Construction Industry Update

Contractors Professional Liability:

Insurance and Surety Perspectives

By Jeffrey W. Cavignac, CPCU, ARM, RPLU, CRIS and James P. Schabarum II, CPCU, AFSB, CWCA

No one questions the fact that design-build contractors have a significant professional liability exposure. They are directly responsible to the owner for the design of a project, and whether they do this in-house or sub it out, they remain responsible. Sureties are very aware of the need for contractors professional liability coverage and the importance of appropriately managing this exposure.

Over the years, however, the line of distinction between *'means and methods of construction'* and *'professional services'* has blurred. In addition, even when general contractors are not working under a design-build project delivery method, they may actually sub out design to certain subcontractors (mechanical, electrical, etc.) Furthermore, standard construction contracts have changed how they allocate design responsibilities and risk. As a result many 'ordinary' contractors may have a professional liability exposure.

To understand why a contractor needs professional liability insurance, you really need to understand what your commercial general liability policy does ***not*** cover. The basic commercial general liability policy, published by the Insurance Services Office (ISO Form CG 00 01) does not contain a professional liability exclusion, although most insurance companies do add an exclusion by endorsement. Even if a professional liability exclusion is not added, a commercial general liability insurance policy responds ***only*** to liability arising out of either bodily injury or tangible property damage. ***Economic*** damages are ***not*** covered.

CPrL *(continued on page 2)*

In this issue...

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CPrL *(continued from page 1)*

Unfortunately, more than 50% of the claims against design professionals are for economic damages. If a claim were made for economic damages, there would be no coverage under a commercial general liability policy, even if there were no professional liability exclusion.

Since nearly all, if not all, insurance companies providing coverage for construction contractors will specifically exclude liability arising out of the professional services typically performed by architects and engineers, this creates the need for a contractors professional liability policy.

'But I sub out the design,' you might say, *'and my design professional carries professional liability insurance and has agreed to indemnify me for any liability arising out of his negligent acts, errors or emissions. Why do* I *need professional liability?'*

Below are a few of the numerous reasons:

1. Hold harmless provisions can be declared unenforceable.
2. The design firm may be out of business and/or may have dropped its professional liability insurance when the claim is made. (Professional liability insurance policies are written on a claims-made basis, and coverage must be in force at the time a claim is made to trigger coverage.)
3. The design professional's insurance policy only extends to contractual assumptions of liability that the design professional would have had in the absence of a contract. In laymen's terms, this means the design professional can only indemnify you for his/her negligent acts errors or emissions, and cannot assume ***your*** concurrent tort liability.
4. The design professional's policy limits may be inadequate or may have been exhausted by other claims.

In addition, some contractors have direct professional liability exposures. They may employ in-house design professionals, or they may provide construction management advisory-type services that are consultative in nature (as opposed to construction related).

To address a contractor's direct professional liability exposure, the insurance industry has developed contractors professional liability policies. This coverage is offered by several insurance companies, and typically provides direct and

CPrL *(continued on page 3)*

Common CPrL Exclusions

- Express warranties or guarantees
- Assistance provided with respect to project financing
- Obligation to obtain insurance or bonds
- Product manufactured or supplied by the insured
- Auto, aircraft, watercraft or mobile equipment
- Employers liability
- Workers compensation claims
- Employment-related practices
- Nuclear energy liability
- Insured versus insured claims
- Claims brought by a related entity
- Claims based on events the insured knew about prior to policy inception
- Claims that have been reported under prior policies
- Failure to perform professional services on time
- Failure to complete a project on time
- Bankruptcy or insolvency of the named entity
- Pollution
- Specification, use, or removal of materials containing asbestos
- Losses to which project-specific insurance applies
- Return or reduction of professional fees
- Punitive damages
- Personal injury
- Cost estimates exceeded
- Fiduciary liability/securities violations
- War (and other hostile acts)
- Deliberate noncompliance with a statute or regulation
- Bodily injury or property damage resulting from means and methods of construction

CPrL *(continued from page 2)*

contingent liability coverage. Almost all contractors have either a direct or indirect professional liability exposure, and should evaluate this type of policy as well as the appropriate risk management techniques available.

What Does Contractors Professional Liability (CPrL) Insurance Cover?

