How to Make and Substantiate a Claim

Recommended Document Preparation
for Business Income and Extra Expense Claims
INTRODUCTION

As our economy suffers from the impact of the Coronavirus Pandemic, businesses are starting to look to insurance for possible relief. Many companies are facing a combination of lower revenue and higher expenses with increased spending on IT and computer equipment to enable people to work from home. They are doing all of this while continuing to pay to keep current facilities functional with the eventual return to “normal”.

In this Greyling Special Report, we will discuss whether you may want to make a Business Income and Extra Expense Claim (BI/EE), and provide some guidance as to how you can substantiate it.

WHY MAKE A CLAIM

First, we need to discuss why you may want to consider making a BI/EE claim with your insurer. As you have probably read, many property insurance policies exclude loss due to a contaminant or virus. In addition, there must be “physical damage” for an ensuing BI/EE loss to be covered. In spite of these issues, it’s important to keep in mind that the terms of the specific policy that your company purchased will determine whether coverage will ultimately be available for a loss. In addition, all components of the policy should be reviewed; direct damage, BI/EE, civil authority, and utility service interruption are some examples. Property policies also have various sub-limits which should be considered. Every part of the policy needs to be carefully reviewed and contemplated.

As you have also probably read, a number of coverage disputes have already erupted in response to COVID-19 insurance claims. This is not the first time we have seen coverage disputes arise after a disaster - a good example is Superstorm Sandy. While the circumstances of Superstorm Sandy were very different than this COVID-19 pandemic, questions around coverage still existed. Greyling assisted its clients in reviewing the specific wording of their policies, and in some cases, was able to make arguments for coverage. As a result, some claims were paid. While the circumstances and coverage issues surrounding this COVID-19 pandemic are still evolving, we believe it is best practice to carefully review the terms and conditions of your policies to see if coverage will respond.

Even if ultimately there is limited or no insurance coverage, there is the possibility that the federal government may create a fund to pay for BI/EE claims, or state governments may intervene. While the specifics of any government program have not been developed, we can expect that qualifying for relief will require a detailed explanation of losses.
Recommended Document Preparation for Business Income and Extra Expense Claims

Another heightened risk during the pandemic is that of a cyberattack. There has been an increased number of cyber breaches by bad actors taking advantage of networks being stretched due to millions of employees now working from home. A cyber breach could result in a business income loss, which will require the same tracking of BI/EE information to support making a claim for a loss.

WHAT YOU SHOULD BE DOING NOW

The question then is, what should be done now? We believe it is important to start documenting, as much as possible, how your firm’s revenue is being affected as a result of the COVID-19 outbreak and what extra expenses are being incurred. Keeping records contemporaneously as events unfold and while the information is readily available will make pursuing a claim easier in the future.

The more complete a claim submittal is, the easier it is for the insurer to investigate and adjust the claim, facilitating a solution of the claim payment, to the extent the claim is covered. In order to help with this process, we have partnered with Anchin, Block & Anchin LLP, a firm that provides Forensic Accounting services for BI/EE claims in the Architect and Engineer industry, and helped develop the following list of documents we recommend gathering:

- Exact date offices began to be affected by COVID-19 (of course, the final date is to be determined)
- Develop comparative data for both 2019 and the period affected by COVID-19 for:
  - Utilization Rate by Employee by Location
  - or
  - Daily Billable Hours and Rate or Revenue by Employee by Location
- Most Recently Completed Financial Statements on a monthly, quarterly, annual and/or year-to-date basis
- 2020 budget by office
- Invoices of any extra expenses to mitigate further Loss of Business (i.e., extra overtime for IT staff, additional money spent to enhance IT systems, additional cleaning, technology stipend for employees working from home, etc.)
- Proposals due and not met during the period of loss
- Bids that are lost or unable to bid on because of COVID-19
- Projects cancelled or delayed including the contracts, fees, and hours not accumulated
- Copies of leases, actual rental amounts, and payments
- Expenses not being incurred due to the Pandemic
- Interest on additional loans needed for cash flow
- Payroll total for employees that continue to be paid, but cannot work (e.g. administrative staff)
Recommended Document Preparation for Business Income and Extra Expense Claims

Of course, some of the information above can be kept on a spreadsheet. Anchin recommends creating separate general ledger accounts to track the additional costs incurred. Greyling has worked with Anchin to develop a BI/EE worksheet specific to the Architect & Engineer industry. Please click here to download a copy.

Note that this outline above and the worksheet are simply reference guides. They do not create, confirm, or extend coverage. We strongly encourage a review of the terms and conditions of your policies to determine what coverage you may have available. The information listed above and the worksheet do not supersede any request that may be made by insurance companies. This information is not meant to be, nor should it be relied on as, tax or legal advice. However, it may be a helpful tool as you begin to quantify your losses and develop your exposure so that you can determine how much insurance to purchase in the future.

WHEN TO MAKE A CLAIM

One other question to address is when to make a claim—now, periodically, or when the crisis is over? The answer will vary from firm to firm. For some firms, there has been little to no impact to revenue so far. That might not be the case for extra expenses, though, and the balance of the year is expected to be very different. We generally recommend not waiting. Once it is clear your firm’s revenue has declined and/or you are incurring higher expenses, go ahead and file a claim. It can be updated from time to time. And even if the insurer denies coverage, as noted above there are multiple reasons to keep records and track your firm’s BI/EE loss.

We hope this document and the worksheet (download from link above) provides you with a starting point to help you prepare a BI/EE claim for your firm. And of course Greyling and Anchin are prepared to assist as needed—both with preparing a claim and pursuing it with insurers.

WE’RE HERE WHEN YOU NEED HELP

During turbulent times it pays to have someone on your side you can trust. We understand the specific needs and concerns of design firms and how to effectively manage claims. Let us put that expertise to work for you.

833.223.2248 | acecbit@greyling.com