



## **Department of State Treasurer**

### **Policy Manual for Local Governments**

#### **Section 85: Insurance and Risk Management**

**The material provided herein is for informational purposes only and is not intended to substitute for the advice of the local governmental unit's attorney or guidance from insurance or risk management professionals. Units with specific legal questions should always contact their attorney.**

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### Section 85: Insurance and Risk Management

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#### Executive Summary

**The material provided herein is for informational purposes only and is not intended to substitute for the advice of the local governmental unit's attorney or guidance from insurance or risk management professionals. Units with specific legal questions should always contact their attorney.**

Risk management is the process of planning, organizing, directing, and controlling an organization's resources and activities to reduce and minimize the effects of losses. Efficient and effective risk management activities are fundamental responsibilities of governing bodies and a vital function of the finance officers in North Carolina. To navigate in unpredictable and ever-changing waters, it is essential that all local governments have carefully considered risk management policies and procedures in place. The first step in successful risk management is to identify the potential areas of risk, such as liability, property, personnel, or loss of income. Once the unit has evaluated the identified risks, the next step is to decide how to manage that risk. Risk is handled either through risk control techniques, which eliminate, reduce or minimize the losses faced by the unit, or through risk financing techniques, which utilize various alternatives to provide funds for accidental losses that may occur despite risk control efforts.

Avoiding a risk may be preferable in some circumstances. However, avoidance is not always possible. Loss prevention or reduction is an effective method of risk control. Other loss exposures can be transferred to other entities by leasing assets or utilizing independent contractors. Loss exposures are financed by either retaining some or all of the risk within the unit or by transferring that risk to other entities through insurance or other transfer methods.

A vital step to a risk management program's success is a risk management policy that is supported by the local government's top management.

If the unit has transferred the risk of loss to another entity, the expenditure or expense for the premium should be recorded in the period it is incurred and is measurable as an expenditure or expense and related liability of that period.

Risks of loss that have not been transferred to another entity should be reported in the financial statements of the local government as an expenditure or expense and as a liability if both of the following conditions are met:

- Information available before the financial statements are issued indicates that it is probable that an asset has been impaired or a liability has been incurred at the date of the financial statements, and
- The amount of the loss can be reasonably estimated.

If both conditions are not met but there is a reasonable possibility that a loss has occurred, then the risk of loss should be disclosed in the notes to the financial statements.



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Local government units that account for risk financing in a single fund should do so in either the general fund or in an internal service fund. However units account for risk, certain disclosure formation is required in the notes to the financial statements.



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#### **Part I. Risk Identification**

##### **A. Introduction**

Risk management is the process of planning, organizing, directing, and controlling the resources and activities of an organization in order to avoid, prevent, reduce or minimize the adverse effects of accidental losses at the least possible cost. The two main elements of risk management are risk control, which is avoiding, reducing or minimizing any losses, and risk financing, which is using various techniques to provide funds for accidental losses which may occur despite risk control efforts. Risk management emphasizes pure risk, which is the risk that certain events will result in losses if they occur. Speculative risk, or the risk of gains and losses from investments or other such activities, is not considered here and is beyond the scope of this discussion. The ultimate objective of all risk management activity is to preserve the unit's assets as well as its ability to function.

To accomplish successful risk management, the local government must first identify the areas of risk for the unit by utilizing various identification tools. The government will then need to evaluate the risks it is facing to ascertain the best way to handle each one. Once a risk is evaluated, the unit can elect to avoid, reduce, retain, or transfer the risk, depending on the potential losses resulting from the risk and the financial condition of the unit involved.

##### **B. Risk Identification**

The starting point for effective risk management is to identify the potential areas of risk. Failure to recognize a potential loss will inevitably lead to a failure to provide for the consequences. The risk manager should seek to identify both insurable and uninsurable risks and attempt to determine their financial impact on the unit. The most effective risk identification is accomplished by an individual who is knowledgeable about all areas of the organization. Local governments can experience losses through liability exposures, property exposures, personnel exposures, or the loss of income. All these exposures may potentially result in the impairment of assets. Numerous tools such as questionnaires, interviews, observations, and financial statement analysis will assist the manager in identifying the areas of risk.

###### **1. Types of Liability**

The following discussion on liability is intended to provide reader some basic information on the topic of liability exposure for units of government. This topic is ever changing and professionals should be consulted for in depth discussion in this area.

###### **a. Contractual Liability**

Contractual liability is the liability assumed under any contract or agreement. Purchasing agreements, leasing contracts, service contracts, and construction contracts all expose the unit to contract risk. Many contracts and licensing agreements contain a "hold harmless" clause in which one party agrees to hold the other harmless because certain liabilities are assumed by the first party. A unit that fails to recognize this potential liability to other entities may expose itself to significant, unexpected liabilities. Also, the failure by a local government to comply



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with contractual requirements exposes the unit to charges for breach of contract. To avoid potential contract liability, the risk manager should review all contracts for conditions, role clarity, and terminology before they are accepted by the unit. As an alternative, the unit can develop standard wording to use in all contracts that limits the risk assumed by the local government. Once the standard is developed, the risk manager will only need to review those contracts that vary from that standard wording. No governmental immunity exists for contract liability; regardless of the activity which a contract is associated with, the local government will be held to the same performance standard that a private organization would be. Governmental immunity in North Carolina is discussed under the following heading: "Civil Liability under North Carolina Law".

#### b. Civil Liability

Another area of potential risk is that of civil or tort liability. A tort is a civil wrong for which an individual who is injured in person or property can recover a monetary award from the alleged wrongdoer. Tort laws function to make the person who has injured another person pay for that injury and also to deter people from engaging in conduct that is likely to cause personal injury or property damage. To identify the potential liabilities facing local governments, liability under both North Carolina law and federal law must be explored. The following discussion is drawn from "Civil Liability of the Local Government and Its Officials and Employees" (2007) by Anita R. Brown-Graham, which can be found in County and Municipal Government in North Carolina, available from the School of Government at the University of North Carolina at their website, [www.sog.unc.edu](http://www.sog.unc.edu).

- Civil Liability under North Carolina Law – Civil liability under North Carolina law arises from intentional acts or from negligence that causes personal injuries or property damage. Intentional acts are those that cause personal injury or property damage without consent or legal excuse. Examples of intentional or wrongful acts are assault, battery, false imprisonment, false arrest, malicious prosecution, defamation, and trespassing.
- Civil liability also can occur for a negligent act. The law imposes a duty on each person, including public servants to use reasonable care in conducting their daily affairs. A person may be negligent for failing to exercise reasonable care and causing personal injury or property damage to another as a result. A person sued for negligence can invoke the defense of contributory negligence – a legal rule that bars recovery by any individual whose own negligence, however slight, contributes to his or her injury.

#### 2. Discretionary Immunity

In North Carolina, two types of immunity have typically been granted to local governments. The Constitution of the State of North Carolina and the North Carolina General Statutes confer the power to make ordinances and policies upon the public officials of local governments. Under the doctrine of discretionary immunity, North Carolina courts will not review decisions that have been left to the sound discretion of a local legislative body. If a tort arises out of the passage or repeal of a local government ordinance, the State courts will not impose a liability on the local government for exercising this power. For example, in Hill v. City of Charlotte, 72 N.C. 55 (1875), the



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city's board temporarily suspended a local ordinance against the use of fireworks inside the city limits. A building was destroyed when fireworks landed on the roof and caught fire. The owner of the building sued the city to recover damages, alleging that the board was negligent in suspending the ordinance that caused the loss. The State Supreme Court denied recovery on the grounds that a municipality is not liable for the exercise or non-exercise of a discretionary power. The Court would not substitute its judgment for that of the local governing body. Note: the owner of the building in the above example may still have some recourse under federal statutes.

The second type of immunity provided to local governments in North Carolina is governmental immunity. Under governmental immunity, North Carolina local governments is not liable for the torts of an employee who harms someone while carrying out a governmental function; however, it is liable if the employee commits a tort while engaged in a proprietary activity. Unfortunately this distinction between governmental and proprietary activities is difficult to apply and often results in arbitrary characterizations of a local government's activities. The absence of a precise standard makes it difficult to predict whether a local government will be liable for the torts of an employee who is engaged in a particular activity.

Earlier cases have used the following in determining whether an activity is governmental or proprietary:

- Who traditionally performs the function? Activities historically performed by a government and not engaged in by private corporations have been held by the courts to be governmental activities. Operation of traffic lights, driving a police car, use of a police or fire alarm, zoning enforcement, storm drain maintenance, furnishing water to firefighters, condemnation of property, franchise granting and administration of sanitation programs have all been held as governmental activities in court cases.
- Is a fee charged for the service? Collection of a user fee is more likely to result in activity to be deemed proprietary by the courts.
- Who is the primary beneficiary – citizens of the community or of the entire state? When a local government engages in activities for the benefit of its residents, the court is more likely to determine that function is governmental in nature.

#### 3. Waiver of Governmental Immunity by the Purchase of Insurance

G.S. 153A-435 and G.S. 160A-485 authorizes cities and counties to waive the defense of governmental immunity by purchasing liability insurance. The following are reasons why units may consider waiving governmental immunity:

- Inability to determine if governmental immunity will protect the government from liability.
- Desire of governing body to provide citizens compensation for injuries caused by the negligence of the local government's employees in performing governmental activities.
- Governmental immunity is limited to tort claims. It does not extend to constitutional rights or federal or state statutes.

The statutes make it clear that a local government's governing body has full discretion in determining the specific torts to which the insurance applies and who will be covered



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under it. The governing body is under no obligation to purchase insurance. If insurance is purchased by a local government, a person who sues may not recover more than the policy amount for his or her injuries, even if injuries exceed the policy limits. If the local government's insurance policy involves a deductible, the local government retains governmental immunity for damages that fall within the amount of the deductible.

A unit of government may waive its governmental immunity by:

- Purchasing insurance that includes liability coverage provided by companies licensed to provide insurance in the state; or
- Participation in a local government risk pool; or
- Explicitly setting aside a sum to cover claims against the unit.

#### 4. The Public Duty Doctrine

Certain local government activities do not create liability to individual members of the public under the public duty doctrine. There are circumstances in which a unit of local government has no legal duty to protect an individual citizen from harm caused by a third person. The North Carolina Supreme Court has held that the public duty doctrine, as it applies to local governments, is limited to "law enforcement departments when they are exercising their general duty to protect the public".

There are two exceptions to the public duty doctrine: (1) When a local government makes an actual promise to the plaintiff to create a special duty or (2) When a special relationship exists between the government and the plaintiff.

#### 5. Liability of Public Servants

##### a. Absolute Immunities

Legislative immunity protects local legislators and those executives acting in a quasi-legislative function from personal liability for injuries caused by their acts even if the defendant acted with bad faith. Legislative immunity applies if (1) the defendant was acting in a legislative capacity at the time of the alleged incident and (2) the defendant's acts were not illegal.

##### b. Judicial Immunity

Judges and prosecutors are protected from civil liability for errors committed in the discharge of their judicial duties. Members of local quasi-judicial boards, such as the planning board or board of adjustment, also have judicial immunity when acting in their quasi-judicial capacity.

##### c. Qualified Immunities

Public official immunity protects public officers from liability for negligent activity unless they act with malice, for corrupt reasons, or outside the scope of his or her official duties. A public employee, on the other hand, is not protected under public official immunity. Therefore, public employees may be held personally liable for injuries caused by their negligence during the course of performing their duties.



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(1) Defining Public Officers

The distinction between Public Employees and Public Officers is important due to significant difference in liability exposure. In early years case law defined public officers as:

- Position created by legislation
- Normally took an oath of office
- Performed legally imposed duties, and
- The incumbent exercised a certain amount of discretion.

The court of appeals in more recent case law has used one factor – whether a position was created by statute – almost to the exclusion of all others.

(2) Defining Public Employees

Public Employees are characterized by persons that act mostly at the direction of others and have duties that are more administrative than discretionary in nature.