To be brief, a CPrL policy provides coverage for claims alleging an act, error or omission arising out of the performance of professional services. The key here is defining 'professional services,' and this can be done in two ways. One is to include a standard list of covered activities in the policy, and the second is to tailor the definition for each insured contractor, based on the types of services they actually provide. Whichever approach is taken, it is critical that the definition of professional services encompass ***all*** the services that the contractor might provide (see 'Common CPrL Exclusions' on page two).

Claims-Made Form

As previously mentioned, most if not all professional liability policies for contractors are written on a claims-made basis. This means that in order for coverage to apply, the policy must be in force when the claim is made. In other words, if you decide to carry contactors professional liability insurance, it should be a long-term decision.

Retroactive Date

Recognize as well that every policy has a retroactive date. The retroactive date is usually the inception date of the first professional liability policy. Any claims arising out of work done prior to the retroactive date are specifically excluded.

What Constitutes a Claim?

A claim is generally defined as 'a demand for money or services.' In other words, if someone claims that you did something wrong and demands that you either pay them money or perform additional services, this would be considered a claim. There may also be circumstances that you are aware of which might give rise to a claim, but has not been the subject of a demand. A well-written contractors professional liability policy will allow you to report this circumstance under the policy, and the insurer will recognize it as a claim if a subsequent demand is made for money or services.

Extended Reporting Periods

Sometimes, when the decision is made to discontinue a professional liability policy, you will have the option of purchasing an Extended Reporting Period (ERP) endorsement. This extends the period of time within which a claim can be made for services arising prior to the date that the endorsement was purchased (this is commonly done at retirement).

Recognize, however, that extended reporting period endorsements tend to be expensive due to what is known as 'adverse selection.' Those who think they need it tend to buy it, and hence the claims experience for this is not good.

What Isn't Covered Under a CPrL Policy?

Contractors professional liability policies are all manuscripted policy forms created by the insurance company providing the coverage. Before selecting a specific policy, the coverage form should be reviewed by your insurance broker (assuming your broker is a specialist in this area and is capable of providing such an analysis for you). Like most 'open peril' or 'all risk' types of insurance policies, everything is generally covered ***except*** what is specifically excluded. Some

CPrL *(continued on page 4)*

CPrL *(continued from page 3)*

exclusions are more critical than others, and these should be specifically addressed.

Express Warranties or Guarantees

The law does not require design professionals to be perfect. It merely requires them to perform to a standard of care, typically defined as *'that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.'* Most design professionals avoid agreeing to express warrantees or guarantees. Contractors, however, commonly provide express performance warrantees to project owners that exceed a design professional's standard of care, and this becomes a problem.

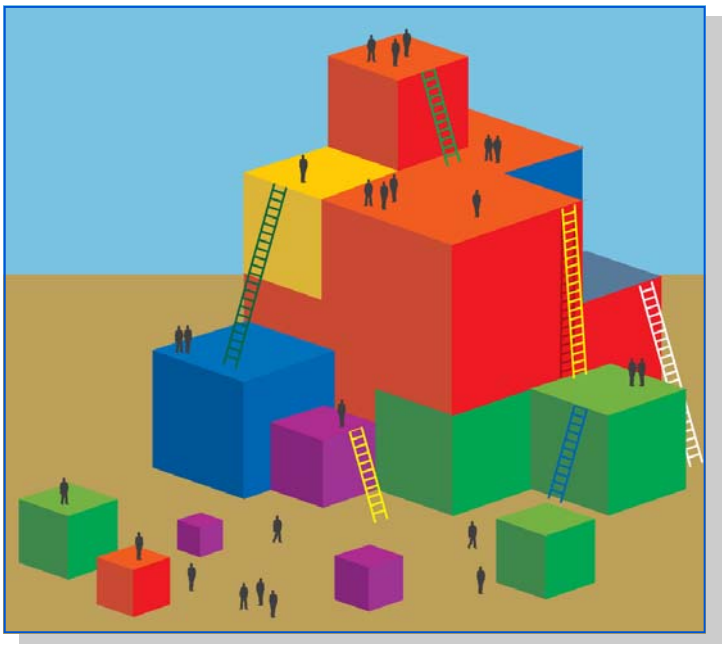
Basically, if the contractor agrees to warrant not only its construction services but also its design services, it has agreed to a standard of care that is not covered by its professional liability policy. Candidly, this is one of the most significant benefits to an owner of the design-build delivery process. It transfers this gap (alternatively known as the 'liability gap' or the 'Spearin Gap') from the owner to the contractor.

