

Contractor Liability for Damage to Government Property

Did you know that government contractors are frequently liable for damage to government-furnished property or equipment (“GFE”), and yet their insurance program rarely provides any coverage for damage to property or equipment while in the care, custody or control of the contractor? Every contractor is required to purchase and maintain Commercial General Liability (“CGL”) insurance. The policy language varies little, if any, from one insurance company to the next. All CGL policies contain an exclusion for damage to property or equipment while in the care, custody or control of the insured (the contractor in this case). In fact, the only way to cover damage to GFE is for the contractor to purchase Property insurance, or for the government to specifically waive the contractor’s liability for damage.

Frequently a government agency will not want to waive the liability and, indeed, should expect the contractor to exercise reasonable control over GFE and be accountable for damage to it. However, contractors rarely purchase the correct Property insurance – the value of the GFE does not show on the contractor’s financial statements and accounting records typically used to determine the appropriate values for Property insurance. In its ground-breaking study on Risk Management for Government Contractors, AH&T Insurance identified that in the vast majority of government contracts the language of the contract would hold the contractor accountable for damage to GFE.

In today’s environment, most contractors have at least temporary responsibility for some GFE. Further complicating matters is the trend for contractor personnel to work at government sites and, often, to be tasked with running facilities for a government agency. AH&T’s GovConRisk program trains contractor personnel on identifying and properly addressing the contractor’s liability to the government, and other third parties, for issues like GFE. In many cases, the cost to insure GFE is reimbursable.

In one extreme example, a subcontractor was working on a piece of equipment worth over \$300 million and destroyed the equipment through a negligent (albeit unintentional) act. They had no insurance coverage for the loss. If you drive government vehicles, operate government equipment, store government property, or use government property to perform work for the government, don’t assume your insurance will cover your financial liability for damage or destruction of said property.

AH&T Insurance is an employee-owned insurance broker and risk management consulting company. AH&T, est. 1921, has specialized in serving government contractors since the 1980s – especially those dealing with technology-based products and services. www.govconrisk.com is run by AH&T as a service to all constituents of the government contractor community.



AH&T Insurance
www.ahtins.com
800-648-4807