

AT RISK

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*A Risk Management Newsletter for the British Columbia
Provincial Government, its Ministries and Organizations*

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Executive Director's Message

In this edition of *At Risk* we are featuring the expert advice of our guest contributor, Brad Buck from the BC Public Service Agency, to help illustrate the risks to government when contractors are injured on the job, and the simple tools in place to transfer those risks back to the contractors themselves.

Risk Society explores the concept that risk is a defining characteristic of the modern age. Manmade risks with global reach and catastrophic implications are a distinctly modern result of our advances in science and technology. Does mitigating risk in one area make us more vulnerable in other areas?

We are also pleased to announce the long-awaited new Risk Management Policy. Chapter 14 of the Core Policy and Procedures Manual has been updated in response to the Office of the Auditor General report on the status of Enterprise Risk Management in BC. See how the changes will effect your ministry and how Risk Management Branch can assist with the facilitation of risk assessments.

We hope you enjoy this edition. Thank you for reading *At Risk* and we welcome your comments, questions or feedback at RMB@gov.bc.ca.

Phil Grewar, Executive Director

WorkSafeBC Contractor Basics

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Ministries will often use contractors to provide specialized services when they don't have the resources or expertise to do a job themselves. While the services may vary from small, short term IT tasks to larger projects such as ongoing field work, there are some key points that apply to all contracts from a WorkSafeBC standpoint. If contractors aren't properly managed, there can be an exposure for your Ministry.

WorkSafeBC Coverage

By law, all businesses in BC must register with WorkSafeBC (WSBC) if they hire full-time, part-time, casual or contract workers. The employer pays premiums to WSBC based on its risk level and number of workers to insure its staff against injury on the job. The insurance is a no fault system that pays both wage loss for workers if they are injured and unable to attend work and

any medical treatment required. In the event that a worker is seriously injured and can't return to work, WSBC can provide long term medical care, and even retrain workers for a new career. By registering with WSBC an employer is protected against lawsuits from injured workers.

Self employed individuals/sole proprietors may also qualify for WSBC coverage through Personal Optional Protection (POP). In the same way larger companies insure their workers, POP also provides coverage for time loss and medical in the event of a workplace injury. As well, POP coverage removes the right of an injured worker to sue an employer.

Hiring a Contractor

When hiring a contractor it is imperative that the company or individual you hired has WSBC coverage, and continues to have coverage for the duration of the project. The General Service Agreement

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WorkSafeBC Contractor Basics (continued)

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(http://www.pss.gov.bc.ca/psb/gsa/gsa_index.html) produced by Procurement and Supply Services contains language (clause 9) compelling the contractor to have WSBC coverage, and language directing the contractor to comply with the *Workers Compensation Act* for safety standards.

If the contractor does not have WSBC coverage and the contractor sustains an injury, the ministry may be responsible for the full cost of the accident (medical treatment, wages, etc.) and/or may be responsible for paying the premiums of the contractor for the duration of the project.

The best way to ensure a contractor has WSBC is by requesting an online clearance letter from WSBC before they begin work. Clearance letters can be quickly and easily obtained by going to: http://www.worksafebc.com/insurance/managing_your_account/clearance_letters/default.asp. You can also subscribe to the service and it will alert you if the contractor lets their account lapse.

While dealing with a contractor that employs workers is normally straight forward (they are usually already registered and may be routinely asked to provide WSBC proof of coverage), POP accounts can be tricky. Sometimes the sole proprietors don't even know that coverage exists or it may be the only hurdle to them getting a contract with government. If you have a contractor asking about obtaining POP coverage, they can be directed to the Employers Advisers Office: <http://www.labour.gov.bc.ca/eao/contact/location.htm>, a free service that will assist them with WSBC issues including registering for coverage.

In some cases it can be a challenge for a self employed or sole proprietor to obtain POP coverage. Technically POP coverage is usually only granted to a self employed individual/sole proprietor with multiple contracts/revenue sources and the chance for profit or loss, not to someone with only one sole source contract who is not pursuing other work. WSBC does not always use the

Canada Revenue Agency criteria for what a contractor is and they may find that a contractor is actually an employee of the ministry for WSBC purposes.

What's the Danger?

As noted earlier, having a contractor with no WSBC Coverage can lead to:

- Paying a contractor's WSBC premiums
- Being held responsible for direct costs from a work related injury to a contractor or their employee(s)
- Being open to a lawsuit for a work related injury of a contractor or their employee(s).

