

New Chair of the AICNCC

CHRISTOPHER WILSON TAKES THE REINS OF THE ALLIANCE OF IEEE CONSULTANTS' NETWORKS COORDINATING COMMITTEE (AICNCC); MENTORING'S AT THE TOP OF HIS AGENDA



Educating young people that consulting is a career option is a top priority for the new chair of the Alliance of IEEE Consultants' Networks Coordinating Committee (AICNCC), Christopher Wilson. "This is a new type of outreach for this committee, but with some creative thinking, this

committee can play a part in providing young engineers a perspective on a career in consulting," said Wilson.

Wilson is an expert in automotive sensors, safety systems, information processing, and accident causation and analysis. He

has been consulting for the past eight years. Wilson is also the current chair of the [IEEE Consultants Network of Silicon Valley](#), so he will be pulling double duty, leading both groups.

In addition, to mentoring for young professionals, Wilson wants to continue the work of past chairs, to help revitalize dormant consultants' networks. He would also like to focus efforts in urban areas, such as Atlanta and St. Louis. Wilson also wants to let consultants know that services, such as our quarterly newsletter, and annual Consultants Fee Survey Report will continue to be a reliable asset for IEEE consultant members. ■



RISK MANAGEMENT TIPS

BY JAMES R. JACOBSEN

As an IEEE member, you have access to the IEEE Member Group Insurance Program, administered by Mercer. For consultants who need both personal and professional types of coverage, the Program offers the advantages of group insurance rates and the convenience of many, online policyholder services. Whether you are beginning the life of a sole practitioner or have an established practice, you want the peace of mind that comes from the support of a reliable insurance broker, subject matter experts and top-notch insurance products.

In 2021, Mercer is sponsoring quarterly articles for AICN that review facets of risk management for a professional practice. "[New Year Risk Management Refresher](#)," by Colleen M. Palmer, Esq. kicks off the series. Ms. Palmer is at Beazley, one of the professional liability insurance carriers providing coverage in the IEEE Member Group Insurance Program. Her article is chock full of best practices she has gleaned from her experience with technologists' contracts and claims. Some of her key insights include the following:

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- State your scope of services with detail and clarity: Your scope of services should be well defined and clearly detail what services constitute basic, additional, and (to the extent known) excluded services.
- Give news to the client timely: Keep the client informed of the progress of the project and, at a minimum, comply with contractual obligations to provide status reports.
- Establish and follow a document retention policy: Have a formal, written policy that addresses how long to keep each type of document, including electronic documents. A well-documented project file may help avoid claims and provide legal defenses in the event of a claim situation.
- Examine your insurance policy: Have the types and limits of insurance required by law and your professional

services agreement. Pay careful attention to how long your contract requires you to maintain the policies and if you are required to maintain the full limits of insurance, even if a claim impacts the amount of insurance available. Professional liability insurance is a depleting limits policy; therefore, if a claim unrelated to the project diminishes the available insurance, but your contract requires you to maintain full limits, you would be required to purchase additional insurance to satisfy your contract. Require any consultants you retain to have appropriate insurance policies in place, including professional liability insurance.

Read the full article below.

>> [Learn more about professional liability insurance](#)



NEW YEAR RISK MANAGEMENT REFRESHER

BY COLLEEN M. PALMER, ESQ.

Happy New Year! It's time to get your risk management house in order, and ensure your firm is embracing sound risk management practices. With that in mind, we offer some key tips to help you manage risk on projects.

Stress the importance of risk management in your firm culture: successful engineering firms that consistently have superior

claims history, as compared to their peers, have robust risk management programs that all employees embrace. Corporate leaders embed an effective program into the company culture, and emphasize risk management as a priority. Successful firms are not necessarily completely risk averse, but they carefully assess the risks vs. reward balances for all their projects and clients.

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Evaluate clients and projects carefully: Despite the excitement and potential associated with new projects, it is critical to assess the clients and the projects objectively. Some project types (e.g., residential and, specifically, condominiums) and some clients (e.g., developers, private owners and public entities that often refuse to modify their contracts) are inherently risky or difficult. Use a formalized “go/no-go” process to evaluate the potential risk and reward for each project.