With this in mind, the contractor needs to avoid, if at all possible, guaranteeing or warranting the design aspects of the work. This also includes long-term efficiency guarantees that promise the finished product will meet certain performance standards (for example, in the design of a clean medical testing room).

Contractual Liability

Contractors have become accustomed to agreeing to sign intermediate form indemnification agreements. Such an agreement requires the contractor to hold harmless and indemnify the owner from not only the contractor's negligence but also the concurrent or joint negligence of the owner. This is legal in most states, and is usually covered by the contractor's general liability policy due to the fact that the general liability policy typically provides broad form contractual liability, which allows the contractor to assume the tort liability of a third party.

Unfortunately, a professional liability policy provides narrow contractual coverage. It only extends to such liability that would have attached by law in the absence of such agreement due to a negligent act, error or omission of the design professional. Because of this, it is imperative that you carefully review the indemnity agreements you are asked to sign to make certain that



you are not assuming uninsurable obligations from a design standpoint.

Pollution Liability

Most commercial general liability policies specifically exclude pollution, and usually mold as well. Most contractors professional liability policies are written without pollution exclusions. Note, however, that this does not close the gap created by the exclusion in the general liability policy. It merely extends pollution coverage to damages arising out of professional services.

In order to correctly close the gap in the general liability policy, you would need to buy a separate contractors pollution liability policy. (These are occasionally written in conjunction with a contractor's professional policy.)

Means and Methods of Construction

For obvious reasons, the professional liability policy usually contains a 'means and methods of construction' exclusion. The purpose of this is to avoid overlap with the commercial general liability policy.

What Does a CPrL Policy Cost?

In order to determine the premium for a contractors professional liability policy, a rather exhaustive application is required. In addition to the application itself, a number of other supplements are usually requested. The premium is based on what the underwriter perceives the risk exposure to be. Because the nature of professional services differs so greatly

CPrL *(continued on page 5)*

CPrL *(continued from page 4)*

between contractors, one is hard-pressed to provide a ballpark figure of cost. Typically, however, it is a fraction of what the commercial general liability policy costs.

Sureties' Perspective

Performance bonds are improperly suited for guaranteeing direct or indirect compliance or completeness and accuracy of plans, specifications and efficiency expectations for construction projects. When professional liability exposures exist in bonded contracts, the surety and the contractor become 'insurers' of design liabilities arising out of the performance of the contract. Obviously, sureties and contractors have no financial basis or technical expertise to handle professional liability claims.

Before bonding a design-build contract, a number of underwriting issues are considered, including, among others:

- The extent of the project's design and efficiency requirements
- Known and unknown scope and costs
- Owner's participation in progress conformance verification
- Financial cash flow requirements
- Term of liability

These contract issues are evaluated along with the design-build team's experience, capabilities, financial strength, and risk management plan.

Sureties strongly advise, and often require, contractors to properly manage this exposure by procuring the appropriate contractors professional liability coverage. Additionally, sureties prefer to limit or remove the exposures to professional liability from a bonded contract when it is practical to do so. This includes contractually limiting the exposure of professional liability to the amount of collectable insurance, or separating the design and efficiency requirements from the bonded contract and bond forms, as illustrated in the following example:

> *'The bond does not cover any responsibility for negligent acts, errors or omissions in design OR warranty of design. Coverage under the bond is limited to only the construction phase and post-construction phase of the contract. The bond premium is based upon the value of the construction and post-construction phases of the contract and not upon the design aspect of the contract.'*

Sureties do not intend to bond the design aspects of a construction project. They do expect contractors to be aware of their professional liability exposures and manage them accordingly.

Disclaimer: *This article is written from an insurance and surety perspective, and is meant to be used for informational purposes only. It is not the intent of this article to provide legal advice, or advice for any specific fact, situation or circumstance. Contact legal counsel for specific advice.*

Fleet Communications

Use GPS to Stay in Touch

Today's Global Positioning Systems (GPS) offer far more than just *"how do I get there from here?"* information. Web-based GPS fleet tracking provides improved efficiency that can eliminate unnecessary mileage and lessen wear-and-tear on your fleet.

