended CCDC 5B Risk Provisions incorporated, to: HCPP at hcpp@gov.bc.ca. We will review the documents on a case-by-case basis and the indemnity approval will need to be obtained **each** time.

Q14. Is it okay to use the CCDC 5B without seeking indemnity approval from HCPP?

If you use CCDC 5B Risk Provisions without first obtaining HCPP approval, your organization may not be eligible for extra financial support from the Province if there is a major loss on the project that triggers the indemnity.

Q15. If I pay for a two-month extension, but the project finishes early, does my HCA get that money back?

Possibly, it is dependant on the amount of time left in the term and remaining premium. The broker won't return premiums valued below a certain threshold. For example, right now the broker won't issue refunds on a COC for amounts less than \$100.

Q16. Can I add additional work (not included in the original application) once the COC has lapsed?

No. Once HCA has accepted the project and is using it for its intended purpose, the COC automatically lapses. You will need a new policy for the additional work. Please keep in mind the "additional work" must meet the threshold, \$5MM, to be placed under PCIP.

Q17. A portion of my project is ready for occupancy. Can I move into the space, or do I need permission from the insurer first?

Under certain conditions, the COC policy allows HCAs to partially occupy the project space **before** it is formally completed, tested and accepted for its intended purpose. HCAs can occupy the project space for habitational use, office, retail sales, or parking. They can also occupy it for the purpose of installing, testing and commissioning the equipment that forms part of the project.

Q18. If I occupy a portion of the project for other purposes (other than as listed above), will it void my COC coverage?

If you need to occupy part of the project space for any other purpose before it is formally completed, (e.g.: running clinic space for patients); please let us know so we can contact the insurance broker. If you occupy the space before completion, without permission of the insurer, it may void your COC coverage.

Q19. Do I have insurance coverage if the COC lapses before the building has been tested and commissioned?

In some cases, testing and commissioning of the building/space may happen more than 30 days after the COC lapses. When that occurs, any damage caused by testing will be covered under the HCA's HCPP property policy. (Testing and commissioning are not work "being fixed" so it does not fall under PCIP "completed operations coverage.")

Q20. When is it safe to lapse my COC and WUL insurance?

Generally speaking, your COC and WUL should lapse together, however there may be circumstances where a project will require the WUL to be extended beyond the COC.

COC Coverage:

Your COC Insurance should remain in place until the project has been **formally completed, tested, and accepted by the HCA**. Once the HCA has accepted and begins using the insured project for its intended purpose, **the COC automatically lapses and the HCPP Property Agreement kicks in** and covers the building and contents. If you aren't sure whether to lapse the COC coverage, consider these questions:

- Is the insured project being used for its intended purpose?
- Are all life/ safety systems in place, and have they been tested?
- Have you received all necessary occupancy permits?

If you have answered “yes” to the three questions above, it is safe to lapse your COC.

Finally, ask yourself, is there any other construction work that could put the building at risk of property damage? (For example, is there ongoing plumbing work that could create water damage? Is there any welding or hot works that could create a fire?). If “yes” perhaps your COC should be extended, and we will have that conversation with you on a case-by-case basis.

It is important to note that if the COC coverage ends too early, and there is damage to the project site, you may not have insurance to cover the loss. This is because HCPP's Property Agreement policy has an exclusion for projects which are **undergoing construction** led by a contractor. If you are unsure when to lapse your COC, please reach out to HCPP.

WUL Coverage:

The WUL policy should stay in place until the project is “complete.” When the HCA accepts the project as complete or when operations commence, the 24-month “*products and completed operations*” portion of the WUL policy kicks in. It covers tradespeople entering the building correcting **deficiencies**. It does not cover work that was not previously completed.

1. If all items/work has been completed, and tradespeople are only correcting/ fixing deficiencies there is no need to extend the WUL.
2. If the tradespeople are doing work that was contemplated in the original project, **but has not yet been completed**, you should consider extending the WUL policy to cover this work.

What does the WUL “completed operations” part of the policy cover?

1. **Completed ops will not cover work** that has not yet been completed (so if you look at the deficiency list and there is work that hasn't been completed, you should consider whether the WUL needs to be extended), and;
2. **Completed ops will cover work** that you've completed but are returning to the site to do more work on (e.g. service, maintain, correct, repair, replacement of that work).

Q21. Why does HCPP ask for a deficiency list? Why is this important?

When you tell us the project will complete by a certain date, we will ask to see your deficiency list. The information on the list helps us identify situations where you should consider extending your COC and/or your WUL policies.

Q22. What information does HCPP require for an extension?