While it may seem unlikely that a contractor would be injured because the risk of injury is low, all work related activities must be considered.

In one recent case, a firm was held responsible for the medical payments, wage loss and permanent physical impairment of a contractor that may exceed \$1 million dollars over the life of the claim.

In this case, normally the contractor was working on relatively low risk activities at various outdoor sites. The incident occurred when a contractor was involved in a motor vehicle accident driving from a training session to a work site. WSBC ruled that the travel between the sites was part of the job, and therefore the accident was an accepted claim. The firm did not ensure that the contractor had current POP coverage. The injured contractor was engaged seasonally and had carried POP coverage in the past but did not have coverage at the time of the accident, and WSBC assigned those claims costs to the firm that hired him.

Ensuring that a contractor has WSBC coverage is the first line of defence. Normally if a worker were injured, the claim will be assigned to the contractor's firm. If there is no coverage, WSBC must decide if the injured person was a contractor or a worker of the firm that engaged the



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WorkSafeBC Contractor Basics (continued)

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contractor. WSBC can then either assign the claim to the firm that engaged the contractor, or force the firm to pay retroactive premiums of the contractor for the project. Ensuring WSBC coverage using clearance letters is vital!

One Last Duty

Under the *Workers' Compensation Act*, before work commences you must give your contractor(s) any known information that is necessary to identify and eliminate or control hazards at the workplace. This is interpreted as reasonably foreseeable hazards that the contractor may face, not an

exhaustive list of all possible hazards. You do not have to create the safety program for the contractor or supervise their work; that is up to the contractor. Your job is to give them the information so they can find ways to protect their workers. This may be very simple in low risk service agreements or IT contracts. On larger projects with multiple contractors this process can be complicated, and we recommend consulting an Occupational Safety Specialist for advice.

For more information on managing contractors from a WorkSafeBC perspective contact an Occupational Safety Specialist through [MyHR](http://www2.gov.bc.ca/myhr/contact) at <http://www2.gov.bc.ca/myhr/contact>. <

Risk Society

A preoccupation with risk is not the sole domain of project managers, strategic planners and actuaries. Academics also wrestle with the concept of risk and its role in contemporary society. Social scientists argue that risk is ubiquitous and global and a dominant and defining characteristic of the modern age.

Indeed academic study has brought risk into the mainstream. British-born Canadian journalist Malcolm Gladwell explores risk assessment fundamentals like frequency and consequence in his books—four of which have appeared on the New York Times Bestseller list—to explain the significance of *Outliers* and *Tipping Points* in society. Meanwhile, author and academic Nassim Taleb parlayed the concepts of risk and probability into bestseller status with his 2007 book *The Black Swan*.

Cultural theorists are on a quest to define the zeitgeist—the *spirit of the age*—of modern society. German sociologist Ulrich Beck attempts to capture the zeitgeist through the concept of the *risk society*. According to Beck, the risk society is a natural outcome of the contemporary culture, arising from the dynamic between science, risk and the individual. He sees the risk society as the next evolutionary phase of modernity, which will bring about reordered social classes, renewed structures and institutions, and a

repositioning of the individual in society.

This modern day dynamic germinated around the time Mona Lisa smiled. While da Vinci readied his brushes, his society transformed. A new faith replaced the theological and feudal institutions that underpinned the middle ages. Rationality was the new religion. It sought truth through science and empirical observation. Taking root around the time of the Renaissance, spreading its limbs across the Age of Enlightenment and blooming full in the Industrial era, rationality dominated our consciousness and provided the foundation for our contemporary structures and institutions like government, education systems and the marketplace.

Modern society takes its form from a belief that science and objectivity will deliver us longer and better lives. Indeed, it has delivered by most measures. However, what distinguishes late modernity, says Beck, is our exposure to manmade risks with global reach and catastrophic implications. Think about the global financial crisis, climate change or the 9-11 attacks. These events are indelible, and in Beck's view they are irrecoverable. For Malcolm Gladwell, this might be our collective tipping point. Theorists ponder this paradox, where the aim of science and technology is to reduce risk

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In a risk society, the concern is no longer with the distribution of goods but with the distribution of bads.

-Ulrich Beck

Change is Coming ... New Government Risk Management Policy

In 2002, the province published a new Risk Management policy as Chapter 14 of the Core Policy and Procedures Manual (CPPM). At the time it was seen as a step forward towards a robust, effective and enterprise-wide approach to managing risks and achieving government objectives. It was to be the beginning of the implementation of Enterprise Risk Management in the BC public sector.

