

Local Government Handbook (revised 12/11/03)

Chapter 2 - Administration of City Government
Section 2 - Risk Management

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INTRODUCTION

Local Governments provide a variety of services for residents, such as police and fire protection, health services, transportation, and social services. These services, although of real benefit to local residents, involve the risk that claims for damages will be made against the local government. If accidents or other events that result in bodily injury, damage to property, or financial loss occur, the individuals affected will frequently make claims against the local government for their injury or loss. Steps can be taken to limit these risks to government organizations through a “risk management program.”

Risk Management is the identification of possible loss as a result of accidents or other unforeseen events and a program to transfer or reduce those losses. While it isn't possible to eliminate all accidents and other events that result in damage, it is possible to control the damage and financial loss that can occur. Risk management can help reduce the overall cost of providing services by identifying and controlling, as much as possible, the potential for and costs of claims.

Although risk management programs can vary between different organizations, the most important components of a risk management program are:

- **Risk assessment:** understanding the dollar value of probable or potential claims made against the local government for careless or otherwise improper activities.
- **Transfer of risk:** reducing the risk of claims made against the local government through the transfer of risk to third parties such as contractors.
- **Management or reduction of risk:** reducing exposure to claims associated with providing services through safety programs.
- **Purchase of insurance:** protecting the local government from the expense of claims through insurance.
- **Claims administration:** investigating, evaluating, settling, and litigating claims made against the local government.

Each part of a risk management program is discussed below.

RISK ASSESSMENT

The first step in a risk management program is to estimate the number of claims, and their dollar value. Risk assessment is usually done by an insurance broker, a private risk management consultant, or the risk manager if one is employed by the local government. The governing body or chief administrative officer can use the information provided by the risk assessment to decide:

- The types and extent of insurance needed to adequately cover the organization's activities.
- The possible benefits of employee safety training programs.
- Whether or not to hire a contractor to provide certain services or the operation of

- certain facilities.
- How the organization might benefit from other elements of a risk management program discussed in this section.

The following factors are considered in estimating the types and cost of claims that might be made against a local government.

Types of programs or services: Does the organization operate a police department, a clinic, or a dock? Do they provide fire protection or road maintenance? These types of services are considered a high insurance risk.

Annual operating budget: There is a greater potential for claims filed against a larger organization since there is a greater possibility of accidents or unforeseen events involving local government employees and vehicles.

Number of employees: If injured on the job, employees may be entitled to receive workers' compensation benefits and medical treatment.

Employee activities: Different job duties require different insurance rates. As an example, rates for a police officer or firefighter would be higher than for an office worker because of the possible hazards associated with the different jobs.

Number and use of vehicles: Does your organization own and operate vehicles such as cars, trucks, or construction equipment? How are they used? How frequently are they used? More vehicles and frequency of use can equal higher rates.

Property inventory: Does your organization own or operate a dock, fuel storage facility, or community center? More property can equal higher rates.

Past loss record: What is your organization's past history for claims or losses that result from accidents involving local government employees, vehicles, or property?

TRANSFER OF RISK

Some services, such as police protection, can be provided to local residents only by local government employees. However, the cost of potential claims or suits arising from other services and programs, such as road maintenance or trash haul and disposal, can be transferred to private contractors. For instance, a local government might want to provide summer and/or winter road maintenance, but does not wish to run the risk of paying claims that result from accidents involving road maintenance vehicles. That service can be contracted out and the risk can be transferred to a private road maintenance contractor.

The risk of loss is transferred through an agreement with the private contractor whereby the contractor "indemnifies" the local government and "holds it harmless" (protects it) from claims or demands made as a result of accidents caused by the contractor. The

contract for services should require the contractor to provide proof of insurance sufficient to pay potential claims. The cost of this insurance is typically included in the contractor's cost of doing business. Contracting for services transfers the cost of lawsuits and claims to a private contractor who is responsible for handling those lawsuits and claims.

If a private contractor damages the property of another while completing the work contracted for, the local government can force the contractor to defend it from a resulting claim and to bear the costs of a legal action and/or court judgment. Effective transfer of risk to private contractors requires careful preparation of contracts and monitoring of insurance coverage obtained by private contractors to make certain that the local government is adequately protected from possible claims.

REDUCTION OF RISK IN GOVERNMENT OPERATIONS

In addition to assessing and transferring risk, a local government can explore programs designed to reduce risk. A safety and accident prevention program for employees reduces the risk of accidents or injuries. Following are some safety program activities that could be done:

Safe driving program: If the local government uses trucks and heavy equipment and other vehicles in connection with daily activities, periodic training of all drivers and equipment operators in safe practices can reduce the number of accidents and resulting claims for damages. These programs may also reduce the cost of buying insurance.