One system provider, TomTom WORK, specializes in service to fleets of 10 to 50 vehicles. No special software is necessary other than a modern Internet browser, and there is no need for IT support or maintenance. It offers:

- Smart and Efficient Tracking, Tracing and Planning — View your vehicles in real time on street level maps and know their exact location in your city or across the country. Instantly identify each vehicle's location and send the closest when new tasks are added to the workday.
- Clear, Easy Navigation by order with destination address as well as verbal turn-by-turn directions makes your driver's job easier and less stressful.
- Two Way Communication — Send text messages from and to the office, relay client orders and locations or send tasks with navigation coordinates from the PC in your office to your drivers.
- Professional Reporting makes automatic log books of driving time, times of standstill for mile registration, payroll, and expense reporting.

Fleet *(continued on page 6)*

Fleet *(continued from page 5)*

Receive daily, weekly or monthly reports specific to your needs.

- Increase Productivity by using GPS to monitor your employees. You can detect abuses, reduce fuel costs, and verify billing for service calls.
- Recover Stolen Vehicles — The GPS tracking device shows you exactly where it is at any given time, making recovery by the police easy.
- What Businesses Benefit from GPS Tracking? Service, maintenance, transport and logistics, delivery and distribution, plumbing and electrical.

For additional information, visit the Web site at http://www.tomtomwork.com/us

Risk Control Corner

By Stuart Nakutin, CSIT, CSA, CEET, WCCP
Director of Loss Control Services

Risk Tip:

Layer Your Equipment Security Techniques

Equipment theft is an ongoing and expensive problem. While there are several physical security measures that can be taken, many work sites are difficult to secure, so anything that can be done to make equipment safer from or less desirable to thieves is vital.

Because some equipment is more at risk than other types, and some security techniques cost more than others, it is useful to place equipment security techniques in layers – the easiest and cheapest at the bottom, the more expensive at the top.

Layer 1 – All units should already have a serial number on them. Serial numbers must be recorded somewhere to have any chance of recovering stolen equipment.

Layer 2 – Add your serial numbers to a secure national database that is used by police to identify suspicious equipment. This allows police to identify you as the owner of your equipment if it is found during an investigation, even before the theft has been discovered.

Layer 3 – Add as many high quality company decals to the equipment as possible. Although a thief can remove them, decals will leave traces that may help in an investigation.

Layer 4 – Paint all or parts of your equipment an unusual and bright color. This will deter thieves who fear being seen moving such easily recognizable equipment.

Layer 5 – Add Owner Applied Numbers (OANs). Ideally these will be stamped on the equipment in both a visible and hidden location, but even stenciled numbers can be useful as thieves often overlook them.

Layer 6 – Use locks and immobilizers. If there is equipment nearby with no lock, it is that equipment that will be stolen.

Layer 7 – Install tracking devices.

To assess which layers to apply to what equipment, it is helpful to know what type of equipment is most often stolen. Reports with this and other national equipment theft statistics can prove helpful.

Federal FAR Regulations Summary

New Federal Rules Require Contractors to Adopt Codes of Conduct and Implement Ongoing Ethics Training

What? Amendments to the Federal Acquisition Regulations (FAR) now affirmatively require most companies doing business directly or indirectly with the federal government to: (1) adopt a code of business ethics and conduct ("Code"), and (2) educate all employees on its provisions.

Who? FAR 3.10, FAR 52.203-13, and FAR 52.203-14 apply to government contracts of at least $5 million, and which require at least 120 days to perform.

How? The new regulations require both an employee awareness program, as well as a robust internal audit program.

When? FAR was effective December 24, 2007.

What's Next?

FAR may be further amended by two Proposed Rules now under consideration. The Proposed Rules supplement the newly passed FAR amendments and provide contractors with more detailed guidance. They are expressly designed to more closely align the requirements of the FAR amendments with similar requirements under the Federal Sentencing Guidelines.

These Rules also affirmatively require contractors to disclose whenever they have reasonable grounds to believe there has been a violation of federal law in connection with the award or performance of a government contract.

The substance of the requirements was set forth in a Proposed Rule issued November 14, 2007 and modified slightly on May 16, 2008. The comment period on the Proposed Rule setting forth the requirements closed in January 2008. The comment period on the modifications ended July 15, 2008.

Government Contractors Face Substantial Requirements

The new FAR rules are noteworthy for requiring both an employee awareness program and a robust internal audit program. Specifically, the regulations provide that an employee training program should extend to all employees, and represent an "ongoing" effort to ensure that employees both know and understand their obligations under their employer's Code.

Likewise, the regulations require affected contractors to institute internal controls, including suggested "periodic reviews of company business practices, procedures, policies and internal controls." This makes a robust ethics and code of conduct program an absolute essential for employers doing even modest business with the federal government.