Nearly ten years later, the Office of the Auditor General (OAG) took a look at our progress and published [*The Status of Enterprise Risk Management in the Government Ministries of British Columbia*](#) (Report 3: June 2011).

The major findings of this report were:

- Ministries have made only moderate progress in integrating ERM into practice;
- Some ministries are using processes and tools different from those suggested by the Risk Management Branch (RMB);
- Ministries cite three top barriers to full implementation: a lack of human resources, funding, and insufficient leadership; and
- Good practices were found, however a common finding was that program-level risk registers are not always maintained, or when maintained are not rolled up to a ministry-level risk register.

In its response to the OAG Report, government recognized ERM implementation has not been consistent, committed to considering further measures to support improvements, and committed to developing

an ERM accountability mechanism.

RMB was asked how government could implement the recommendations of the OAG. In consultation with OAG and Treasury Board Staff, RMB developed a revised *CPPM Chapter 14 Risk Management* policy for government. The new risk management policy will:

- Require ministries to:
 - Maintain up-to-date ministry-level risk registers;
 - Provide updates on ERM performance semi-annually;
 - Provide ERM maturity self-assessment every three years; and
 - Utilize approved ERM tools and processes or consult with RMB to modify if needed.
- Require RMB to:
 - Maintain an overall risk register of all ministries;
 - Report ministry ERM performance to Treasury Board via Deputy Minister's Council (DMC) semi-annually; and
 - Report ministry ERM maturity to DMC every three years.

RMB has already begun facilitating the required ministry-level risk assessments. We encourage ministries to contact us soon to schedule a briefing with ministry executive on the new requirements. <



Congratulations Phil!

Congratulations to our RMB Executive Director Phil Grewar, winner of the Legacy Category at the Premier's Awards in June 2012. Phil is the creator of the Risk Management Branch, the central office responsible for coordinating the government's risk management activities. As the province's first Director of Risk Management he implemented financial risk and loss control programs using private sector methods. The office has saved government \$1 billion since 1986, enabling schools, universities, colleges and hospitals to devote more resources to delivering services. <



Risk Society (continued)

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and catastrophe, yet it often leaves us more prone to disaster and on a much greater scale. Consider the countless lives saved through antibiotic use, yet we are increasingly vulnerable to resistant superbugs. Vegetable-based fuels may provide a renewable alternative to finite fossil fuels but diverting farmland and crops for biofuel production may be at the detriment of the world's food supply. Nuclear technologies are applied widely in power, medical, industrial and food processing contexts but radioactive contamination subjects us to the possibility of global and intergenerational catastrophe.

For Beck, technological innovation is increasingly eluding the control of public institutions. We've seen this "recreancy" or failure to maintain public trust, illustrated by recent events in and around the Gulf of Mexico. In the case of the Deepwater Horizon explosion, corporate hubris and a compromised regulatory scheme colluded with tragic and epic results.

Public institutions failed the residents ravaged by Hurricane Katrina according to researchers Lotke and Borosage, who write, lecture and advise on public policy issues. They assert that local, state and federal institutions failed on three fronts: preparedness, response, and rebuilding.

Seven people died and another 2,300 became ill in Walkerton, Ontario when the drinking water system was contaminated by deadly bacteria in May 2000. Subsequent inquiries and investigations exposed criminal conduct and systemic professional incompetence by municipal public works staff responsible for the facility as well as woefully inadequate oversight at the provincial level.

Beck sees a shared distrust for science and institutions as emblematic of late modernity; the legitimacy of science and technology is undermined by its inability to control the very risks that it has brought into being.

Anthony Giddens, one of the most prominent modern sociologists, maintains a less jaundiced view and argues that scientific knowledge in the public sphere contributes to

"dialogic democracy" which works to create trust and a common understanding.

While theorists disagree on whether the dynamic between citizens and their institutions is a product of distrust or support, most agree that this activity—critiquing and challenging—is a unique and transformative aspect of late modern society. Citizens in this era are more individualized and free-floating, and less loyal to conventional institutions like church, state and employers. They now pressure their institutions to reflect their personal values rather than internalizing values and meaning from those institutions. This is a shift from structure to agency. This is the manifestation of "reflexive modernization."

Theorists point to the precautionary principle as a citizen-driven, post-modern solution to the limitations of science and objectivity, to the recreancy within our institutions and to the phenomena of world risks. The precautionary principle states that in the absence of scientific consensus the burden of proof that something is *not* harmful falls on those taking the action.