6. Civil Liability under Federal Law

A local government's liability under federal law is completely different from liability under State law. Under Federal law, 42 U.S.C. § 1983, a person is authorized to sue and recover damages against a government or its officers for violations of federal constitutional or of statutory rights when the violations are caused by official conduct. A "Section 1983" lawsuit may lead to an award of monetary damages; a declaratory judgment, a statement by the court; or injunctive relief, an order by the court requiring a person to act or refrain from acting in a certain manner. Types of official conduct that can give rise to federal civil liability under Section 1983 are the violation of constitutional rights such as wrongful search and seizure, the right of free speech and political affiliation, or the right to a due process of law. Additionally, Section 1983 authorizes a person, whose rights under a federal statute have been violated, to sue and recover damages. The variety of federal statutes that might be violated and become the subject of a Section 1983 lawsuit are very numerous and are not listed in this manual.

A governmental unit may be required to pay monetary damages in a lawsuit brought under Section 1983 only if the violation of federal rights is caused by official policy. (The distinction between governmental and proprietary functions does not determine whether a unit may be held liable under a Section 1983 lawsuit. Those distinctions only apply to suits brought under State law.) The unit may be held liable for damages under Section 1983 if a person's federal rights are violated as a result of the implementation of an ordinance, regulation, or decision that has been officially adopted by the governing board. The unit will not be required to pay damages if the violation of federal rights was caused by an independent, isolated act of an officer or employee who had no authority to set final policy for the unit. For example, a unit is probably not liable under Section 1983 if a police officer makes an illegal arrest in violation of someone's Fourth Amendment rights against wrongful search and seizure, as long as it is not the unit's policy to make such arrests. If the violation was the officer's independent, wrongful act, then the officer may be held personally responsible under federal law



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even though the officer may still be immune under State laws (based on governmental immunity).

Members of governing boards are absolutely immune from personal liability when legislative actions of the board violate someone's federal rights. Absolute immunity means that a council member can never be held personally responsible in a Section 1983 lawsuit for a board action even if the action violates someone's federal constitutional or statutory rights. Such absolute immunity is considered necessary to ensure that local legislators will perform their duties for the public good without fear of personal liability. This grant of absolute immunity extends only to acts taken within the scope of council members' legislative duties. For example, board members could not be held personally liable in a Section 1983 lawsuit if the board enacts a zoning ordinance that devalues someone's land so much that it is essentially an unconstitutional taking of property without just compensation. Even though the local government may be liable in this case, the board members involved could not be held personally responsible for the action. They may be held personally liable for acts taken within scope of their administrative duties, although qualified immunity may protect them.

Employees and officers (and governing board members who are performing administrative tasks) who violate the federal rights of another person while performing their official duties are entitled to qualified – not absolute – immunity. A public servant may not be held personally liable in a Section 1983 liability unless his or her conduct violates clearly established statutory or constitutional rights about which a reasonable person in similar circumstances would have known. In other words, public servants are shielded from Section 1983 liability if they could reasonably have thought that their conduct was lawful.

#### 7. Environmental Liabilities

Environmental liability is an area of potential loss exposure for local governments. The environmental exposures of a public entity can be divided into two categories: retrospective and prospective exposures.

Retrospective exposures are those arising from past operations. It is possible for units to have retrospective exposures of which they are not aware. Recent regulations and public concerns require that units of local government deal with the following issues which could expose units to potential liabilities.

- Solid Waste and Landfills – Hazardous Wastes and Low-Level Radioactive Wastes
- Water Pollution and Water Resources – Groundwater Quality, Sewage Treatment, Including Septic Tanks, Non-point-Source Pollution (runoff from roads, shopping centers, farms and forests), sedimentation pollution, stormwater management, Water Supply Watershed Protection, Floodway and Floodplain Management, Regulation and Restoration of Streams and Wetlands, Drainage Districts, agricultural non-point-source pollution, Soil and Water conservation
- Air Pollution – Indoor and outdoor
- Coastal Area Management
- Mountain Ridge Protection



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##### 8. Loss of Property

Another potential loss exposure for local governments is property loss. Property losses may be either direct or indirect. A direct property loss occurs when an asset is damaged or destroyed as a result of a particular peril. An indirect property loss occurs when an asset loses its value because of damage to some other property. For example, an indirect loss would occur for the “going concern” value of the assets used for a specific function if a unit discontinues that function. Those assets, which must then be sold separately, may be sold at less than their aggregate value to the unit. Potential property losses are more easily identified than the other types of losses. Risk valuation is the major area of concern with property loss. Property loss covers the risk of damage to all property, real or personal, tangible or intangible that is owned, maintained, or leased by the unit.

The value the risk manager should consider regarding real property is the potential loss of the structure based on the current replacement cost. In addition, the risk manager should be familiar with local building codes that may be applicable to partial damage. Building codes may require that the entire building be replaced in accordance with existing code if the building is significantly damaged.

To properly assess the risk exposures relating to personal property, the risk manager will need to answer the following questions and many others. How accurate are the fixed asset and inventory records? Cash items - How good are the internal controls and are deposits made daily and properly insured or collateralized? Are the automobiles of the local unit’s fleet maintained in good repair? Is there a daily system for checking vehicles before placing them in service? Are the personnel who utilize various vehicles in their course of employment properly licensed to do so? Does the unit have a system in place to check driving records of persons who work with the unit? Does the unit have a policy that discusses number of driver license points or types of motor vehicle violations that would cause a unit of government to take some sort of action? The risk management questionnaire in Exhibit B is devoted in large part to the identification and valuation of potential property losses.

##### 9. Net Income Losses

Another major area of risk faced by local governments is that of income loss. Net income losses are decreases in revenues or increases in expenses which occur when an organization’s operations cease or are impaired because of a specific event. For example, the tax base of a local government will be severely impaired if a major taxpayer ceases operations. As a result, the unit’s revenues may be adversely affected. Units whose activities are financed with grant funds face the risk that the funds will not be available in the future. For units financing facilities with revenue bonds, the debt service for the bonds will still be due even if the revenue source is lost. The governmental unit will only be able to continue functioning effectively and providing the same level of services if the revenue sources currently utilized and relied upon continue to be available. While some income losses may be beyond the control of management, there should be some plan for responding to the loss of income.

##### 10. Personnel Losses

A local governmental unit cannot function effectively without key personnel. The loss of personnel may result from resignation, disability, retirement, or death. The effect of the



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loss on an organization depends upon such factors as the value of the person's services to the unit and the costs associated with replacing that person. The personnel losses incurred by an organization include the costs to replace personnel and the additional health insurance, workers' compensation payments, unemployment benefits, pension or death benefits, or other benefits due to the former employee.

#### 11. Occupational Safety and Health Laws and Regulations

Few laws affect employers and employees more than the occupational safety and health laws and related regulations. The United States Congress created and President Nixon signed into law in 1970 the Occupational Safety and Health Act, known as "OSHA", to protect working people. OSHA's creation culminated a long struggle to find some way to help prevent individuals from being disabled or even killed while earning a living. This prevention-oriented act proposed to "preserve our human resources" through a combination of research, education and enforcement of occupational safety and health standards. In North Carolina, Department of Labor (DOL) inspectors enforce OSHA laws through a state plan approved by the federal government. As the administering agency for North Carolina, the Department of Labor enforces all current OSHA standards.

Units of governments must comply with the Occupational Safety and Health Act of North Carolina ("OSHANC") standards which can be found in Chapter 95 Article 16 of the General Statutes.

"A Guide to Occupational Safety and Health in North Carolina" is published by the NC Department of Labor and is available at [www.nclabor.com/osha/etta/indguide/ig4.pdf](http://www.nclabor.com/osha/etta/indguide/ig4.pdf). Employers and employees are provided numerous rights and responsibilities under the OSHANC. The following are summarized from "A Guide to Occupational Safety and Health in North Carolina" (Revised 11/11, pages 4-5) and illustrate some the responsibilities as an employer. **This list is not intended to be complete and comprehensive; to substitute for reference to the statute and related regulations; or to replace advice from counsel.** Many of your responsibilities were created by the OSH Act. Other responsibilities are detailed within standards that are enforced through the OSH Act. Additional responsibilities have emerged from administrative and judicial resolutions of issues that have arisen under the act.

#### **Employers and Information**

You have the responsibility to:

1. Post in a conspicuous place the N.C. Department of Labor poster "North Carolina Workplace Laws," this informs employees of their protections and obligations. Employers may obtain this poster free of charge from NCDOL/ETTA by calling 1-800-NC-LABOR.
2. Maintain both a log (OSHA Form 300 or its equivalent) of recordable occupational injuries and illnesses and a supplement (OSHA Form 301 or its equivalent) to the log. Employers with fewer than 11 employees are normally exempt. Make both forms available to compliance officers and make Form 300 or its equivalent available to employees. An annual summary of Form 300A must also be posted from February 1 through April 30 each year.



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3. Participate in the annual occupational injury and illness survey to assist the commissioner in compiling statistics relative to the incidence of work-related injuries and illnesses.
4. Promptly notify any employee of his or her overexposure to toxic or harmful substances.
5. Report to OSH within eight hours of its occurrence any work-related accident that is fatal to one or more employees or that requires in-patient hospitalizing three or more employees.
6. Post citations for alleged violations of OSH standards at or near the place where the violations allegedly occurred, so that employees are able to read the citations.
7. Post, in a place that will notify employees, copies of any petition for modification of an abatement date and of any amended citation that extends the abatement date.
8. Post a copy of any proposal and/or agreement between the employer and the commissioner to settle the terms of a citation.”

Monetary penalties assessed by OSH and paid by employers to the Department of Labor are “civil” (as opposed to “criminal”) in nature. The sums collected go into the Civil Penalty and Forfeiture Fund. For any alleged violation classified as “serious” and for citations for the failure to post items (such as a citation or safety and health poster), the OSH Act requires the assessment of a penalty. For other classifications of employer violations and for failing to abate violations, OSH is given the option of assessing monetary penalties. “Willful” violations carry a maximum penalty of \$70,000 and a minimum penalty of \$5,000. Otherwise, the maximum penalty is \$7,000. In practice, penalties are always assessed by OSH for alleged violations classified as “repeated,” “willful” or “serious.” Penalties are also assessed when there are 10 or more alleged violations classified as “other-than serious.” Whenever penalties are assessed, OSH considers the gravity of the violation, the size of the employer being cited, and the good faith and history of the employer in calculating the penalty amount.

Smaller units of government normally carry out their responsibilities by working with their workers’ compensation insurance provider to make arrangement for trained professionals to review the unit of government for OSHA compliance. Larger units have staff (safety officers) that works closely with risk management to help reduce risk exposure.

#### **C. Risk Identification Methods**

##### **1. Risk Management Questionnaire**

To help identify these various areas of potential risk, a risk management questionnaire can be an effective tool for risk identification. Such questionnaires are designed to elicit information on the structure, assets, liabilities, operations, and personnel within the organization to help identify areas of potential risk. Local governments can obtain sample questionnaires from several sources. Most insurance companies have questionnaires to help units identify risk, but these often focus on insurable risks only. There are numerous risks that units must be aware of and plan for that are not



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insurable. Trade associations or risk management literature also are excellent sources for questionnaires. A sample questionnaire is included in Exhibit B. It is important that a manager review the questionnaire closely and modify it as necessary to suit the unit's individual needs. Questionnaires should all address the following points:

- Owned and leased real and personal property,
- Income sources,
- Contractual obligations,
- Other liabilities besides contractual ones, and
- Personnel.

#### 2. Financial Statements Review

A unit's financial statements also are invaluable in identifying areas of risk. The current fiscal year's budget should be used by the risk manager in conjunction with the financial statements to locate potential losses of income or pending board plans which may expose the unit to excessive risk. The balance sheet can be a starting point for identifying risk. However, since assets are valued at historical cost and not depreciated prior to the implementation of GASB Statement No. 34 – Basic Financial Statements – and Management's Discussion and Analysis – for State and Local Governments, the financial statements may not be an effective tool for valuing risks. Financial statements prepared under the GASB Statement No. 34 model will show accumulated depreciation on the unit's general assets, giving some indication how close the unit may be to increased maintenance or replacement expense. Replacement of aging equipment may reduce risks and possibly insurance premiums. Other sources may need to be consulted to measure these risks. For example, asset entries for an equipment purchase could alert the risk manager to inquire further into the nature of the equipment, its importance to the unit's continuing operations, and the cost to replace the asset.