The new FAR requirements will sound very familiar to those in the private sector. Most organizations adopted Codes of Conduct and ancillary ethics training programs following the passage of the Sarbanes-Oxley Act in 2002, and amendments to the Federal Sentencing Guidelines in 2004.

The FAR rules emphasize the need for an ongoing program, as well as the requirement to reach out to all employees. These requirements codify what we view as best practices for all organizations – whether doing business with the government or not.

The complete text of the new FAR requirements can be found at: http://acquisition.gov/far/current/html/Subpart%203_10.html and http://acquisition.gov/far/current/html/52_200_206.html.

On the Horizon:

Additional Training and Compliance Regulations Now Under Consideration

In addition to the recently released FAR amendments, Proposed Rules now under consideration specifically define elements of the mandated compliance programs, and require contractors to disclose suspected criminal conduct in connection with government contracts. They supplement the December 2007 regulations, and provide contractors with more detailed guidance on how to meet their training and compliance obligations.

- With respect to Code of Conduct training, the Proposed Rules seek to bring the FAR requirements into closer alignment with the requirements of the Federal Sentencing Guidelines and provide that contractors must take reasonable steps to periodically provide Code of Conduct training to all principals and employees, agents and subcontractors. They further provide that the training must be appropriate to each individual's duties.

FAR *(continued on page 8)*

FAR *(continued from page 7)*

- With respect to Internal Control Systems, the Proposed Rules identify additional, mandatory elements of an effective program.

The Proposed Rules also create a new "self-reporting" obligation for contractors. Specifically, the Proposed Rules would require contractors to disclose in writing to the government whenever they have reasonable grounds to believe that a principal, employee, agent or subcontractor has violated the False Claims Act or other provisions of federal law relating to the award or performance of a government contract.

These requirements are in line with widely recognized compliance training best practices. They likewise make clear that organizations must do more than give lip service to satisfy the new training requirements — and that "check the box" Code training programs will simply not be enough.

These requirements were first laid out in a Proposed Rule published on November 14, 2007. The comment period ended January 14, 2008. The provisions of the Proposed Rule were modified slightly to include express references to detecting and reporting violations of the False Claims Act. These modifications were published on May 16, 2008. The comment period for them ended on July 15, 2008.

If adopted, the additional rules will likely become effective in late 2008 or early 2009.

A summary of the key elements in the final December FAR amendments as well as the Proposed Rules follows.

The New Amendments to FAR

Which Government Contractors Are Affected?

The new FAR requirements generally apply to any government contract worth at least $5,000,000 and which requires at least 120 days to perform, regardless of which government contracting agency is involved in the contract. The amendments also apply with minor exceptions to subcontractors providing services under the affected contracts.

How Does the Timing Work?

1. Within 30 days* of entering into a government contract, contractors must:

- Adopt a written code of business ethics and conduct;
- Provide a copy of the Code to each employee engaged in the performance of the government contract; and
- Promote compliance with the adopted Code.

*This time may be extended by the contacting officer and the requirement does not apply to existing contracts that were awarded before December 24, 2007, or to task orders awarded under those contracts.

2. Within 90 days of entering into a government contract, contractors must:

- Establish an "ongoing business ethics and business conduct awareness program," and
- Establish an internal control program aimed at:
  - The timely discovery of improper conduct; and
  - Ensuring corrective measures are taken.

What Kind of Employee Training and Audit Programs Are Required?

In general, the regulations provide that government contractors must adopt (1) employee business ethics and compliance training, and (2) internal audit programs:

- That are suitable to the size of the company and extent of its involvement in Government contracting that facilitate the timely discovery and disclosure of improper conduct in connection with Government contracts that ensure corrective measures are taken.
- For details on available online training and awareness programs, go to ELT's ethics training resources.

Do We Also Need to Display Hotline Posters?

Probably not.

Under FAR 52.203-14, if a contractor has implemented a business ethics and conduct awareness program, including a reporting mechanism (such as a hotline), then the contractor does not need to display any agency fraud hotline posters, other than any required DHS posters.

If a contractor has not implemented a business ethics and conduct awareness program, it must display a government agency or Department of Homeland Security approved fraud hotline poster (available from the official Contracting Officer). This requirement will most likely apply to small businesses that are not required to follow the training and internal control rules. (See exceptions that follow.)

What Happens if We Don't Comply?