Beck counters that risk definition is subjective and arbitrary and powerful actors are able to maximize risks for others and minimize risks for themselves. Beck claims "risk exposure is replacing class as the principal inequality of modern society." We may be seeing this dynamic unfolding today as we witness the many players in the pipeline debates jostle for position; to have their truth prevail. Arguably, there is no truth when it comes to global risks. Risk, like beauty, is in the eye of the beholder.

Beck remains hopeful. In a 2008 lecture where he reflects upon the post 9-11 society, Beck alludes to a "cosmopolitan moment," where out of necessity we unite as global citizens in response to institutional failure and catastrophic environmental exposures. He imagines a collective, if involuntary enlightenment where we bridge our differences and the social construct of the "other" dissolves. For Beck, this unintentional political and social transformation offers the possibility of constructing an alternative government for a globalized world. <

Modern society... is increasingly occupied with debating, preventing and managing risks that it itself has produced.

-Ulrich Beck

Ongoing Risk Management Education

- ❖ **British Columbia Risk & Insurance Management Association (BCRIMA)**
BCRIMA provides education primarily through monthly luncheon speakers and a spring Professional Development Day session. Educational opportunities are posted on the BCRIMA website as they become available:
<http://britishcolumbia.rims.org>
- ❖ **Canadian Risk Management (CRM) Program**
Simon Fraser University offers evening courses toward the CRM designation in downtown Vancouver and downtown Victoria. For more information call them at 778-782-5095, see <http://www.sfu.ca/continuing-studies.html> or send an email to learn@sfu.ca
- ❖ **University of Northern British Columbia** offers weekend courses toward the CRM designation in Prince George. For more information call them at 1-866-843-8061, see <http://www.unbc.ca/continuingstudies/certificates/riskmanagement.html> or send an email to cstudies@unbc.ca

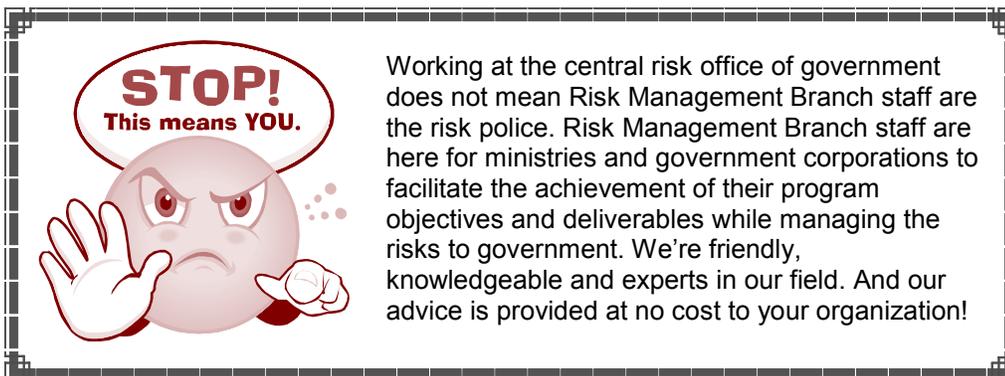
Risk Management Conferences

- ❖ **2012 RIMS ERM Conference** October 29 – 30 San Antonio TX
<http://www.RIMS.org/ERM2012>
- ❖ **2013 RIMS Annual Conference** April 21-24 Los Angeles CA
<http://www.rims.org/RIMS13/>
- ❖ **2013 RIMS Canada Conference** October 6-9, Victoria BC
<http://rimscanadaconference.ca/>

Risk Management Resources

- ❖ Risk Management Magazine <http://www.rmmagazine.com>

About Our Organization . . .



- ❖ Visit our public Internet site: <http://www.fin.gov.bc.ca/PT/rmb/index.shtml>
- ❖ Government staff: be sure to bookmark our Intranet site!
<http://gww.fin.gov.bc.ca/gws/pt/rmb/index.stm>

It should be clearly understood that this document and the information contained within is not legal advice and is provided for guidance from a risk management perspective only. It is not intended as a comprehensive or exhaustive review of the law and readers are advised to seek independent legal advice where appropriate.

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Comments, questions, requests for further information about the contents of this newsletter, or questions for possible inclusion in our ASK RISK column, can be directed to "At Risk Editor" via email at RMB@gov.bc.ca or faxed to (250) 356-6222.