If an extension is necessary, please confirm the following information as soon as possible, to ensure that the required coverage can be arranged:

1. *What is the new anticipated project completion date?*
2. *Have there been any losses, claims, incidents on the project to date?*
3. *What is the reason for the project delay (e.g., project complexity, unexpected event, etc.; please explain)?*
4. *Has the project scope increased? If “Yes”, please confirm:*
 - a. *What additional scope was added?*
 - b. *Are the insurance limits for the project adequate to cover the full replacement value of the project?*

Q23. What information does HCPP require when project is complete (extensions are no longer required)?

If the project will complete on schedule, please confirm the following information:

1. *The date the project will be completed, tested and accepted by the Owner to use for its intended purpose.*
2. *If work remains to complete the contract (i.e., has yet to be completed or requires rectification, please provide copy of deficiency list).*
3. *The anticipated final contract completion date (i.e., the date that all work will be completed and contractor/subtrades will no longer be at the site).*
4. *Final project hard costs for adjustment.*

Q24. To report my project completion date, do you want to know my “Substantial Completion” date (as per Builder’s Lien Act), or the date when I receive the Occupancy Permit(s)?

Neither. Those milestones indicate your project is nearing completion, but they don’t tell us whether you have accepted the project. What we need to know is the date at which your HCA accepts the project and **begins using it for its intended purpose.**

Q25. If my project is done in several phases, do I insure the phases separately or under one policy?

If you have a project that will be built in phases, or the phases are procured separately, we usually recommend obtaining separate policies for each phase. This will save money if there is a significant time gap between one phase finishing and the second phase beginning. If the phases will begin immediately following each other or if the phases overlap, it may make sense to insure the phases with a single set of policies. If you would like help determining how to insure the project, please contact us with the following information:

- 1) *Phase 1 start & end date; value; and description of work taking place; and*
- 2) *Phase 2 start & end date; value; and description of work taking place.*

Q26. What are RMB’s recommendations for Bonding requirements on following:

- i. Projects **over** \$150K: Bonding requirements as set out in the relevant Risk Provisions
- ii. Projects **under** \$150K: No bonding requirements are needed.

Q27. We are doing a project in a small community with a limited number of contractors. Can we waive bonding requirements?

We recommend you require bonding as set out in the relevant Risk Provisions when the construction job is over \$150,000. For projects valued between \$100,000 and \$150,000, we recommend you require a letter of credit or some other document to show that the construction organization can meet its performance obligations (e.g.: build things) as required under the contract.

Q28. Do Change orders affect insurance coverage?

It depends where you are “at” in the construction project, and what you are doing.

If the COC and WUL are in place, change orders are usually covered. However, you need to let us know about change in scope and if the project cost has increased from your initial application, so we can notify the insurance broker. This information is needed to ensure that the insurance you are carrying remains sufficient. Also, in the event of a loss, you are only insured for the limit you have declared. So, if the value was originally declared at \$5MM and you have done something to increase value by \$1MM and you don’t declare the additional \$1MM, the extra value will not be insured.

Q29. How do I report a construction claim?

All COC and WUL losses should be reported by email and sent to: vancouver.claims@marshcanadaclaims.com

Please reference “**new BC Gov’t Construction Program claim to be reported**” in the subject line of your email and provide the following details:

- 1. location of loss;
- 2. date of loss;
- 3. description of loss;
- 4. describe the project as a new build or renovation;
- 5. provide the certificate number assigned to the project.

While it is not necessary to email HCPP on PCIP construction claims, feel free to copy us on your email to the Marsh’s claims department.

Q30. How do I make sure that projects under \$5MM are properly insured if there is no GC?

You can make sure your project is protected by requiring all contractors working on the project to each carry CGL coverage of \$5MM per occurrence. We recommend you require them to provide you with proof of this coverage (e.g., a certificate of insurance) before starting work.

How are claims/losses handled in this situation?

The contractors' CGL will not provide coverage against losses unrelated to the construction work (e.g., damage caused by a fire arising from a lightning strike). However, HCPP's Property Agreement will respond to cover property losses that fall within the scope of the policy.

Q31. Can we backdate coverage? (What happens if there is a loss)?

The PCIP does allow health authorities to request back dated coverage, in certain circumstances. However, if there was a loss on the project after the insurance policies had lapsed, the insurer may decline to reinstate insurance for the project.

Q32. What happens if I store construction materials offsite and they are stolen?

The COC policy covers property that is intended to form part of the completed project and is stored at a temporary location **away** from the Project Site. However, the policy has an exclusion for "mysterious disappearances." If property is stored in a non secure location (e.g.: in an unlocked shed), the policy is unlikely to cover the property theft.

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