Seat belt programs: The risk of serious harm can be reduced by encouraging or requiring employees to use seat belts while riding in company vehicles. Some organizations have incentive programs that, through prizes and bonuses, reward employees for using seat belts.

Back injury prevention program: With the increasing costs of workers' compensation claims, many businesses find that a program that teaches employees how to reduce low back injuries reduces the cost of those claims and increases the productivity of the work force. Orthopedic problems, especially back injuries, are the most common injuries covered by workers' compensation. These can be reduced or prevented if employees who handle heavy objects or engage in strenuous activity use safe practices.

Vehicle and equipment inspection: Periodic inspection of vehicles and equipment used by employees can reveal defective or dangerous conditions that can be corrected before accidents happen. Mandatory safety checks and preventive maintenance of vehicles and heavy equipment reduces the risk that equipment failure will cause accidents involving those vehicles.

Facility inspection: Regular inspection of facilities where accidents are likely to occur, such as warehouses, docks, or other transportation facilities, reveals accident-

producing conditions that can be corrected before accidents happen.

PURCHASE OF INSURANCE

Purchasing insurance is part of a risk management program. Insurance is an agreement by a third party to pay out claims made against the local government and to bear the cost of defending against those claims, up to certain dollar limits and for periods of time stated in the insurance policy.

Although some larger Alaskan municipalities act as their own insurance companies by paying claims directly from their own reserves, most Alaskan municipalities must purchase insurance from commercial insurance carriers. The following are common insurance coverages that a local government should have.

Comprehensive general liability: This type of insurance protects the organization from claims resulting from accidents caused by employees and involving use of its equipment, or taking place on its property.

Automobile liability insurance: This protects the organization from claims resulting from accidents involving vehicles driven by employees.

Law enforcement liability: This is purchased for police and other public safety officials.

Public official's liability: This is the insurance purchased to protect elected or appointed officials from claims resulting from carrying out their official duties.

School board liability: This is the insurance purchased to protect school board members from any claims made against them in connection with their official duties.

Worker's compensation: Most employers are required by the Alaska Worker's Compensation Act to participate in this insurance program (unless the job is exempt under the law or the employer chooses to self-insure with the approval of the commissioner of the Department of Labor). It covers employee's job-related injuries, illnesses, or death.

Additional lines for coverage: These include property insurance for local government facilities and inland marine insurance for a local government that operate marine facilities, such as docks or piers.

Insurance provides a number of benefits. **Indemnity** is a policy of insurance that requires the insurance company to pay out on claims made against the organization that bought coverage under the insurance. That is, the insurance company agrees to "stand in the shoes" of the organization and become responsible for those claims if they result from acts or occurrences described in the insurance policy.

A second benefit of insurance is that policies typically provide the organization with an attorney if a suit is filed. The insurance company pays the attorney's fees and related costs. Insurance policies usually allow the insurance company to choose the attorney who will represent the organization and require the local government to cooperate with that attorney.

Investigation and claims administration are other benefits of having insurance. Because the insurance company is responsible for paying out a claim, it provides the services of a qualified insurance adjuster when an accident occurs. The adjuster visits the accident scene, takes photographs and measurements, takes statements of witnesses, and assists the insurance company in the administration of claims that are covered under the insurance policy made against the organization being sued.

Other services provided by insurance companies include risk assessment services, advice on safety programs, and other advice designed to reduce potential claims. For example, some insurance companies require an inspection of the local government's facilities before insurance policies are renewed. The inspections can be valuable both to the insurance company, by reducing losses, and to the organization purchasing the insurance, which might enjoy lower insurance rates if losses are reduced and areas needing improvement are identified and corrected.

How Insurance Is Purchased

An organization may research and contract with a qualified broker to buy insurance. There are many qualified insurance providers and resources for locating them. The Department of Community and Economic Development, Division of Insurance has a web site and a toll free number (1-800 INSURAK) that provides consumer information. Some Alaskan municipalities use the services of the Alaska Municipal League/Joint Insurance Association Program (AML/JIA).

Under the Joint Insurance Association, participating municipalities pool contributions in an effort to lower insurance costs. A non-profit organization governed by a board of directors selected from participating municipalities administers the program.

Municipalities can participate in this program after passing an ordinance and approval of an agreement between the municipality and the JIA program.

Cost of Insurance

Insurance companies set premiums for insurance by examining the type of insurance coverage requested, such as worker's compensation or general liability, and by examining the probable cost of claims resulting from covered activities.

For instance, in setting rates for general liability insurance, the insurance company will review the organization's annual operating budget, its past loss record, and its services and facilities, such as road maintenance, clinics, harbors, and airports.

Worker's compensation rates, as approved by the state Division of Insurance, take into consideration the organization's annual payroll. Using national standards, they consider the type of work performed by each classification of employee and the national claims experience for those categories of employees.