Contractors that fail to comply with these new requirements could face withheld payments, loss of fee award, or even debarment, suspension or other disciplinary action.

Are There Any Exceptions to the New FAR Requirements?

Yes.

The regulations do not apply when the contracts are awarded under the FAR Part 12 commercial item contracts clause, or when the contract will be performed

FAR *(continued on page 9)*

FAR *(continued from page 8)*
outside of the United States, the District of Columbia, and outlying areas.

In terms of a partial exception, contractors that have represented themselves as small business concerns during the contracting process are excluded from the formal training program and internal control requirements.

These exceptions also flow through to subcontractors.

The Proposed Rules

What Do the Proposed Rules Cover?

The Proposed Rules provide greater detail regarding contractor compliance obligations and supplement, rather than replace, the recently passed amendments to FAR. Proposed requirements with respect to Code of Conduct training are expressly intended to align Code training requirements under FAR with similar requirements imposed under the Federal Sentencing Guidelines.

The Proposed Rules also require contractors to affirmatively report when they have reasonable grounds to believe there has been a criminal violation in connection with the award or performance of a government contract.

How Do Ethical Violations Impact Contractors under the Proposed Rules?

The Proposed Rules provide that ethical violations will be considered in the past performance evaluations of bidding companies. They also provide that contractors can be suspended and/or debarred for a "knowing failure" to timely disclose:

- An overpayment on a government contract; or
- A violation of the False Claims Act or other provision of federal law in connection with the award or performance of any government contract or subcontract.

What Are the Proposed Rules' Additional Training Requirements?

The Proposed Rules further confirm the breadth and scope of the required training. They prescribe a wide-ranging, comprehensive training program and dispel any notion that half-hearted training efforts are sufficient to meet the proposed standards. Specifically, the Proposed Rules provide that:

- Affected organizations must include reasonable steps to "periodically" communicate their standards and procedures and other aspects of their business ethics awareness and compliance program and internal control system.

  The Proposed Rules do not specifically define how often training must be provided. However, case law in the context of harassment training and widely accepted training practices under the Federal Sentencing Guidelines strongly suggest that training must be provided every 12 to 24 months.
- The training must be "effective" in disseminating information appropriate to each individual's "roles and responsibilities."
- The training must be provided to all principals and employees and, as appropriate, the contractors agents and subcontractors. This confirms that contractors may not skirt their training obligations by limiting training to those employees specifically tasked with performance of the government contract.

What Are the Proposed Rules' Additional Guidelines Regarding Internal Control Systems?

The Proposed Rules also provide much greater detail regarding what Internal Control Systems should include how they should aid in the discovery of improper conduct, and the kinds of corrective measures that should be taken.

Among other things, the Proposed Rules provide that Internal Control Systems should include standards and procedures to facilitate the timely discovery of improper conduct and ensure that corrective measures are promptly instituted and carried out. They also provide that Internal Control Systems should provide for the following:

- Assignment responsibility at a sufficiently high level in the organization to insure adequate resources are provided for both the training and internal control system.
- Reasonable efforts to ensure that a contractor's leaders including officers ,directors, owners and others with primary management responsibility have not engaged in illegal conduct or conduct which violates the contractor's Code of Conduct.
- Periodic reviews of company practices, procedures, policies and internal compliance controls, including:
  - Monitoring and auditing activities to detect criminal conduct.
  - Periodic reviews of the effectiveness of the company's training and internal control programs.
  - Periodic assessments of risk with appropriate steps to design, implement or modify the compliance training program and internal control system to reduce the identified risk.
- A confidential / anonymous internal "hotline" or other reporting mechanism.
- Disciplinary action for improper conduct or for failing to take reasonable steps to prevent or detect improper conduct.

Do the Proposed Rules Requires Companies to Voluntarily Disclose Potential Violations of Federal Law?

Yes.

FAR *(continued on page 10)*

FAR *(continued from page 9)*

The Proposed Rules provide that affected companies must "timely report" in writing to the agency Office of the Inspector General whenever they have reasonable grounds to believe that there has been a violation of the False Claims Act or other provisions of federal law relating to the award or performance of a government contract.

Whose Misconduct Must Be Reported Under the Proposed Rules?

The self-disclosure requirements are very broad under the Proposed Rules. The Rules provide that affected companies must disclose whenever they have reasonable grounds to believe there has been a violation of the False Claims Act or other federal law relating to the award or performance of a federal contract.