#### 3. Inspections and Interviews

Inspections and interviews with employees are good methods to identify risk. The risk manager will need to talk to employees to ensure that existing safety procedures are being followed and that safety equipment is being used. The best way for the manager to become aware of unsafe activities is to observe them firsthand. Through observation, the risk manager will become familiar with the unit's operations and be aware of situations requiring management's attention. Employees should be questioned about their safety concerns since they are the most familiar with day to day operations.

If the risk manager has a good rapport with other managers, the managers will be more likely to ask for advice and to notify the risk manager of any pending activities or plans in their areas of responsibility. The risk manager should be advised of major changes in procedure, significant purchases, and other unit plans since these may all involve potential changes in risk. Strong management contacts will help facilitate this communication. Risk managers should also consider making contacts with risk managers in similar local governments. Historically, North Carolina local government officials have been very cooperative in providing mutual aid.

#### 4. Well-Maintained Loss Records

Well-maintained loss records can be invaluable to the risk manager in identifying potential areas of risk. If possible, the records should be maintained for insured as well



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as uninsured losses. The loss records of other local governmental units also can be helpful in identifying and evaluating risks.



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## Part II. Risk Evaluation and Control

### A. Risk Evaluation

After the risks facing a local government have been identified, the next step is to analyze the likelihood and potential severity of the identified loss. When valuing risk, it is important for the risk manager to remember that certain losses will cost the unit much more than the cost of property replacement. When measuring risks, the manager also should consider any loss of income as well as any costs to recreate the asset (e.g. recreating records of amounts owed to the local government). If possible, the cost of maintaining services during the replacement or repair period should be considered.

The purposes of risk evaluation are:

- To determine the relative importance of each risk, thus saving money by not purchasing excessive insurance,
- To aid the manager in deciding the best methods to use for risk control and risk financing, and
- To establish insurable values (both to purchase insurance and to substantiate claims).

The two elements of risk are severity and frequency. Severity is the potential size of the loss of each exposure. In other words, severity is the dollar amount of the potential loss to the unit not only from a single event but also over a particular time period. Frequency is the number of times a loss of a given magnitude can be expected to occur. Exact risk evaluations are difficult to determine. For any given period, the average anticipated losses of a particular group can be estimated by multiplying the average frequency of the loss by the average dollar amount of the loss and then adjusting for variables such as inflation, and changes in risk, such as the purchase of several new automobiles for the unit's use. Certified actuaries have numerous tools to value risk and units may elect to use these professionals for such work. Units that are self-insured will most likely use actuaries to determine the expenditures or expenses along with the liabilities to be recorded as required by GASB Statement No. 10 – Accounting and Financial Reporting for Risk Financing and Related Insurance Issues. In addition, a unit may use professional judgment or experience to value risks. Probably some combination of these various methods will best suit most units.

### B. Risk Control

Once the risks of a local government have been identified and analyzed, the manager must then decide how to deal with those risks. Risk is handled through risk control or risk financing techniques.

Risk control alternatives include:

- Risk avoidance – to completely eliminate the risk,
- Loss prevention – to reduce the chance of a given loss,
- Loss reduction – to reduce the severity of those losses which do occur, or
- Utilization of noninsurance transfer – to transfer the loss exposure to another entity by means other than insurance.



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There is much overlap between the various alternatives to control risk. No category is mutually exclusive and, indeed, some risk control activities performed by a unit may fit into several of these categories.

##### 1. Risk Avoidance

One way to control risk is to completely eliminate the risk or the elements causing it. The risk manager should be consulted about acquisition or construction of properties, new services provided by the unit, and major policy changes, etc. that may give rise to new risks so that those risks can be avoided if desired. If the risk manager is not included in the original management decision to begin a certain activity and is informed only after the decision is made, then the opportunity for risk avoidance is lost and any risk management will have to be accomplished through other methods. Obviously, many operational decisions are likely to be made without considering the risk exposures involved, so the risk manager needs to be prepared to use other risk methods of control as well. Examples of risk avoidance would be elimination of high dives at municipal pools and trampolines at recreation facilities.

##### 2. Loss Prevention and Reduction

Other risk control techniques are loss prevention and reduction. Reducing the risk can mean reducing the chance of a given loss or reducing the severity of those losses that do occur. A program of regularly scheduled inspections to find any potential loss exposures should be conducted by the safety director, or another knowledgeable employee or consultant. The consultative services division of OSHA is also available to conduct compliance inspections, without threat of fines or penalties. In addition, the N.C. Industrial Commission can provide employee safety training for nominal fees. Department directors should be tasked with primary responsibility for employee safety and thus actively “police” compliance with safety policies and procedures. Safety measures such as safety glasses, steel-tipped shoes, or protective clothing can reduce the risk of employee accidents. Continual training of all employees and officials about existing safety policies and procedures also is necessary for successful risk reduction. Medical programs that supply employees with both pre-employment and annual physicals can provide employees with knowledge about potential problems. Employee health care, wellness programs, and emergency first aid help improve general employee health and also may reduce health claims in the long-run.

##### a. Safety Programs

Safety programs usually work to combine loss prevention and reduction methods to accomplish risk control. For example, assume that a municipality operates a paint department for all city property. The risks associated with this activity are frequent and severe. The risk manager desired to avoid the risk by eliminating the department and contracting out for painting services. However, most of the jobs were so small that independent contractors would not be interested in them. Therefore, the risk manager was unable to avoid all of the risk, but several elements of the risk were eliminated as follows:

- The paint used to repaint the metal trash cans owned by the city was highly flammable; therefore, the task represented a significant risk. The purchasing manager found attractive plastic trash cans to purchase at the same cost as new metal cans, eliminating the need for frequently repainting the metal trash cans.



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- The shop manager eliminated the risk of an explosion by having employees use a water base paint instead of the flammable paints that were being used.
- The fire hazard that was created by spray painting city vehicles was eliminated by contracting out such work.

The local government also may attempt to reduce the severity or loss exposure of the risk. For example, a unit installing a sprinkler system in a building is engaging in the reduction of loss severity. The system will not reduce the possibility that a loss by fire will occur, but it will reduce the financial impact if a fire should occur. Other examples of minimizing loss exposures would be the garaging of unit vehicles in several locations or the storing of backup computer tapes off-site.

The governing body should adopt a safety policy for the unit that addresses the scope of the safety program, the role of officials, and the accountability of the staff. Management should appoint a safety director to conduct the required safety studies, develop and monitor safety programs and establish procedures which assure compliance with any federal and State safety requirements. The first step to an effective safety management program is to identify and evaluate the areas of safety concerns facing the unit. Exhibit B contains a risk management questionnaire that will assist the unit in identifying safety risks. Next, the unit should develop and implement a safety plan to reduce any risks identified. To accomplish these goals, a safety policy will need to be developed and supported by the local unit's top management. The roles of a safety director and risk manager are closely related, and the two functions should work together as much as possible to accomplish their similar goals.

The above comments address worker safety primarily; however a strong employee safety program will reduce liability exposure as well. In addition, the governmental unit should adopt current human resources policies in high liability areas (such as hiring practices, harassment and discrimination), routinely train employees in these policies and procedures and have employees sign off that they have read and understand the policies. While these activities may not ward off a lawsuit, they do put the entity in a strong position to defend the suit. Other areas of local government liability that should be addressed include current law enforcement policies regarding pursuit, emergency response, arrest, jail operations, entry onto private premises, etc.; driver training; policies to respond to sewer backups; reporting of hazardous conditions on roads, parks, and other public places; proper maintenance of sidewalks and streets, etc.

#### b. Disaster Recovery Plans

In recent history, many examples can be cited that demonstrate the need for a comprehensive disaster recovery plan. Disasters such as 911, hurricanes, flooding, bird flu and swine flu along with not so obvious scenarios such as key employees being unavailable (LAN administrator having a serious unplanned medical event). Federal and State agencies can request copies of these plans and expect them to be in place.

Electronic data processing (EDP) has become an integral part of operations in local government administration across North Carolina. As more records become



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computerized and more information is distributed electronically, a local government must evaluate what risks it faces from EDP failure.

There are two levels of EDP failure to consider, an EDP emergency or a disaster. In this context, an emergency is a serious, but localized situation. While one computer or one computer system may not be functioning as intended, other computers of the local government continue to operate. An EDP disaster would be the widespread failure of computer systems, as what could be caused by a malicious computer virus or the result of tornados or flooding. While the tactics for responding to these different levels may vary, the overall strategies are similar. First, the local government must have a plan. Successful plans will (1) allow for essential government services to continue and (2) the rights of the local government will be protected during the EDP interruption. The following incident illustrates several of these concepts. Once while providing assistance to a local government unit, the State and Local Government Finance Division as staff to the LGC noted that the unit had a backup system for their primary computer. Seven backup tapes were made and were all kept in the unit's safe. However, the safe was never closed because the lock was old and the mechanism was apt to jam. When staff members were asked about this, it was discovered that no tapes were kept off site. After discussion it was decided that the unit's staff would be responsible for rotating the duty of taking one home each night as an additional precaution. Later, as a result of a natural disaster, the centrally stored backup tapes were lost. Upon installation of the backup tape, the unit's personnel discovered that the backup software had not been working correctly. Rather than only a week's worth of data being lost, months of data were missing.

The above story is told for illustrative purposes. While the unit had taken some action to protect their records, the effort was incomplete. The backup tapes addressed the problem of a computer system crash, an emergency situation. Because there was no offsite storage, the unit was still vulnerable to a unit-wide disaster. Offsite storage by having responsible staff members rotate the duty of taking one of the backup tapes home of safe keeping would have worked if the backup tapes had been tested to ensure a restoration of records was possible. Increasingly, internet based companies can provide backup services done electronically over the internet. Each unit must decide the cost benefit of their approach. A backup tape is only as good as the information restored from it.

Other issues to consider in planning for computer emergencies or disasters would be the human factor. Will there be experienced staff members available? Because an emergency is relatively isolated, personnel or computer support firms are likely to be available. In a disaster, flood waters, fire, or tornado damage may prevent unit staff from being available. Local units should consider what EDP disasters they may be more likely to face and plan accordingly.

Finally, all may not be lost in the aftermath of an EDP emergency or disaster. As technology has advanced what computers can do, so technology has advanced what can be recovered from a crashed or damaged computer? If a local government unit wishes to recover information from a damaged computer, the experts recommend



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“Hands off.” Attempts to reboot or reformat the computer may restore its operational capabilities, but may overwrite or delete the vital data.

#### 3. Noninsurance Transfer for Risk Control

Another method that governments use to control risk is to transfer that risk to another entity. A noninsurance transfer is the contractual shifting of a financial burden and legal responsibility for a loss exposure to another entity which is not in the business of accepting such transfers, as an insurance company would be. The local government whose losses are transferred is known as the transferor; the entity to which the exposures are transferred is known as the transferee. If a local government does elect to transfer some of its risk to another entity, the risk manager should be very sure that the transferee is financially capable of assuming that risk. Otherwise, the unit has accomplished nothing at all; no risk has actually been transferred. There are several methods that a unit can use to transfer risk to another entity.

##### a. Leasing

One way for a local government to transfer risk is to lease property rather than buy it. When property is leased from others, the lease contract can be written so that the risk of loss is borne by the owner. Through such an arrangement, the user has transferred the ultimate direct risk for property damage to the lessor. The cost of this risk will be passed along to the lessee in the form of slightly increased lease payments; however, these increases in the payments will be minimal and predictable. This transfer method is dependent on the proper execution of the lease contract between the local government and the property owner. Depending upon the situation, the unit may be able to get leasing contracts that are written according to its own terms. For the infrequent instances where the local government is the lessor, the unit should transfer the liability risk (third party injury or property damage) to the lessee since the lessee is in control of the property day-to-day. A contract that includes a "hold harmless" agreement as part of the lease along with a requirement that the lessee carry general liability insurance and provide the unit a certificate of insurance would accomplish this objective.

Whether the local unit is the lessor or the lessee, all executed leases should contain a provision that will waive any subrogation rights of an insurer for property damage. Subrogation is the substitution of the insurer for the insured. After a loss has been settled with the insured party, any rights that the insured may have had to collect on the loss from a lessee will automatically transfer to the insurer. The insurance carrier "steps into the shoes" of the insured party and attempts to recover some of the losses from the lessee. For example, in the event of an accidental loss on equipment in the possession of a local government lessee, the lessor's insurance carrier could try to recover the loss from the local government unless such a waiver was included in the contract between the two leasing parties. These provisions also can be written so that the waiver is mutual, i.e. the lessee's insurance carrier cannot try to recover the loss from the lessor. A waiver of subrogation in a lease is typically mutual. When subrogation is waived, each party will then need to insure or self-insure its own property. Insurers will usually accept the mutual waiver of subrogation if it is affected before the loss and in writing.