Automobile liability insurance premiums are based, in part, on the number of vehicles used and how the vehicles are used. For instance, it is more expensive to insure police vehicles than other similar vehicles not used for law enforcement purposes. In setting rates for automobile liability insurance, carriers also review the organization's record of losses.

CLAIMS ADMINISTRATION

Claims administration has to do with investigating and settling, or litigating, claims made against the insured organization for injury to persons or damage to property resulting from the insured party's activities. The responsibility for claims administration rests with the insurance company. The insurance company employs insurance adjusters who respond to claims, or potential claims, by investigating accident scenes, taking statements of witnesses, and preserving important physical evidence regarding the accidents.

After the investigation, the adjuster contacts the person making a claim against the insured organization and attempts to resolve or settle that claim as quickly and inexpensively as possible. If a claim cannot be settled and the claimant files a lawsuit, the insurance adjuster works closely with an attorney selected by the insurance company to represent the insured organization's interest in court. Local officials can assist their insurance company in claims administration by doing the following:

- If you do not know who has been assigned by your insurance company to adjust claims made against your organization, ask your broker to provide you with the name of the insurance adjuster. Call the adjuster and ask for instructions on how to report claims.
- Immediately report every accident, claim, or potential claim by telephone to your insurance adjuster and follow his/her instructions. Claims for injuries to persons or property damage are more difficult to defend and become much more expensive if the insurance company and its adjuster do not have immediate notice of claims. Follow up your notice of the claim to the adjuster with a letter. The insured organization can be penalized in some cases for not reporting accidents to the insurance company. Under the state Worker's Compensation Act, certain information must be provided to the Worker's Compensation Board after an injury to an employee. Failure to provide this information could result in being charged a fine.
- Keep complete and accurate records of all losses, i.e., incidents of property loss or injury to persons for which your organization is involved in. Keep the records in a safe place. Accurate loss records help the insurance company to determine fair insurance rates.
- Keep an up-to-date and accurate inventory of all vehicles and heavy equipment

such as dump trucks, road graders, plows, etc. being insured. Maintain an accurate assessment of their value and what they are used for, and preserve all maintenance records for those vehicles.

- Keep an accurate and updated record of all employees, including information on dates of employment, specific duties, and compensation.
- Every six months, review claims made against your organization with your insurance broker. These reviews assist in the development of safety and loss prevention programs. Those programs, if effectively administered, can result in lower insurance premiums.

TECHNICAL ASSISTANCE

Local governments in Alaska have become more concerned with liability issues in recent years. Awards for damages to injured persons and insurance premiums have gone up, and at the same time local governments have dramatically increased the number of public services and facilities. As a result, the benefits of a risk management program designed to meet the needs of a local government have gone up quite a bit. Several resources for determining how your organization can improve its risk management program are listed below.

State of Alaska

Department of Community and Economic Development (DCED)

Division of Insurance

Phone: 1 800-INSURAK

Internet Address: www.dced.state.ak.us/insurance/

As required by State Statutes, the Division of Insurance regulates the insurance industry in Alaska. Representatives of the Division can answer questions regarding activities of an insurance company in this state, state laws, and administrative regulations that govern the activities of insurance companies, and related matters.

State of Alaska

Department of Labor

Workers' Compensation Division

P.O. Box 107019

Anchorage, Alaska 99510-7019

Phone: 907-269-4978

Fax: 907-269-4975

P.O. Box 25512

Juneau, Alaska 99802-5512

Fax: 907-465-2790

675 7th Ave., Station H2

Fairbanks, Alaska 99701

Phone: 907-451-2889

Fax: 907-451-2928

The Worker's Compensation Division of the Department of Labor administers the state's workers' compensation statute and settles claims between injured workers and their employers for workers' compensation benefits. Representatives of the Worker's Compensation Division can provide you with information on how the Alaska Workers' Compensation statute applies to your municipality and how the board handles disputes or claims between employers and injured workers.

The Alaska Municipal League

Executive Director
217 Second Street, Suite 200
Juneau, Alaska 99801
Phone: 907-586-1325; 1 877 636-1325
Fax: 907-463-5480

The Alaska Municipal League (AML) has established a joint insurance program under which participating municipalities can share losses and purchase insurance as a group. Local officials interested in obtaining coverage through the joint insurance program can contact the Alaska Municipal League for details.

Private Insurance Brokers

Several insurance brokers are available in Alaska that can help your organization figure out its insurance needs and obtain the proper insurance. The names of insurance brokers can be obtained through the State of Alaska Division of Insurance or through the yellow pages of the telephone directories for larger Alaskan communities.

Private Risk Management Consultants

Several consulting firms that specialize in advising clients on risk management and insurance matters do business in Alaska. Names and telephone numbers of risk management consultants can be obtained through your insurance broker or through the yellow pages of the telephone directories for larger Alaskan communities.

A web search on "Risk Management" will also provide a lot of information on available risk management resources and publications.