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RESOURCE

Insurance Requirements in Contracts

QUESTIONS

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An Introduction to Excess Liability Coverage

Excess Liability Policies and Umbrella Policies – What is the difference?

Insurance requirements in a contract help ensure that the service provider an entity is contracting with can respond to a claim that could arise out of the work being performed. An entity should verify whether or not the service provider has adequate insurance coverage. This can be done by reviewing the service provider's certificates of insurance (COI), policy declarations and endorsements. There are instances in which a service provider will have a policy that does not have adequate limits and as a result they may provide evidence of an excess liability policy or umbrella policy.

While excess liability policies and umbrella policies are commonly used to provide coverage above the limits of underlying coverages such as general liability, employer's liability, and automobile liability, they are not the same thing. Umbrella policies are considered excess policies, but not all excess policies are considered umbrella policies. Even though the terms are often used interchangeably, it is crucial to understand the coverage differences and be vigilant when reviewing coverage documents provided by service providers.

Umbrella Policies

An umbrella policy is a type of excess liability insurance that not only provides additional limits to the underlying coverage, but may also broaden coverage for losses that the underlying policy might not cover.

Similar to an excess liability policy, an Umbrella policy can be applied to multiple underlying liability policies. An umbrella policy can drop down when one of the underlying policy's aggregate limits have been exhausted by the payment of claims.

When an umbrella policy provides additional coverage, it is generally subject to the insured's assumption of a self-insured retention (SIR), or retained limit. For example, if the insured is required to pay an SIR, this SIR amount is what the insured would have to pay before the insurer would pay for the loss. Also, an SIR usually does not reduce policy limits. Therefore, if you have an umbrella policy with a $100,000 SIR and a $2 million limit, the entire limit would sit on top of the SIR.

Excess Liability Policies

Excess liability policies are generally dependent policies that do not have their own insuring agreements, exclusions, conditions, and definitions. In many cases, an excess liability policy is intended to close coverage gaps and offer an added layer of protection should the underlying coverage be exhausted. However, there are also stand-alone excess liability policies available. These types of policies only provide excess coverage according to their own terms and conditions. A stand-alone excess liability policy would have a separate insuring agreement that would outline coverages and exclusions and would not be dependent on the conditions of an underlying policy.

Excess liability policies that are considered dependent policies generally only provide coverage for losses or damage caused by hazards specified in the underlying (primary) coverage, and does not provide broader coverage than the terms of the policy it is intended to supplement. In some instances, the excess liability policy can actually be more restrictive and include more exclusions than the underlying coverage.

Regardless of the type of excess liability coverage supplied by a service provider, it is imperative to ensure that the agreed-upon contract insurance requirements are met. For example, a certificate of insurance (COI) will not provide details on possible policy exceptions, exclusions, or limitations of coverage. Therefore, when accepting an excess liability policy as a supplement to underlying coverage limits, it important to verify the coverage not only through the COI but also by obtaining a copy of the service providers' policy declarations and endorsement page. Obtaining these documents will assist the entity with verification of coverages and identification of any undesirable policy limitations or exclusions.

For questions, please contact PRISM Risk Control.