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b. Maintenance Agreements

Other methods that a local governmental unit can utilize to transfer risk are maintenance agreements and extended warranties. These agreements, which transfer some risks of loss to the seller, are offered for such items as computer equipment, heavy machinery, vehicles, or other expensive purchases. Units should review these agreements since they may be a cost effective way to transfer risk to another entity, especially if large mainframe computers are needed for accounting and general government purposes. Often, a maintenance agreement or extended warranty will include the guarantee of loaner equipment until the unit's equipment is repaired. Since an annual maintenance contract for personal computers and small peripheral computer equipment may cost as much as 30% of the purchase price, a maintenance agreement for these types of equipment is not considered to be cost effective. Because computers and electronic equipment have developed so rapidly over the past decade, a local government should be cautious about investing in parts inventory which may become obsolete in several years.

c. Independent Contractor

A local governmental unit that is involved in an unusual activity which is not part of its normal operations can transfer any ultimate legal responsibility for property, liability, and personnel losses which are related to that activity by subcontracting with an independent contractor. The terms of the contract negotiated with the contractor should clearly indicate that the person is considered an independent contractor and not an agent or an employee. (See the discussion of independent contractor vs. employee status in Section 40 of this manual. Misclassification of a worker carries its own set of risks.) In addition, the contract should include a "hold harmless" clause in which the independent contractor agrees to indemnify the local governmental unit for any legal liability losses which may befall the unit as a result of the activity. Hold harmless clauses are discussed more completely in the section "Transfer for Risk Financing" included in this section of the manual. The unit also should be careful to require all independent contractors to furnish certificates of insurance for workers' compensation and public liability insurance with reasonably adequate limits before beginning any work. In addition, the unit could be named as an additional insured party on the contractor's policy. Additional insured status provides an additional layer of protection should the courts rule the hold harmless clause to be invalid. With these options, the independent contractor will be assuming the risk of loss exposure, not the local governmental unit.

d. F.O.B. Destination Point or F.O.B. Shipping Point

When possible, the purchasing manager should have supply purchases delivered using the shipping terms "F.O.B. destination point". With F.O.B. destination point, the risks of any loss or damage during transport are borne by the seller. Any items that are shipped out to others should be shipped F.O.B. shipping point or point of origin. For items sent F.O.B. shipping point, risks of loss or damage during transport are borne by the party receiving the goods. Of course, shipping terms that favor the local government are not always possible to arrange, but they are an inexpensive way to transfer risks to other entities.



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e. Exculpatory Clauses

Under an exculpatory clause or agreement, the transferee agrees to excuse the transferor from liability to the transferee when general liability may otherwise exist. For example, units sponsoring recreation programs often ask participants to sign a statement (the exculpatory clause) indicating that they will not hold the unit responsible for any injury. These exculpatory agreements reduce the liability exposure which the transferor would normally have to the transferee. Units relying upon exculpatory clauses should be aware that if a contract containing such a clause is tested, the court may judge the clause to interfere unreasonably with the rights of others. Also, a signed exculpatory clause is usually not a successful defense against an injured party if there is evidence of negligence on the unit's part. Such "unconscionable" contracts are considered unfair to the transferee.

#### C. Risk Financing

Risk may be financed either by the retention of the risk or by the transfer of the risk to others by insurance or other methods.

1. Risk Retention

One method of financing risk is risk retention. A unit retains risk when it uses unit funds to finance losses. Risk is retained through either passive or active retention. Passive retention occurs when risk is unknown or ignored. Thus, a unit passively assumes an unidentified risk. Passive risk retention is not a risk management tool; no risk management decision has been made. Active retention, commonly known as "self-insurance," is when the unit identifies the risk and consciously selects risk retention as the appropriate alternative to finance the risk. (Note: "Self-insurance" is a misnomer because insurance relates to the transfer of risk to another entity. Since a governmental entity is not transferring a risk, but is retaining some portion of the risk, it is often referred to as active retention instead of self-insurance.) Rarely does the unit retain all of the risk. Usually, risk is retained based on the financial condition of the unit at the time and the characteristics of the risk. The governing body, the finance officer, and the risk manager should work together to set risk retention level that is appropriate for the unit's financial condition and risk retention policy. Depending upon the changing economic conditions and financial objectives of the government, the level of retention should be periodically evaluated. The unit may utilize excess insurance coverage or other risk transfer methods to cover losses occurring above the acceptable retention limit.

a. Determining When to Retain a Risk

Professional feasibility studies will assure that the decision to retain certain types of loss exposures is objective and also will reassure the governing board members who are making decisions about risk retention.

b. Methods of Retaining Risk

Active risk assumption can be accomplished in several ways.

(1) Noninsurance or "pay as you go"

First, the unit can choose to do nothing. Also called noninsurance, or "pay as you go", this method is not the same thing as passive retention. In the case of noninsurance, the unit has gone through the required risk management process



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and determined the risk to be so small or the cost of other choices so high, that the decision is made to "take their chances". Depending upon its size and financial condition, a unit also may decide to ignore all property risks below a certain dollar amount and to absorb losses below that amount. In addition, losses of low-cost office equipment could easily be charged to the current operating budget of the appropriate department. Such losses are not large enough to insure.

(2) Create Reserve Account

Another method of retaining risk is for the unit to develop a reserve account from which retained losses will be paid. This reserve can be either funded or unfunded. A funded reserve creates a special account from which the losses can actually be paid. An unfunded reserve is merely a journal entry with no funding. If a loss does occur, it is written off against the reserve. If a unit plans to accumulate reserves to cover losses, then the reserved funds should be protected from other uses. Segregating the reserve funds from operating funds by utilizing a separate, internal service fund may accomplish this protection. Once reserved funds are borrowed for other uses, they may not be returned. Obviously, a reserve fund that has been depleted for other purposes will not benefit the unit if a loss should occur.

Local units that are developing a reserve for losses face the question of how much to reserve. An amount equivalent to the premiums saved by risk retention is not sufficient. The reserve amount should exceed the expected loss for a year. Local governmental units could use an independent, certified actuary to help determine the appropriate reserve amounts needed for their individual unit based on the loss histories of many similar units. Whatever amount the unit and its actuary select as appropriate, the amounts must be funded as originally planned or the unit is vulnerable to a loss exposure. These reserve funds should be invested in accordance with G.S. 159-30.

(3) Insurance Deductibles

Another commonly utilized vehicle of risk retention is the insurance deductible. Deductibles are utilized when the risk retention policy is to retain some, but not all, of the risk. Losses above the acceptable retention level adopted by the unit are transferred to an insurance carrier. Local units that use deductibles to retain some portion of the risk should be aware that the insurer may have the right to decide whether a particular claim will be fought in court or settled. If the unit wishes to retain the right to make those decisions, then the use of insurance deductibles may not be the best retention option.

- Straight Deductible

The simplest form of a deductible is the straight deductible. Regardless of the size of the loss, a fixed amount is deducted from it. Therefore, a local government with an insured loss of \$5,000 and a straight deductible of \$1,000 would recover \$4,000. The insured party retains the risk of loss up to \$1,000. Beyond that level, the risk is transferred to the insurer. For property insurance, deductibles are generally available on a per-location or a per-occurrence basis. The per-location deductible is applied separately to each



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insured location. A location may be defined as a single building or as an area with several buildings. The per-occurrence deductible, which will be slightly more expensive, will apply only once to damages resulting from a single occurrence, regardless of the number of the unit's locations that are involved in the loss.

- Aggregate Deductible

The aggregate deductible applies only once to all losses incurred during the policy period regardless of the number of events or the number of locations involved in the loss. With this deductible, the unit will not retain losses in excess of the stipulated amount in any given year. Once the accumulation of losses exceeds the amount stipulated in the policy, the insurer will cover 100% of all remaining losses. Because the aggregate deductible makes loss exposures very predictable during the policy period, this type of deductible is especially good for those units with limited financial resources.

- (4) Noninsurance Transfer for Risk Financing

The noninsurance transfer also can be used to finance risk. Commonly known as a "hold harmless" clause, a noninsurance transfer to finance risk refers to a contract clause in which the transferee agrees to indemnify the transferor or to pay on the transferor's behalf, specified future losses befalling the transferor. The transferee is acting as the transferor's insurer. While such a transfer could apply to any property, net income, or liability loss, legal liability is usually the exposure addressed. Under a hold harmless clause, the transferee would agree to pay for the transferor's legal liability losses arising out of the transferor's liability. Therefore, a hold harmless agreement does not eliminate the legal liability of the transferor. A legally enforceable noninsurance transfer which eliminates the transferor's loss exposure through risk control provides the transferor with greater protection than a noninsurance transfer with the purpose of financing the transferor's loss.

According to G.S. 22B-1, a construction contract which attempts to hold harmless or indemnify the promisee, its independent contractors, agents, or employees against liability for damages caused by or resulting from the negligence of that promisee, its independent contractors, agents, or employees is against public policy. This statute does not prohibit a contract whereby the promisor shall hold harmless or indemnify the promisee, its independent contractors, agents, or employees for the sole negligence of the promisor.

## 2. Insurance

The most commonly used method to transfer risk is insurance. Units should consider insurance only after the risks have been identified, evaluated, reduced, and, if beneficial, retained. Insurance transfers the risk of loss to another entity in exchange for an insurance premium. Local governments use insurance because all units have a finite limit beyond which they cannot expose themselves to losses. In other words, the local government can retain losses up to a certain dollar amount; however, it must transfer the risk of losses above that point. Insurance provides protection for catastrophic losses that are above this limit. Insurance should never be utilized by a local government to cover small losses or to serve as a prepayment program.



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Another reason that a local government selects insurance as a risk management tool is because insurance may be required by a statute or contract. For example, a unit should attempt to execute all contracts so that the risk is transferred to another party. This is not always possible. Contracts executed by the unit may require certain levels of insurance. Also, according to G.S. 159-89(13), revenue bond orders and lease agreements may, and often do, contain covenants requiring insurance. These are just some examples of contractual and statutory requirements for insurance.

The basic types of insurance coverage, endorsements and policy clauses are discussed in the following sections.

a. Property Insurance

Local governments require a wide variety of real and personal property to perform day-to-day functions. The insurance industry provides insurance to cover these government properties. A discussion of standard property insurance policies supplied by most insurance carriers follows. Even though insurance policies will vary slightly for different insurers, most policies are fairly standard. However, local governments should not assume that all policies are standard. Each policy will contain different rates, deductible and coinsurance levels, valuation and other terms. Insurance coverage should be chosen with a view of the long-run financial objectives of the unit in mind. Different insurance policies will be appropriate for different units depending upon a particular unit's financial situation and management policies.

(1) Fire Insurance and Extended Coverage Endorsement

Basic coverage for a property insurance program is fire insurance and the extended coverage endorsement. The basic fire insurance policy covers physical damage to the insured property by fire or lightening. Basic fire insurance also covers damages from the water used to extinguish a fire and smoke damage from a hostile fire. A hostile fire is one which is not in a furnace, fireplace, or other place that was intended to contain a fire. An extended coverage endorsement can be attached to the fire insurance policy to provide against the additional perils of windstorm, hail, explosion, riot and civil commotion, aircraft and vehicle damage, and smoke damage caused by a sudden malfunction of a heating or cooking device connected to a flue.

Basic fire insurance policies are rarely sold today, however the concepts remain. A broader form is currently in use to provide a broader level of coverage called "Special Form" coverage. This coverage protects against all risks of physical loss except those that are specifically excluded. Wear and tear, vermin, or nuclear radiation are among the things that will be excluded from a property insurance policy. Property insurance policies will exclude coverage for certain specified property and perils that may instead be insured under other policies such as autos and other mobile equipment. Money and securities are excluded from the basic fire policy. Coverage of accounting records and files is often limited to the actual cost of the papers or the blank books, and the research required to recreate the records is not covered. The cost of research to recreate records, the loss of income, and the resulting inability to collect accounts receivable can be insured under a valuable papers policy or an accounts receivable policy.