Assure your firm is prepared: Before you proceed with any project, confirm you have the proper skill set and necessary manpower. Problems may arise, if your staff is stretched too thin to devote the appropriate resources, or if inexperienced staff takes on services without the necessary knowledge and experience. Insufficient time to dedicate to a project, and/or lack of knowledge, increase the chances of technical errors--which, in turn, increases the chances of claims. If you anticipate the need to retain consultants, discuss the plan with your client. Ensure your contract allows you to retain them, as necessary.

State your scope of services with detail and clarity: You should well define your scope of services. It should clearly detail what services constitute basic, additional and (to the extent known) excluded services. Do not incorporate the client’s request for proposal, or your proposal. It will help avoid the possibility of conflicting language that could lead to disagreement regarding your required scope.

Offer and seek mentoring opportunities: Have a formalized process to ensure junior staff is receiving guidance from senior practitioners. The best mentoring is a two-way street: junior staff should take the initiative to seek input from senior staff, when necessary; and senior staff should carve out time to regularly consult and discuss issues. Mentoring reinforces firm processes and culture. It helps new professionals develop the “soft skills” necessary to communicate with clients, design team and construction team members.

Negotiate your contract: Have a written, executed agreement prior to performing services on every project. In addition to defining the parties’ responsibilities and rights, the negotiation process lets you assess and manage the client’s expectations—as well as educate the client regarding your customary role and value of services.

Scrutinize lender documents: With greater frequency, design professionals are being asked to sign lender documents, such

as consent to assign your contract and certifications. Such documents vary widely, but the key point is you should not give the lending institution greater rights than your client had; or assume obligations that you did not have, in your contract. Pay particular attention to language granting broad rights to the lender to own and use your work product; and requests for you to certify your services comply with all laws, or the contractor’s guarantee work.

Give news to the client in a timely manner: Keep the client informed of the project’s progress.

Give news to the client in a timely manner: Keep the client informed of the project’s progress. At a minimum, comply with contractual obligations to provide status reports. If you must deliver a disappointing update, offer recommendations and discuss client concerns. A proactive design professional, armed with a possible solution, can help avoid client disappointment--and manage client expectations going forward.

Report claims: Contact your professional liability insurance broker as soon as you are aware of a claim, or issues that may lead to a claim. Failing to report a claim or circumstance as soon as possible, could affect available coverage under your policy. Err on the side of caution, if there is any doubt as to whether you should report an issue.

Establish and follow a document retention policy: Have a formal, written policy that addresses how long to keep each type of document, including electronic documents. A well-documented project file may help avoid claims, and provide legal defenses, in the event of a claim situation. Generally, you should retain documents not kept permanently for the longer of 10 years after substantial project completion; or the applicable Statute of Repose, or any longer period specified in your professional services agreement.

Examine your insurance policy: Have the types and limits of insurance required by law and your professional services agreement. Pay careful attention to how long your contract requires

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you to maintain the policies; and if you are required to maintain the full limits of insurance, even if a claim affects the amount of insurance available. Professional liability insurance is a depleting limits policy; therefore, if a claim unrelated to the project diminishes the available insurance—but your contract requires you to maintain full limits—you would be required to purchase additional insurance to satisfy your contract. Require any consultants you retain to have appropriate insurance policies in place, including professional liability insurance.

Trust your instincts: Far too often, design professionals involved in a claim “knew they shouldn’t have taken the project”; but they decided to proceed, despite their reservations.

Trust your instincts: Far too often, design professionals involved in a claim “knew they shouldn’t have taken the project”; but they decided to proceed, despite their reservations. Do not ignore your instincts. If your research of a potential project or client gives you a bad “gut feeling,” carefully consider whether to proceed—or walk away. If you take the project, ensure you have negotiated your contract appropriately, with protections (such as limitation of liability and waiver of consequential damages provisions), and that you vigorously document the project.

Investigate your jurisdiction: Have an understanding of the jurisdictions in which you practice. States vary as to how they treat various contract provisions (e.g., the enforceability of limitation of liability provisions and indemnity obligations). In addition to contractual issues, the location may present unique issues, with respect to sub-surface conditions; or climate that may be regulated by applicable codes and regulations, of which you must be aware.

