Cyber Liability Should Be Taken Seriously

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“A design firm held confidential information on many of their clients, as well as information on merger opportunities. A hacker based in Russia gained access to their computer system and sent an email with a copy of a merger plan scenario and files on one of the firm’s clients. The hacker threatened that unless they are wired $250,000 they would not only shut down the firm’s computer systems, they would also publish all the data obtained from the system.” ~Schinnerer & Company, Inc

“A design firm received an email that appeared to be from one of its subconsultants, requesting that a payment due to them be sent to a different bank account number due to an ongoing audit. The payment was made to the new account number, and when the design firm received a past due notice and called the subconsultant, it was uncovered that the subconsultant’s email accounts had been hacked and the email that was sent with payment instructions was in fact fraudulent.” ~Travelers Insurance Company

Hopefully these scenarios don’t sound familiar to you. In fact, if they don’t you may be in that 39% of business owners that don’t think a cyber breach would impact their business. Unfortunately, there has been a 600% increase in cyber attacks from 2016 to 2017 and it is not anticipated that there is a going to be a decrease anytime soon.

Design firms, included in the statistics for professional services, make up around 19% of all cyber claims with an average of $140,353 in claims costs. Further, 50% of all cyber attacks on professional services come from organized criminal groups and 68% of breaches took more than a month to discover.

In the state of Indiana, notification laws define a breach as “...an unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by a person.” It goes on to say that a “breach includes the unauthorized acquisition of computerized data that have been transferred to another medium, including paper, microfilm, or a similar medium, even if the transferred data are no longer in a computerized format.”

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Further, if such a breach as defined above is suspected (confirmation is not a requirement), not only notification to those individuals is required but also notification to credit reporting agencies as well as notice to the Attorney General who has the authority to assess civil penalties if your firm fails to comply with notification laws. If your firm does business in other states, each state has its own Security Breach Notification Laws that govern. A firm might start to see the value of purchasing a Cyber Liability Insurance policy that comes with legal and forensic services to help verify whether a breach occurred, and manage and pay the notification costs.

For Design Professionals, data breach is not the only concern though most firms don’t keep large quantities of personally identifiable information other than their employee’s personal information or some of their vendors/subconsultant’s account information. For example:

-Ransomware where a crime ring won’t unlock use of your computer systems until money or bit coin is paid…OR Social engineering where one of your employees may be tricked to transfer money to a crime ring’s account.

-Viruses embedded in your email infects yours and/or other consultants’ valuable documents needed for a project and starts causing project delays are just a handful of other potential claims that affect Design firms.

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A Cyber Liability policy can offer payment for a ransom, forensics to verify if a breach occurred, restoration to get your firm back up and running, legal fees if you are sued for infecting others’ computer systems, loss of income during a breach, and much more. Cyber Liability policies include what are called first and third-party coverages. First-party coverages reimburse your firm for costs associated with cyber claims. Third-party coverages, similar to a professional liability policy, cover defense costs and damages as a result of a lawsuit brought against your firm.

While some Design Professional Liability policies offer some levels of third-party coverages, they can also require the breach be a result of your professional service.

A Cyber Liability policy has a broader definition to trigger coverage and is where adequate limits of first-party coverages are most often found. A firm should also consider whether they want to reserve their professional liability policy for claims of negligent performance or share liability and loss experience with cyber exposures.

Some Businessowners policies, including the policy offered by The Hartford for ACEC members, can be endorsed to include some levels of first and third-party coverages and can be a good entry point into the cyber liability world. Depending on the size of the project and the requirements of the contract, a stand-alone Cyber Liability policy may be necessary to satisfy the limits of liability being requested.

The Hartford also offers a stand-alone Cyber Liability policy for ACEC members that offers both first and third-party coverages, a 24/7 cyber incident hotline staffed in the U.S., and an online cyber risk management portal with tools, training and cyber best practices. Premiums paid for both the endorsement and the Cyber Liability policy is included in the calculation for royalties paid back to ACEC members that participate in the program, the local ACEC Indiana chapter, and ACEC national. Outside of the ACEC program, there are other comparable Cyber Liability policies available but without royalty benefits.

Whichever route your firm chooses to take, cyber exposures continue to evolve as our reliance on technology continues to increase and it is becoming more imperative to both have a digital security strategy and cyber protection in place when the unfortunate cyber attack hits.

For more information on Cyber Liability and benefits under the ACEC Insurance Program, Contact ACEC Select Broker-Walker & Associates Insurance.