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Property policies also exclude losses caused by war, flood, nuclear radiation, or radioactive contamination, and explosions of steam boilers and steam pipes. Protection against damages caused by such explosions is available with "Equipment Breakdown" policies. Such policies are discussed in Part II, Section C.2.(a)(3) of this manual.

There are basic concepts and provisions associated with standard fire insurance that are important. First, the standard fire insurance policy limits the amount payable on the loss to the actual cash value. The actual cash value is the cost to replace the insured property at the time of the loss less an allowance for depreciation, or any wear and tear on the property before the loss. The term actual cash value is usually not defined in the policy. Consequently, there may be a substantial difference between the insurance recovery based on the actual cash value and the actual cost of replacing the property. The risk manager should be aware that actual cash value coverage may be inadequate. For example, if a town hall with a current replacement cost of \$500,000 and total depreciation of \$350,000 is destroyed by fire, then the unit may be reimbursed for only \$150,000. Therefore, the local unit will need to raise an additional \$350,000 before the building can be rebuilt. However, if as is often the case, the policy limits depreciation to 50% of replacement cost, the unit may be reimbursed for \$250,000 and would need an additional \$250,000 to rebuild. It should be noted that an insurer may only provide Actual Cash Value coverage for older buildings in need of repair. As this illustrates, it is extremely important for the risk manager and finance officer to understand the provisions of the unit's policy provisions. As noted earlier, financial statements prepared under the GASB Statement No. 34 reporting model will contain accumulated depreciation information and may indicate a unit's relative vulnerability to this issue.

On the other hand, replacement cost insurance coverage does not deduct any depreciation in the loss adjustment. The full replacement cost of the property, regardless of any depreciation, is reimbursed by the insurer. Replacement cost coverage can be substituted for actual cash value coverage in exchange for an increase in premiums. The risk manager should be wary of replacement cost policies because there are several possible pitfalls. Some replacement cost insurance policies state that a destroyed building must be rebuilt on the same site. Because of population and demographic changes that occur over time, the unit may prefer to relocate the facilities rather than rebuild on the same site. In addition, replacement cost coverage may only indemnify the insured for replacement of the property as it was prior to the loss. If building codes have changed, the unit's needs are different, or if the building is obsolete, then the local government may elect to modify or update the structure. Local governmental units should be sure that any agreements with the insurer which allow modifications are in writing. When a loss does occur, loss severity may be substantially increased by building modifications desired by the unit. Unless these modifications are part of a contractual agreement between the unit and its insurer, the changes may not be allowed under the insurance policy. When



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purchasing replacement cost insurance, the risk manager should be careful to select a policy that would not limit the unit's choices in the event of a loss.

(a) Coinsurance Clause

A coinsurance clause is often written into an insurance contract to discourage an insured from purchasing only minimum coverage. The coinsurance clause requires that an asset be insured for a certain minimum amount, usually a stated percentage of the replacement value. Under a typical coinsurance agreement, the insured, in exchange for a reduction in the insurance premium, agrees to carry a certain stated percentage of the replacement value of the property. If a loss occurs and the insured party has failed to carry the required amount of insurance, the insurer will reduce the amount paid to cover losses.

The coinsurance formula is as follows:

$$\left( \frac{\text{Amount of Insurance Carried}}{\text{Coinsurance \%} * \text{Replacement Value at Time of Loss}} \right) * \text{Loss \$} = \text{Recovery \$}$$

The amount of insurance carried can be determined based on either the actual cash value or the replacement cost, depending on the terms in the insurance contract. The value at the time of the loss means that, regardless of the value when the property was purchased, the coinsurance percentage is applied to the replacement value at the time the loss actually occurred. For example, assume that a unit has assets with a replacement value of \$1,250,000. Based on risk management techniques, the unit elects to obtain insurance coverage of only \$312,500. If the unit's insurance policy contains an 80% coinsurance clause, the unit would need total insurance coverage of 80% of the replacement value of the assets at the time of the loss (or \$1,000,000) to recover the full amount of any loss. If the unit has an insurance policy with a face value of less than the 80% of the replacement value of the insured property at the time of the loss, then it will share the loss with the insurer.

The recovery amount of an asset loss of \$100,000 is \$31,250, computed as follows:

$$\left( \frac{\$312,500}{80\% * \$1,250,000} \right) * \$100,000 = \$31,250$$

The unit has transferred 31.25% of the risk of loss to the insurer and retained 68.75% for itself. As shown in the example above, coinsurance clauses can be a legitimate tool for retaining part of the risk, but such clauses should be used cautiously. But, if a local government intends for losses to be fully covered, then the face value of the insurance policy will need to be at least equal to the product of the coinsurance percentage in the policy and the replacement value of the insured property. Therefore, a regular program of property appraisal should be established to be sure that the amount of insurance is adequate to meet any coinsurance requirements. In practice, units can avoid a coinsurance clause in an insurance contract by adding an "agreed amount" endorsement which essentially states that the



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insurer agrees that the values are in compliance with the coinsurance requirements and will not assess a coinsurance penalty at the time of the loss should the property not meet the coinsurance requirement. In addition, units of government should purchase “blanket” coverage such that the sum total of all building and contents values can be applied to any one loss if the value on the damaged property is too low. Not all policies have a coinsurance clause.

(b) Subrogation Clause

Another standard term included with insurance policies is a subrogation clause. Subrogation is the substitution of the insurer for the insured. A subrogation clause requires that, after the loss has been settled with the insured party, any rights that the insured may have had to collect on the loss from a third party automatically transfer to the insurer. For example, a right of subrogation might arise if a public building was destroyed by a fire resulting from the negligence of a heating contractor who was repairing the building. The insurance carrier would settle the claim and then “step into the shoes” of the unit and attempt to recover some of the losses from the negligent contractor. The insured party may not be able to collect on the policy if it does anything, either before or after the loss, to damage the insurer’s right to subrogation. Unit officials should consult with their risk manager and/or the unit attorney to determine if any unit policies or practices may interfere with an insurer’s right to subrogation.

(2) Difference in Conditions Policy

A difference in conditions policy is a broad contract that is written to provide coverage for risks of physical loss which are not normally included with direct risk of loss property policies. A difference in conditions policy provides for protection against the occurrence of perils such as floods or earthquakes that might not otherwise be available. The policy provides for the difference between what is covered by the primary policy and what is specifically excluded. Each insurer will have an individualized form of the difference in conditions policy; however, the terms of these contracts are open to negotiations. There is no standard form of the difference in conditions contract, so it can be tailored to fit the specific needs of the insured unit.

(3) Equipment Breakdown – Boiler and Machinery Insurance

As discussed earlier, the extended coverage endorsement specifically excludes coverage for damages caused by the explosion of a steam boiler. Losses from explosions, mechanical breakdowns, power surges, and various other accidents can be insured under a boiler and machinery policy. Electrical motors and apparatus, electrical panels, turbines, generators, hot water heaters, and air compressors also can be insured under this policy. If a local governmental unit has an equipment breakdown – boiler and machinery policy in effect, the policy should be reviewed when a maintenance type problem occurs, since such a problem may be covered under the policy. Even though losses of hot water heaters and air compressors are covered under the real and personal property policy, some local governments also elect to purchase equipment breakdown –



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boiler and machinery coverage in order to receive the loss prevention services and inspections that insurance carriers routinely supply.

(4) Valuable Records Coverage

The fire insurance policy does not provide adequate amounts of coverage for accounts and records. Records that the unit might need to reconstruct following a loss include real estate title and transfer records, tax records, and accounting records. In addition, documents or books held by libraries may be quite valuable. Two special insurance policies, the valuable papers policy and the accounts receivable policy, are intended to cover these types of losses. A valuable papers policy covers the cost of research to reconstruct damaged records, as well as the cost of new paper and transcription. The accounts receivable policy covers the lesser of the expenses incurred to reconstruct the accounts receivable records, or the amount of loss due to the inability to collect accounts receivable as a result of the destruction of the records. The premiums of both these types of policies are discounted if duplicate records are maintained at a separate location. Moneys for valuable records insurance may be better spent on loss prevention such as a fireproof vault for valuable papers, frequent fire inspections, or routine computer back-ups and off-site record storage.

(5) Electronic Data Processing Systems Insurance

Because of the high cost of computers and peripheral equipment, several insurers have designed policies for electronic data processing equipment. These types of policies usually insure against the following types of risks:

- Physical damage to the computer and its peripheral equipment;
- Damage to program materials and such media as disks and tape, including the cost of research to reconstruct programs and the data stored on damaged media;
- Extra expenses incurred to maintain normal operations following damage to the computer, tapes or other media; and
- Loss of income resulting from damage to the computer, its programs, or media.

The policy also may cover system breakdowns as they are defined within the policy; however, the accidental erasures of data stored on magnetic tape will not normally be covered.

(6) Automobile Physical Damage Insurance

Since property insurance policies do not provide coverage for automotive equipment, the local government may need a separate policy. Basically, there are three types of automobile physical damage coverage available with a business auto policy.

- Comprehensive coverage protects for virtually all risk of physical loss or damage to vehicles, except by collision and upset.
- Specified perils coverage is available which covers a package of perils. Included in this coverage are the perils of fire and explosion; theft; windstorm, hail or earthquake; flood; mischief or vandalism; and the loss



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caused by the sinking, burning, collision, or derailment of any conveyance transporting a covered vehicle. This type of coverage is rarely used since the price difference between comprehensive and specified perils is very small.

- The collision or overturn of a vehicle.

Fires, floods, or explosions can cause substantial amounts of damage when there is a concentration of vehicles in one place, as in a motor pool or garage. Property insurance to provide for this risk may need to be considered. If necessary, the unit's fleet may be housed at several different locations overnight. Valuation after a loss is usually on an actual cash value basis.

#### (7) Inland Marine Policies

Fire insurance policies usually cover personal property only while it is located in or near specified buildings. Another type of policy, an inland marine policy, is available to cover property away from the insured's premises. Inland marine insurance is insurance against loss for items utilized for transportation other than on the ocean and also for certain types of stationary personal property, wherever that property may be located. A description of the more commonly used inland marine policies follows.

Construction equipment such as bulldozers, rollers, and graders can be insured under a type of inland marine policy known as the contractor's equipment floater policy. Large equipment usually is listed with a specified amount of insurance on each item. Smaller items, such as hand tools or low value items may be included under a blanket of coverage. Valuation is usually on an actual cash value basis.

Bridges, tunnels, and transmission lines are not movable, but can be insured under policies similar to those provided for movable equipment. Electric, gas and water transmission lines and equipment, and radio and television transmission equipment and towers also may be insured under this same type of policy. Water tanks and pumping equipment which constitute a part of the transportation system also may be covered under inland marine contracts, but are best covered by the real and personal property policy on a replacement cost basis.

#### (8) Crime Insurance

This type of policy covers a variety of losses including employee dishonesty; loss of money and securities inside and outside the unit's premises due to theft, disappearance, or destruction; forgery, etc. The loss of, and damage to, a locked safe, vault, or cash drawer resulting from theft or unlawful entry also is covered.

#### b. Liability Insurance

##### (1) General Liability Insurance

The exposure to liability claims resulting from injuries to persons and damage to property is a serious risk facing local governments. General liability insurance covers exposures for bodily injury and property damage arising from the condition of the unit's premises; the ongoing operations of the unit; products manufactured, distributed, or sold by the unit; and completed operations of the



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unit. In addition, general liability policies cover personal injury, such as false arrest, malicious prosecution, wrongful entry, or oral or written publications that slander or libel another person or organization's goods or services or violate another's right to privacy. Finally, advertising injuries arising from oral and written publications which slander or libel a person or organization's goods or services, violate another's right to privacy, misappropriate advertising ideas, or infringe on copyrights, titles, or slogans also are covered under general liability insurance.

Unusual sponsored events such as concerts, fireworks displays, airplane rides and shows, or firing ranges may be specifically excluded from general liability policies. It is important to read the policy to be sure all operations and activities are covered, otherwise the unit may passively assume risk.