Never admit liability to your client: Even if it is obvious you made a mistake on a project, do not admit liability. Mistakes do not

necessarily equate to legal liability; and admissions may resurface in litigation, as evidence against you. Under common law (and hopefully in an appropriately drafted standard of care provision in your contract), you are required only to perform in a manner consistent with the generally accepted professional standard of care ordinarily exercised by reasonably prudent professionals. Since you are not required to perform perfectly, the existence of an error or omission in your services does not necessarily mean you breached the standard of care. Rather than conceding liability, tell the client you will investigate the issue, report the matter to the appropriate person in your firm, and contact your professional liability insurance broker to develop a plan to further handle the matter.

Give back, but do so wisely: If your firm provides pro-bono services, employ the same client and project selection evaluation as you would when considering for-profit projects. Have a written, executed contract that clearly details your scope of services and includes appropriate standard of care language and protections, such as a broad indemnity in your favor, limitation of liability, and waiver of consequential damages.

Stay out of jobsite safety issues: Design professionals are not responsible for jobsite safety. Delete any contract language suggesting otherwise; add language explicitly disclaiming responsibility for jobsite safety programs and precautions, since such responsibility lies solely with the contractor. If you see an obvious and dangerous condition that threatens life safety, alert the person in charge of the jobsite about the condition, but stick to the facts. Do not provide any recommendation regarding remedying the condition. Follow up with written communication reporting your observation; but do not make any recommendations, and do not check to see if the condition has been corrected.

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START A LOCAL IEEE CONSULTANTS NETWORK IN YOUR SECTION

In 2020, the [Alliance of IEEE Consultants' Network Coordinating Committee \(AICNCC\)](#) prioritized the effort to start new local consultants networks. To jump-start this effort, the AICNCC created a series of webinars that members can use, as a roadmap to start a local network. The webinars provide content and resources for networks just starting out.

The first webinar in this special new series, "[How to Start a Local IEEE Consultants Network](#)," is by Gary Blank, 2015 IEEE-USA President. The title speaks for itself. This webinar provides a roadmap for members on how to start a local network in their Sections. In addition, the AICNCC also offers, "[Guide to Starting a Local Consultants Network](#)," on the [IEEE-USA website](#).

The second webinar, "[Life of a Consultant](#)," is by long-time AICNCC member, Larry Nelson. Healthy local networks need a good mix of experienced consultants, and consultants just starting out. This webinar is designed to bring in younger consultants, by outlining what independent consultants need to know to be successful.

The third webinar is, "[Professional & Forensic Engineering and Expert Witness Career Progression](#)," by Robert Peruzzi a recently new AICNCC member. This webinar serves to provide content to more experienced consultants, who may be looking to expand their practices by adding expert witnessing to their portfolios.



This special series closed with a webinar that would interest all consultants. In, "[Highlights from the 2020 IEEE-USA Consultants Fee Survey Report](#)," the author presents key findings from the report. The most important feature of this annual IEEE-USA report is always the average hourly rate for consultants—and the author does discuss that topic in this presentation.

Now the AICNCC needs you! We need consultant champions, in Sections without local consultants networks, to take on this challenge—and spearhead this effort to continue starting local consultants networks. We want these champions to use this virtual environment to kick off your network. And after the pandemic—when things return to normal—your new network will have an established group, ready and in place for in-person networking. ■

SHOULD CONSULTANTS CONSIDER ADDING A TRAINING COMPONENT TO THEIR CONSULTING PRACTICES?

Daryl Gerke, member of the Alliance of IEEE Consultants' Networks Coordinating Committee (AICNCC), and a consultant with his own consulting information website, "[Jump to Consulting](#)," addresses this issue in one of his most recent blog posts. In "[How We made 15+ Million by Adding Training to Consulting...](#)," he starts by saying: "**For over 25 years, training was an important part of our consulting business.** Financially rewarding, too. But I must confess we didn't plan it that way..." To read the rest of Daryl's story, plus almost 300 other blog postings addressing the consulting profession, go to his [website](#). ■