It is anticipated that these additional requirements will be approved. Stay tuned to ELT's website and blog for more updates.

What Should We Do Now?

If your organization does business with the federal government, you need to immediately determine whether you have current or prospective contracts valued over $5 million.

If you meet the threshold, it's imperative to create a robust and easy-to-understand Code. If you already have a Code, you should consider reviewing and updating it. The new regulations require "periodic reviews of company business practices, procedures, policies and internal controls." A Code should be a living document that reflects the ongoing needs and challenges of your business, as well as changes in the law.

The Code then needs to be widely distributed to your employees. The distribution requirement dovetails nicely with the requirement to establish an "ongoing business ethics and business conduct awareness program." The most effective way to communicate the Code, and to bring it to life, is to include it as part of your enterprise-wide training program. With online education, the Code can be seamlessly delivered and tracked, along with the training.

Finally, you need to establish an "internal control program." Don't let this sound more complicated than it needs to be. The intent of the new FAR requirements is for companies to be able to discover improper conduct, and to take corrective action when they do. In short, you need to have an effective complaint and investigation procedure. This is likely something already well established at your organization.

The key is for employees to know about your complaint and investigation procedure – in other words, make sure that it's well publicized through your training programs and other forms of internal communications (intranet, periodic e-mail announcements, etc.)

The other critical component is to have appropriate resources on hand to review complaints / reports, and to execute the appropriate follow up, which may include formal investigation and corrective action. These resources should also be monitoring:

1. The ongoing effectiveness of your training program (completion rates and employee awareness are key), and
2. The ongoing effectiveness of the complaint and investigation procedure (complaint processing times and resolution are key).

Of course information gleaned from this periodic monitoring should inform the ongoing development of both your training program, as well as your internal control program.

Now here's a reality check for those of you hoping to fit the exceptions. Even if you're not technically covered by the new FAR requirements, ***it is still highly advisable to follow these new rules***. Not only do they reflect the key components of the Federal Sentencing Guidelines (which almost every employer needs to follow), they represent basic best practices when it comes to risk management, and fostering a culture of compliance.

The trend of Code adoption and ethics training is only continuing to build momentum. In the coming months and years, we're likely to see more of these types of regulations — impacting employers of all sizes and types, and across all industries. For more information about online training and awareness programs, visit ELT's ethics training resources.

Community Bulletin Board

"Neighbors helping neighbors in San Diego"

Senior Community Centers

ATTENTION!

A *NEW* Windmill Thrift Shop

Is Now Open in City Heights!

Tell your Family, Friends and Colleagues!

The East Village Store has moved to:

4611 University Avenue
San Diego, CA 92105
(Between 46th Street and Menlo Avenue)

Hours 10 am—6 pm
Open 7 Days a Week

Call (619) 291-2415 to Schedule a Pickup (Large Items Only)

- Don't know what to do with your old television?
- Are those unused cookbooks collecting dust?
- Need to get rid of your summer clothes to make room for your new fall wardrobe?
- Have your kids outgrown their toys?

If you answered yes to any of these questions, head over to the Windmill Thrift Shop in City Heights and donate your gently used items.

While you're there, check out their wide selection of merchandise, including:

✧**Home Furnishings** ✧**Electronics** ✧**Appliances**
✧**Toys** ✧**Clothes** ✧**Books** ✧**Jewelry**

All Thrift Store proceeds benefit Senior Community Centers and Vista Hill

For more information about **Windmill Thrift Stores** or **San Diego Senior Community Centers**, visit:

http://www.servingseniors.org

San Diego Humane Society and SPCA

Barktoberfest!

Adoption Event

Saturday, October 11, 2008
9:30 a.m.-6 p.m.

Now is the perfect time to find the canine love of your life at the San Diego Humane Society and SPCA's Dog Adopt-A-Thon, "Barktoberfest!"

The San Diego Humane Society and SPCA's friendly Fidos will be looking for a home on Saturday, October 11th during extended adoption hours from 9:30 a.m. to 6 p.m.

Throughout the event the Humane Society's experienced and caring adoption counselors will be on hand to match up prospective pet parents with the best companion animal for their home.

There will also be a special "Canine Carnival" from 11 a.m. to 4 p.m. in the courtyard of the San Diego Campus for Animal Care.

The fair will feature fun, informative booths, pet-friendly vendors, free snacks and refreshments, and more.

For more information, call (619) 299-7012, or visit www.sdhumane.org.