If the unit engages in these or any of the following activities, additional coverage may have to be obtained by endorsement or with other policies:

- Operation of hospitals, housing authorities, or vendor sites,
- Operation of any facilities that generate or handle toxic waste or pollution,
- Ownership and operation of automobiles,
- Explosions and blasting,
- Medical and professional services, including EMS services,
- Activities that involve the care, custody, or custodianship of another's property,
- Exercise of eminent domain,
- Serving of any alcoholic beverages,
- Liability under workers' compensation resulting from employee claims, and
- Law Enforcement Activities (Can be purchased under a Police Professional Liability policy)

The premiums that most insurers set for the general liability insurance for local governments are based on a rate per \$1,000 of net annual operating expenditures of the insured excluding capital expenditures and generally some portion of street and road expenditures. The premium for streets and roads is generally determined by the miles maintained. Some insurers use payroll and other exposure data to determine the general liability premium.

Net operating expenditures are computed by subtracting the following from total expenditures:

- Capital project expenditures,
- Debt service,
- Any amounts paid to independent contractors,
- Any amounts paid in welfare benefits, and
- Expenditures for operations that are separately insured.

This obtained base rate is then adjusted for loss and claims experience data and market conditions. Since the rates used by insurers are public information, risk



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managers can estimate their premiums and use such estimates to obtain lower rates. Annually, risk managers should obtain and evaluate the general liability base rates being used by their insurers.

(2) Excess Insurance

Excess insurance provides coverage above the limits provided by the applicable underlying risk financing, which may be primary insurance, a lower layer of excess insurance, or some level of planned retention. Excess insurance covers only those portions of losses that exceed the upper limit of the underlying insurance or planned risk financing. Excess insurance does not offer broader coverage than underlying policies. Excess insurance policies that are written to overlay specific primary policies incorporate, by reference or physical attachment, the coverage provisions of that underlying policy and are said to "follow form."

(3) Umbrella Liability Insurance

Umbrella liability insurance provides excess general liability, employer's liability and automobile liability above the limits set by other policies. In addition, umbrella liability insurance offers "drop-down" coverage for other specified losses to which other insurance may not apply. Thus, umbrella liability insurance protects the insured from the exclusions and gaps of primary liability policies. An umbrella policy provides coverage after the limits of the primary insurance policy have been exhausted, or when a claim develops that is not covered by the primary insurance. Umbrella insurance provides protection that is broader than the underlying primary or lower layer of excessive insurance. The major advantages of umbrella liability insurance are the elimination of concern over catastrophic losses by means of high limit protection (at least up to the contractual limits set by the policy); broadened protection for blanket contractual liability coverage; coverage of the property of others that is in the care, custody and control of the insured; malpractice coverage; and non-owned aircraft and watercraft liability coverage. The umbrella liability insurance may overlap with general liability coverage, but the umbrella policy pays only after the limits of the underlying liability policy are exhausted. Umbrella liability insurance policies are typically very limited in coverage and contain many exclusions. Local governmental units considering such policies should be sure to read the terms of the policy carefully. If umbrella liability insurance is not available at a reasonable premium, then excess insurance may need to be relied upon to cover these types of high severity losses.

(4) Automobile Liability Insurance

Automobile liability insurance coverage may extend to vehicles owned or leased by a local government or to those owned by employees that are used on government business. This coverage may be issued under individual policies, a schedule policy, or a fleet policy. Ownership of five or more vehicles qualifies a local government for a fleet policy. An advantage of a fleet policy is that when the policy has "Symbol 1 Any Auto" the insurer need not be notified of the acquisition and disposal of vehicles for liability coverage to apply (the insurer will still need to be notified if the unit desires auto physical damage coverage).



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Coverage of new vehicles is automatic as long as the policy is in force and has "Symbol 1 Any Auto" coverage included. Units may carve out their fire operations and insure these vehicles under the Volunteer Fire Insurance Services program ("VFIS"). In that case, the unit will likely need to notify the carrier of new acquisitions of fire and other vehicles within 30 days to avoid a lapse in coverage. The automobile liability policy provides protection for the governmental body and any person operating the vehicle with permission of the entity. The policy can also be endorsed to cover employees using their personal vehicle while on business of the entity. The employee's personal auto policy is "primary" meaning their policy will pay a liability claim first and the entity's policy will pay only if the claim exceeds the limit of the employee's policy. This protection for employees is important because employees do not have immunity while operating government vehicles. The local unit's automobile policy stands above the employee's own automobile policy when the employee uses it for business reasons. Units should obtain insurance certificates verifying the existence of insurance from employees who routinely use their vehicles for business purposes. (Note: A slightly higher personal insurance premium will be incurred on the part of those employees, but the travel reimbursement for mileage should be set high enough to cover such additional expenses.) Normally, the basic automobile liability policy does not cover rented vehicles unless a "hired car" endorsement is attached.

##### (5) Errors and Omissions Insurance

Errors and omissions liability is a general term for a wide variety of loss exposures covered under specialized policies known as public officials' liability; employment practices liability; school leaders' error and omission liability; fire department, rescue squad and EMT errors and omissions; or law enforcement liability. Errors and omissions policies cover claims for which the insured is obligated to pay damages arising out of "wrongful acts". On the other hand, general liability policies cover bodily injury or property damage caused by an occurrence or accident. A law enforcement liability policy generally works like a general liability policy in that it covers bodily injury or property damage caused by police operations.

Wrongful acts are generally defined as:

Any actual or alleged error, omission, misstatement or misleading statement, act of neglect or breach of duty by an insured while acting within the scope of their duties as officials or employees of the covered organization.

Errors and omissions insurance commonly covers claims for which the insured parties are legally obligated to pay damages arising out of these wrongful acts. An example of an error and omission covered claim would be a decision by a governing board that results in a financial loss to a contractor who then sues the governing board members for damages. This type of coverage is designed to cover the liability arising out of the business decisions of public officials and employees. The administration of grants, assessment of taxes, land use decisions or discrimination in hiring are just some potential sources of liability.



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Numerous provisions and limitations are common to errors and omissions policies that affect the scope of coverage. First, all error and omissions policies should clearly define the insured party. Besides the local unit, the policy should cover past, present, and future employees, officials, departments, boards, commissions, and volunteers acting within the scope of their duties for the entity. Some error and omission policies exclude coverage for claims made by one insured party against another insured party. With such a policy, an entity sued by an employee who is also insured under the policy would be denied coverage. If possible, such exclusions should be deleted, particularly under the employment practices liability policy.

Errors and omissions suits often result from events that are difficult to pinpoint in time. Many errors and omissions policies are therefore written on a claims-made basis. That is, the policy will only cover claims first made during the policy period. Coverage also is dependent on a retroactive date. There is no coverage for claims arising from events occurring prior to the retroactive date, regardless of when the claim is first made. The retroactive date is usually the policy inception date or the date the insured party places continuous coverage with the insurer. Sometimes earlier retroactive dates may be purchased by the insured party. If a claims-made policy is cancelled or not renewed, there can be a gap in coverage for claims made after the cancellation date arising out of events that occurred prior to that date. Because of this potential gap in coverage, most insurers provide an extended discovery period during which the former policyholder can purchase "tail" coverage to cover such claims. Note, law enforcement liability policies are generally written on an occurrence basis, like the general liability policy, meaning any event giving rise to a claim is covered by the policy in force when the event occurred.

Errors and omissions policies are not standard policies and the scope of coverage varies greatly between insurers. Risk managers should read these policy forms very carefully or have an expert review them. Only when the policy forms are understood can one evaluate the coverage offered in comparison to the actual exposures faced by the unit.

Most, if not all, governmental units should purchase a Public Officials Liability Policy. This policy typically covers the unit and all lawfully elected or appointed past, present, or future officials. Employees also should be covered under these policies. These policies should be reviewed carefully to be sure all operations are covered, such as utilities, airports, housing authorities, ABC stores, etc.

- School Leaders' Errors and Omissions Liability Policy

A special type of public officials coverage is written for school leaders. A School Leaders' Errors and Omissions Liability Policy covers the school system, the board of education for the system, any members of the board, the superintendent, and other equivalent positions. Extended coverage can be obtained to cover all employees acting within the scope of employment. When selecting public officials insurance coverage for a school system, the unit should be aware of exclusions for specific activities, such as athletic



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events. Additional coverage may need to be obtained if the unit engages in such excluded activities.

- Fire Department, Rescue Squad, EMT, and Law Enforcement Liability Errors and Omissions Policies

Fire Department, Rescue Squad, EMT, and Law Enforcement Liability Errors and Omissions Policies should be purchased when the coverage for the activity is excluded from the public officials' coverage. Typically, the malpractice and bodily injury claims associated with EMT and law enforcement are excluded from public officials' coverage, but may be covered by the general liability policy. But if not, additional coverage may be necessary for these individuals. Again, the entity, officials, and the individual members should be covered under the policies. Liability will only arise out of the operations specified in the policies.

(6) Workers' Compensation Coverage

The employees of all local governments in North Carolina are covered under the Workers' Compensation Act included in the North Carolina General Statutes. The purpose of this Act is to provide compensation benefits for workers who suffer disability as the result of an accident or recognized disease which arises out of and in the course of their employment. Besides supplying the injured employee with some portion of regular compensation during the period of disability, the Act requires the employer to provide medical, surgical, hospital, nursing services, medicines, sick travel, supplies, rehabilitation services, and other treatments as may reasonably be required to affect a cure or give relief. G.S. 97-31 includes a schedule of compensation rates that vary depending on the nature of the injury.

G.S. 97-93 requires employers who are covered under this Act to either insure their liability under the Act or provide proof to the Industrial Commission of financial ability to pay compensation when due. Local governments have not been held to this particular statute in the past. Generally, local governments can select self-insurance (or retention) by notifying the Industrial Commission that they intend to be self-insured. For units that do not choose to self-insure, the North Carolina League of Municipalities and the North Carolina Association of County Commissioners operate public entity risk pools which provide protection for workers' compensation claims. Some coverage also may be available from private insurance carriers. As with all risks the unit faces, the local government should consider all options before deciding how to handle these potential losses.

c. Reinsurance

Reinsurance, or "insurance for insurers", is a contractual arrangement under which one insurer, the ceding company, transfers to another insurer, the reinsurer, some or all of the ceding company's obligations and premiums relating to primary and excess policies issued by the ceding company. Reinsurance exists as a risk management tool for insurers, helping to make their losses more predictable and their finances more stable. The insured party is not a party to the reinsurance arrangement and has no rights against the reinsurer. In the interest of sound risk



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financing, the local unit should take an interest in its insurer's reinsurance arrangements because they may ultimately affect the insurer's ability to meet its obligations if reinsurance is inadequate, particularly for coastal property exposure.

#### **D. Public Entity Risk Pools**

Another method that local governments utilize to manage risk is to participate in a public entity risk pool. GASB Statement No. 10 defines a public entity risk pool as a cooperative group of entities joining to finance an exposure, liability, or risk.

A key question that is repeatedly asked regarding risk management and risk pools, and one that will determine the accounting method that a unit applies to risk financing, is whether the risk has been transferred to a third party or retained by the governmental entity. For example, a local government paid a premium to a third party (such as a risk pool) with the ultimate premium charge based on the unit's loss experience. If the pool can assess the unit additional amounts for any unit losses that exceed initial premiums and the governmental unit receives refunds for losses that are less than premiums, then risk has been retained and the pool is acting more as a claims-servicer.

There are four types of public entity risk pools:

- Risk-sharing pool – an arrangement by which governments pool risks and funds and share in the cost of losses.
- Insurance-purchasing pool – an arrangement by which governments pool funds or resources to purchase commercial insurance products. This also is referred to as a risk-purchasing group.
- Banking pool – an arrangement by which moneys are made available for pool members in the event of loss on a loan basis.
- Claims-servicing or account pool – an arrangement by which a pool manages separate accounts for each pool member from which the losses of the member are paid.

A public entity risk pool can fulfill either one or several of these functions. Pools that act only as banking or claims-servicing pools are not assuming any of the unit's risk. In those cases, the pool member has retained all the risk.

