



This material is provided for informational purposes only. Before taking any action that could have legal or other important consequences, confer with a qualified professional who can provide guidance that considers your unique circumstances.

Unmanned aerial vehicles and unmanned aerial systems, commonly referred to as UAV's, UAS's, or "drones," have received a lot of airplay in the A/E community during the last few years. Architects, engineers, contractors, developers and others are fascinated with the possibility of using unmanned aircraft on their next big project.

Why all the interest, besides drones being fascinating "toys" that have spurred a burgeoning recreational field? They offer real business advantages, including significant savings in time and money and increased safety over traditional tools used to provide aerial photography, such as manned helicopters and small planes. With a small, lightweight and relatively inexpensive drone armed with a digital camera, Wi-Fi and a GPS, a firm can photograph and map out a large job site or completed project in great detail within an hour.

Drones offer virtually all firms the opportunity to create and capture an aerial view of undeveloped land, hazardous conditions, active building sites, finished projects (inside and out) and all steps in between. This allows design firms to quickly and cost effectively provide their clients and their project managers with extremely accurate visual representations of a project. Those representations can include photos, videos, thermal readings, infrared scans, 3D topography models and other data that can be imported into a design firm's

or a client's computer using standard design software programs.

From initial land surveying through final project walk-throughs, drones are amazing tools that promise increased efficiency and effectiveness in serving client needs. Indeed drones will likely raise the bar for the types of services and data clients will soon expect from their designers and contractors.

The FAA and Drone Registration

Architects, engineers, surveyors, contractors and developers are now allowed to use drones for commercial purposes. As UAV's are considered aircraft, it took some time for the Federal Aviation Administration (FAA) to determine how to regulate this technology explosion. Starting December 21, 2015, the FAA has implemented a system for drone owners to register their aircraft for recreational and commercial purposes. Today, all drones must be registered with the FAA after purchase.

Registration is fairly easy for drones under the 55-pound weight restriction, which includes cameras or any other payload attached to the drone. Owners can go to the FAA website, provide their name, address, and email address, and obtain a Certificate of Aircraft Registration that includes a unique identification number that must be marked on the aircraft. At this time, the cost is only five dollars and registration is good for three years. Note that if your aircraft is over 55 pounds, you must register it via a paper process and obtain specific approval from the FAA.

With regards to drone usage, the FAA offers a set of simple guidelines such as:

- Don't fly the drone more than 400 feet in altitude.
- Always keep the drone within visual sight.
- Keep at least five miles away from airports, and remain clear of any manned aircraft.
- Keep away from large crowds and stadiums.
- Don't fly carelessly or recklessly.

If drone usage goes outside of these guidelines, owners will need to work with the FAA directly to obtain exceptions. Also, be aware that some states and municipalities have their own laws regarding the use of drones, commercial and recreational.

Insurance Considerations

Drones are undoubtedly flying into the future of many design and construction projects. Over the next decade drones will likely become an indispensable part of an architect's or engineer's tool kit. If a decision is made to move forward with the use of drones, now or in the future, be aware of the liability issues. A wayward drone can cause both physical injury and property damage. Therefore, check your commercial general liability policy (CGL) to see whether the use of a drone would be covered.

Most CGL policies specifically exclude liability that arises out of the ownership, maintenance or use of aircraft. Work with your agent to determine the exact language of your policy and whether a drone would be classified as aircraft. Some insurance carriers are now offering endorsements to their general liability and umbrella policies to include the risks of drones. If the carrier is unable or unwilling to provide an endorsement, you may need to purchase a separate UAV policy to get the coverage you need.

Also, professional liability issues could crop up with the use of a drone. Failure to perform up to the current standard of care regarding the operation and application of the UAV and the accuracy, dissemination and use of

the information gathered could lead to an errors and omissions claim. Again, some professional liability insurance carriers are on the forefront of the issue and including coverage for professional services related to drone usage. Check with your agent for more information.

Third Party Drone Usage

Lastly, be aware of any subconsultants that may be utilizing drones as you could be vicariously liable for any claims that arise. Be sure to check the subconsultant's coverage amounts and obtain certificates of insurance proving coverage. If the sub's insurance is inadequate, touch base with your agent to make sure your firm is adequately covered in the event a drone claim arises and you're pulled into the dispute.

Can We Be of Assistance?

We may be able to help you by providing referrals to consultants, and by providing guidance relative to insurance issues, and even to certain preventatives, from construction observation through the development and application of sound human resources management policies and procedures. Please call on us for assistance. We're a member of the Professional Liability Agents Network (PLAN). We're here to help.



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