There are numerous public entity risk pools that various local governments can join. For example, the North Carolina League of Municipalities (NCLM) and the North Carolina Association of County Commissioners (NCACC) operate pools which provide workers' compensation coverage for municipalities and certain other public agencies. Premium rates are based on each participant's estimated payroll, rates approved by the pools' board of trustees, and adjustments based on the members' prior claims experience. Rates include the member's proportionate share of the funds' administrative costs and of the costs of claims made, plus a share of the excess insurance coverage purchased to protect the program from catastrophic losses. The North Carolina League of Municipalities and the North Carolina Association of County Commissioners, operate risk pools providing protection from property and liability exposures. The North Carolina School Boards Association ([www.ncsba.org](http://www.ncsba.org)) operates a pool for liability exposures. Housing authorities can participate in a pool for property, liability and workers' compensation called the North Carolina Housing Authorities Risk Retention Pool ("NC HARRP"). The NC HARRP website ([NCHARRP.com](http://NCHARRP.com)) provides useful information of housing authorities. Finally the



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NCLM operates a health benefit pool offering group medical, life, dental, disability and vision plans to employees of its members as well as counties and county-related entities are eligible to participate. The terms associated with each pool may be quite different, so local governments should contact these associations for specific information concerning pool membership.

#### **E. Public Employee Bonds**

Instead of standard insurance, there are several forms of surety and fidelity bonds available to cover the losses arising from the faithful performance of local government employees and officials. Bonds differ from insurance because there are three parties to these agreements; the local governmental unit (the “Obligee”), the surety company, and the public employee (the “Principal”). Surety bond premiums are based on the applicants’ financial exposures. Faithful performance bonds cover both honest and dishonest acts. The bonds transfer the risk of loss from the government to the public employee because any losses incurred by the surety company are recoverable. Under the principle of subrogation, the surety company paying a claim made under a surety bond may legally seek reimbursement from the public official or employee who originally caused the loss.

Two types of bonds are generally available: (a) dishonesty bonds (covering theft, embezzlement, and forgery); and (b) faithful performance of duty bonds (covering dishonest acts and nonfaithful, but not necessarily dishonest, performance). The risks existing with a particular office or position should be the criteria in determining whether faithful performance or dishonest coverage is to be written. For example, in finance departments, employees should be covered by dishonesty and faithful performance of duty bonds, while in other departments only dishonesty coverage may be necessary. This bond can be included in the crime policy discussed above.

Surety bonds are required by numerous North Carolina General Statutes. According to G.S. 58-73-30, an elected or appointed official is required to provide a bond to make good any losses incurred because of the failure to perform the duties of the office. G.S. 105-349(c) requires that a tax collector furnish a bond conditioned on the honest and faithful performance before being allowed to begin the duties as tax collector. The amount should be set by the governing body. G.S. 115C-442(a) requires the finance officer of a school board to furnish a true accounting and faithful performance bond for an amount not less than \$50,000. G.S. 115C-442(d) requires the treasurer of each individual school and all others who have custody of public school money in the normal course of their employment shall give a true accounting bond or be covered under a blanket bond in an amount fixed by the board of education. According to G.S. 161-4(a), the register of deeds for a county must be bonded, with the bond conditioned on the safeguarding of the books and records of the office and the faithful discharge of the duties of the register of deeds. Sheriffs must furnish a bond payable to the State of North Carolina under G.S. 162-8, with the amount determined by the governing board but not exceeding \$25,000. Finally, G.S. 159-29(a) requires that the finance officer of a local government or public authority furnish an individual faithful performance and true accounting bond with sufficient sureties in an amount to be fixed by the governing board for not less than \$50,000.

According to G.S. 159-29(b), each officer, employee, or agent of a local government or public authority who handles or has in his or her custody more than \$100 of the unit’s money or



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who handles or has access to the inventories of a unit is required to furnish a faithful performance bond. The governing body should determine the amount, and the unit will pay the premium. The local government or authority can adopt a blanket faithful performance bond as an alternative to individual bonds. The blanket bond is typically one of the insuring agreements in a crime policy and is referred to as “employee dishonesty” coverage. This policy will also cover Forgery or Alteration; Inside the Premises-Theft of Money and Securities; and Outside the Premises and is often less expensive than individual bonds. In addition, the unit will not have to prove which employee caused the loss; all losses caused by employees are covered. Such a bond will meet the statutory requirements of individual bonds, except for finance officers and tax collectors.

An individual bond is required for the tax collector and for the finance officer, although such an officer may also be included in the blanket coverage as well if the blanket bond protects against risks that are not covered under the individual bonds.

Once the statutory minimum amounts discussed above are met, the amount of bond coverage that a local government decides to purchase for its various employees is up to the unit. The surety company’s representative or an advisor can assist a unit in determining the exposure index and the appropriate type and amount of bond coverage. All surety bonds held by the unit should be purchased from the same entity to avoid responsible party conflicts between different sureties if a loss does arise. If there is a change or interruption in surety bond coverage, the unit should consider purchasing “tail” coverage. As with other types of insurance, an extended discovery period may be available to the unit under limited circumstances.

Finally, units must be able to prove that a loss actually occurred before a surety will pay any damages. If a unit lacks an internal control system that is sufficient to prove first that the unit “had” the claimed item and then “lost” it, the unit may not be able to recover a particular loss from a bond surety. Surety bond claims tend to be lengthy and complicated. A local government with a strong system of internal controls would be more likely to recover on a claim.

#### **F. Establishing a Risk Management Policy**

Achieving a successful risk management program requires involvement by a local government’s top decision-makers. A strong commitment from the governing body is vital to the risk management program. A successful risk management program may require that significant changes be made in existing procedures and practices. Depending upon the individual unit and the proposed program, officials and employees may have to add certain procedures and practices to the ones they are currently doing; they may have to stop performing other procedures and practices; funds may have to be spent and accounted for in different ways; and relationships among local government officials and employees may have to be altered. Without a strong commitment, such sweeping changes will be difficult to implement.

The support of the governing body should be expressed in a formally adopted risk management policy. The policy should express top management’s support for risk management and provide overall guidelines for the implementation of the new practices. As soon as possible in this process, the unit should select an individual to be responsible for risk management. To formulate a risk management policy, the unit may select a



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committee to produce a draft statement for review by others or ask the risk manager to do so. Insurance agents and the policy statements of other local governments can help the unit develop a policy that will fit its own particular situation. The initial policy can be modified as the unit's management becomes more knowledgeable about risk management.

Matters that might be addressed in a policy are:

- An overview of the objectives of the risk management policy and the methods to be used to achieve these goals.
- The authority and responsibilities of the risk manager, department heads, officers, and other employees. The party or parties to whom the risk manager is responsible should be indicated.
- Any important procedures and required records.
- The unit's policy on insurance coverage (for example, the exposures that will be insured, levels of coverage and deductible limits, selection of insurers, or insuring property for the actual cash value or the replacement cost).
- The types of risk assumption and the maximum amounts of those risks that the unit is willing to assume.

Implementing and administering a risk management program is not an easy task. Implementing a program is not like building a fire station; there is not necessarily a huge expenditure before the unit begins seeing benefits. Before any significant expenditures are made, a local government can benefit from risk management principles by identifying and addressing certain situations. For example, a local governmental unit might easily discover that it needs to increase the limits of coverage for catastrophic losses, obtain public officials' liability insurance, and require certificates of insurance from several contractors. These simple steps may significantly decrease the unit's loss exposures with minimal expenditures.

In conclusion, rather than being overwhelmed by the huge task of implementing a risk management program, local governments should first develop a policy that commits the unit's management and resources to a program. Next, they should identify an initial list of concerns and begin addressing those concerns. There will be time later to fine tune the program as local officials become more knowledgeable about risk management.



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#### **Part III. Accounting and Related Considerations**

##### **A. Accounting for Transferred Risk**

Risk is considered to be transferred when the insurance premiums that are collected by an insurer are estimated to cover all the claims for which the insurer is obligated. If a governmental unit's losses exceed its premiums, there is no additional supplemental assessment to the unit. On the other hand, if the entity's losses are low, it will not receive a refund. When risk is transferred, the insurer is viewing risk activities in the aggregate, rather than on an individual basis. The unit should be sure that the insurer has a sufficient amount of assets available to pay any claims before assuming that risk has been transferred to the insurer. If the necessary assets are not available to pay claims, the entity remains liable for those claims and no transfer of risk has occurred.

If a local unit expects to transfer a risk and has purchased insurance to transfer such a risk, then the expenditure or expense for the premium should be recorded in the period that it is incurred and is measurable as an expenditure or expense and related liability of that period.

##### **B. Accounting for Retained Risk**

When loss contingencies exist, the possibility that a future event will confirm the loss or impairment of an asset or the incurrence of a liability can range from probable to remote. GASB Statement No. 10 uses the terms probable, reasonably possible, and remote to identify these ranges as follows:

- Probable – The future event is likely to occur.
- Reasonably possible – The chance of the future event occurring is more than remote but less than likely.
- Remote – The chance of the future event occurring is slight.

If the risk of loss has not been transferred to a third party, local governments should report the estimated or contingent loss as an expenditure or expense and as a liability if both of the following conditions are met:

- Information available before the financial statements are issued indicates that it is probable that an asset had been impaired or a liability had been incurred at the date of the financial statements.
- The amount of the loss can be reasonably estimated.

When it is probable that an asset had been impaired or a liability incurred at the balance sheet date and the reasonable estimate of the loss is a range, then the amount within that range that is the better estimate should be accrued. If no amount within the range is a better estimate than any other amount, then the minimum amount in the range should be accrued. Even though this minimum amount is not the amount of the loss that will actually be realized, it is not likely that the ultimate loss will be less than the minimum amount.



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If a claim is asserted and the probable loss is reasonably estimable, the expenditure or expense and liability should be recognized in the financial statements. There are also situations in which incidents occur before the balance sheet date but claims are not reported or asserted when the financial statements are prepared. If an incurred but not reported claims ("IBNR claims") can be reasonably estimated and it is probable that a claim will be asserted, the expenditure or expense and liability should be recognized.

IBNR claims include known loss events that are expected to later be presented as claims, unknown loss events that are expected to become claims, and expected future development on claims already reported. IBNR claim is an estimate of loss and claim adjustment expenses associated with estimated future claims activity based on historical actual results that establish a reliable pattern. The amount that the unit should accrue for claims losses and IBNR losses should be based on the estimated ultimate cost of settling claims (including the effects of inflation and other social and economic factors), using past experience adjusted for current trends. In addition, estimated recoveries on unsettled claims such as salvage or subrogation, should be evaluated in terms of their estimated realizable value and deducted from the liability for unpaid claims. The appropriate accrual amounts for claims expenditures or expenses and the related liabilities may be estimated through a case-by-case review of all claims, the application of historical experience to the outstanding claims, or a combination of these two methods. Actuarial analysis also is permitted. IBNR losses should be estimated based on historical experience.

Even if an accrual is not made for a loss contingency because the event is either not probable or not estimable, then disclosure of the contingency in the notes to the financial statements may still be necessary. The disclosure of a loss contingency should be made when there is at least a reasonable possibility that a loss may have been incurred. The note disclosure should indicate the nature of the loss contingency and the amount or range of the expected loss or a statement that such an estimate cannot be made.

#### **C. Discounting of Claims Liabilities**

Claims liabilities associated with structured settlements that represent contractual obligations set up to pay money on fixed dates should be discounted. Discounting is a method used to determine the present value of a future cash payment or a series of payments that takes into consideration the time value of money. Otherwise, the choice of whether or not to present claims liabilities at the discounted present value of estimated future cash payments or the face value is up to each unit. If claims are discounted, the unit should select the discount rate by considering such factors as the entity's settlement rate for the particular liability involved and the investment yield rate.

#### **D. Annuity Contracts**

An annuity contract is a contract that provides either fixed or variable payments made from a certain date and continuing for a specified period of time. Such a contract may be purchased in exchange for a lump sum of money from an insurance company or other investor. If a local unit purchases an annuity contract in a claimant's name to satisfy a claim liability and the likelihood that the unit will have to make any future payments on the claim is remote, then the primary liability to the claimant has been satisfied. If this is the case, then the annuity and the related liability can be removed from the unit's balance



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sheet. The aggregate amount of such liabilities that are no longer carried on the balance sheet should be disclosed in the notes to the financial statements as long as the contingent loss is outstanding. However, if the claimant has signed an agreement releasing the unit from any further obligations and the likelihood of any further obligations is remote, then the claim will not have to be disclosed. If it is later determined that further obligations do indeed exist, and then the annuity and related liability will need to be reinstated on the unit's balance sheet.

Because there can be instability in the insurance industry relating to annuity contracts, local officials should carefully analyze the financial condition of the annuity provider and the provider's investments or securities underlying the annuity contract. The bankruptcy of an annuity provider could potentially result in the liability for payment returning to the unit of government.

#### **E. Fund Types Used for Risk Management**

Government units that account for risk financing activities in a single fund should do so in either the general fund or an internal service fund. Whatever fund is used to account for risk management activities the preceding accounting treatment should be used.

When the general fund is used to report risk financing activities, premiums received from other funds normally are treated as an interfund reimbursement by the general fund (a reduction of expenditures in the general fund and a corresponding expenditure or expense in the funds making the premium payments). The exception to this rule is if premiums payments paid in excess of related expenditures in the general fund. Since it is impossible to reimburse expenditures that have not yet been incurred, GAAP directs that any amount of premium received in excess of expenditures be treated as an interfund transfer.

When the internal service fund is used to account for the risk management function, the internal service fund can use any appropriate basis to charge other funds for their portion of the unit's risk financing, as long as the following conditions are met:

- The total charge by the internal service fund to other funds for the period is calculated in accordance with GASB Statement No. 10 paragraphs 53 through 57; or
- The total charge by the internal service fund to the other funds is based on actuarial method or historical cost information and is adjusted over a reasonable period of time so that internal service fund revenues and expenses are approximately equal.

In addition, the total charge by the internal service fund to the other funds also may include a reasonable provision for expected future catastrophic losses.

The charges in the above discussion are revenues to the internal service fund and expenditures or expenses to the other funds. If the charges by the internal service funds to the other funds are greater than the amounts resulting from the application of the conditions above, then that excess should be reported in both the internal service fund and in the other funds as operating transfers. The charges made by the internal service fund to other funds may be greater than or less than the amounts resulting from the applications of the conditions above since both conditions are estimates to be applied over a reasonable period of time. If the internal service fund has a deficit resulting from the above application, the deficit will need to be recovered over a reasonable period of time by



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charging the deficit fund balance back to the other funds as an expenditure or expense of those funds. This will not need to be completed in any one year, as long as the adjustments are made over a reasonable period of time.

#### **F. Disclosure Requirements**

Whether or not the local unit accounts for risk financing activities in the general fund or in an internal service fund, there is certain information that should be disclosed in the notes to the financial statements. The disclosures required by GASB Statement No. 10 may be made by the entity as a whole. However, there may be circumstances when aggregate disclosures are misleading and additional or separate presentation by fund or fund types may be necessary.

The disclosures required are as follows:

- A description of the risks of loss to which the entity is exposed and the ways in which those risks of loss are handled (for example, purchase of commercial insurance, participation in a public entity risk pool, or risk retention).
- A description of significant reductions in insurance coverage from coverage in the prior year by major categories of risk. Also, an indication of whether the amounts of settlements exceeded insurance coverage for each of the past three fiscal years.
- If an entity participates in a risk pool, a description of the nature of the participation, including the rights and the responsibilities of both the entity and the pool.

If an entity retains the risk of loss:

- The basis used in estimating the liabilities for unpaid claims.
- The carrying amount of liabilities for unpaid claims that are presented at present value in the financial statements and the range of discount rates used to discount those liabilities,
- The aggregate outstanding amount of claims liabilities for which annuity contracts have been purchased in the claimant's names and for which the related liabilities have been removed from the balance sheet. If a claimant has signed an agreement releasing the entity from further obligation and the likelihood that the pool will be required to make further payments on the claim is remote, then those claims need not be included in the disclosure.
- A reconciliation of changes in the aggregate liabilities for claims for the current fiscal year and the prior fiscal year.

The reconciliation should be in the following tabular format:

- Amount of claims liabilities at the beginning of each fiscal year,
- Incurred claims, representing the total of a provision for events of the current fiscal year and any change (increase or decrease) in the provision for events of prior fiscal years,
- Payments on claims attributable to events of both the current fiscal year and prior fiscal years,
- Other (Provide an explanation of each item.), and



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- Amount of claims liabilities at the end of each fiscal year.

Illustrated risk disclosure notes for several local governments are presented Illustrated Financial Statement published by the Department of State Treasurer. They are located at [www.nctreasurer.com/slg/Pages/Illustrative-Financial-Statements.aspx](http://www.nctreasurer.com/slg/Pages/Illustrative-Financial-Statements.aspx).

#### **G. Accounting Standards Related to Environmental Liabilities**

##### **1. Closure and Postclosure**

In October 1991, the Environmental Protection Agency (“EPA”) issued the “Solid Waste Disposal Facility Criteria” rule, establishing closure requirements for municipal solid waste landfills. In August 1993, GASB issued Statement No. 18 – Accounting for Municipal Solid Waste Landfill Closure and Postclosure Care Costs. This statement requires those local governments operating municipal solid waste landfills to recognize the appropriate portion of the estimated closure and postclosure care costs liability. The liability is based on the amount of available landfill space used. The State and Local Government Finance Division as staff to the LGC works with staff members of the N.C. Department of Environment and Natural Resources (“DENR”) Waste Management Division to ensure that the amounts recorded as a liability on a unit’s audited financial statements are materially in agreement with DENR’s estimated amount. Annual audits with liabilities significantly different from expected amounts may not be accepted by the LGC until the differences are reconciled. Because the estimated closure costs are based on the input of engineers, and those costs must be recognized on the financial statements, the financial condition of the solid waste operations and the local government’s responsibility is more clearly available to the local governing board and the unit’s top management officials.

##### **2. Pollution Remediation Liabilities**

For fiscal years beginning after December 15, 2007, GASB Statement No. 49 – Accounting and Financial Reporting for Pollution Remediation Obligations establishes a framework for the recognition and measurement of pollution remediation liabilities.

The local unit also may face prospective or future liability, for items such as above-ground storage tanks, multi-user landfills, waste incinerators, spraying operations, hazardous household waste, or sludge. Above-ground storage tanks can potentially cause many of the same problems as underground storage tanks. The local unit should regularly inspect any above-ground storage tanks for signs of decay or damage. Multi-user landfills also are a prospective environmental concern. Over time, environmental damage can occur from the leakage of landfills. While a landfill is still operating, the tipping fees should reflect not only the costs of securing the facility after it is permanently closed but also the risk of possible environmental damage in the future (postclosure cost). Another potential liability exposure, herbicide and pesticide spraying, can cause crop damage or serious personal injury if an accidentally large release should occur. Local governments which collect household waste for disposal also face a liability of an accidental spillage during transport or leakage during storage. Lastly, waste water treatment often produces sludge with a high heavy metal content that must be disposed of properly to avoid serious health risks to the general public. Environmental exposures are almost everywhere, and areas that are not even perceived as being risky today may prove to be very costly in the future. Therefore,



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local governments should work to minimize the known risks and periodically evaluate the unit's operations to determine if a new risk is emerging. Professional expertise is often solicited to perform evaluation of a unit's exposure to risk.

Solid waste, hazardous waste, and toxic substances or petroleum products stored in underground tanks are regulated under federal law by the Resource and Conservation Recovery Act ("RCRA"). A companion federal law, The Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), commonly known as the "Superfund" law, works in conjunction with RCRA. Both laws are administered by the Environmental Protection Agency. The goals of RCRA regulations are to protect humans and the environment from the potential hazards of waste disposal, to conserve natural resources, to reduce the amounts of waste generated, and to ensure that those wastes are treated in an environmentally sound manner. Landfills, surface impoundments, land application facilities, and waste piles are some of the treatment methods covered in Subtitle D of RCRA. CERCLA attempts to deal with past waste mismanagement by cleaning up inactive and abandoned hazardous waste sites. Local units should be aware of the potential liability under these federal laws. Local governments should also be aware that reimbursement for clean-up expenditures of substances designated as hazardous under CERCLA. Further information for the Local Government Reimbursement program ("LGR") is available on the EPA website [www.epa.gov/superfund/](http://www.epa.gov/superfund/).

The effects of a hazardous material spill or environmental accident can have immediate financial implications and long-term consequences; therefore, local government's accounting standards related to environmental liabilities should have a current list of contacts for assistance and emergency response. The NC Department of Environment and Natural Resources' web site by division is [portal.ncdenr.org/web/guest/contacts](http://portal.ncdenr.org/web/guest/contacts). Local governments should address inquiries to the appropriate division, e.g. landfill related questions should be addressed to the Waste Management Division.



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#### Part IV. Additional Resources

##### A. Public Risk Management Association

The Public Risk Management Association (“PRIMA”) is North America’s largest risk management association dedicated solely to the practice of risk management in the public sector. Their members handle risk management, safety and insurance for local and state governments. They provide education, training, professional development, publications, and networking partnerships. Information is available at the association’s website, [www.primacentral.org](http://www.primacentral.org). NCPRIMA is the North Carolina chapter of this organization. This organization is very active in North Carolina and can be a valuable resource. Its website, [www.ncprima.org](http://www.ncprima.org), provides many useful links and other information.

##### B. Risk Management Companies

There are several for profit risk management organizations that provide a wide variety of services to meet the needs of public entities. Samples of the issues they can help units of government with follow.

- Software solutions for risk management
- Tools to manage employment practice liabilities
- Transfer of risk and brokerage services for purchase of insurance
- Consulting services for units that chose to retain risk
- Workers’ Compensation claims services

Many of these providers have free resources on their website that units might find valuable. Units should always be aware that these companies are selling their services so products might be geared to a specific solution.

##### C. Risk Transfer and Brokerage Services

Units chose to purchase brokerage services for a variety of reasons:

- In order to provide access to multiple insurance markets,
- Aid staff in workload during renewal process which they want to compete or negotiate,
- Obtain expertise that the current staff does not have,
- Needed for specific tasks such as insurance renewal or addressing a new risk such as purchase of medical liability for the first time,
- Procurement of insurance is expected to be challenging in any given fiscal year.

When using brokerage services units should require brokers to disclose any financial relationships that exist with insurance providers’. Brokers may be compensated by commission or by negotiated fees. If by commission then this amount should be disclosed to the insured entity. Appendix A is a sample RFP for brokerage services which requires this disclosure.



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#### **Part V – Exhibits**

##### **Exhibit A – Sample Request for Qualifications**

##### **Exhibit B – Risk Management and Insurance Specification Questionnaire**

Note: To facilitate modification and use of Exhibit A, it is posted as a Word® document under “Policy and Audit Manuals” on the State Treasurer’s website, [www.nctreasurer.com/slg/Pages/Local-Fiscal-Management.aspx](http://www.nctreasurer.com/slg/Pages/Local-Fiscal-Management.aspx), following this Policy Manual section. Instructions to make updating and revising easier are included.



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**Exhibit A – Sample Request for Qualifications – Property and Casualty Broker and Risk Management Consulting Services**



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**Exhibit A – Sample Request for Qualifications – Property and Casualty Broker and Risk Management Consulting Services**

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**Exhibit A – Sample Request for Qualifications – Property and Casualty Broker and Risk Management Consulting Services**

**[Unit Full Name]**

**\*\*\*\*\***

**Notice of**  
**Request for Qualifications (RFQ)**  
**For Candidates to Provide**  
**Property and Casualty Broker and**  
**Risk Management Consulting Services**

**\*\*\*\*\***

**Date of Issue: [Date]**

**Response Due Date: [Date and Time]**



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**Exhibit A – Sample Request for Qualifications – Property and Casualty Broker and Risk Management Consulting Services**

***REQUEST FOR QUALIFICATIONS***

**[Unit Full Name]**

**I. Summary**

[Unit Full Name] (the “[Unit Type]”) is in the process of evaluating brokers for the placement of its property and casualty insurance program. Your firm is one of the organizations from which qualifications and proposals are being requested.

The [Unit Type] is interested in receiving a proposal from your firm outlining:

1. Your firm’s qualifications to handle the property and/or casualty program of the [Unit Type].
2. The alternatives you believe the [Unit Type] should explore in improving its program.

**Response Requirements:**

**[Number] copies** of your response to this Request for Qualifications (the “RFQ”) must be completed and returned **no later than [Exact Time] p.m. on [Date] to the [Unit Type] at:**

**[Specify exact location].**

E-mailed and faxed responses will [not] be accepted.

Following the receipt of your responses, your proposal will be evaluated and your firm may be invited to an oral interview. Following the interviews, the broker to market the program will be selected. Insurance specifications for the coverages assigned to the selected broker will be available at that time.

The major portion of the current insurance program has an expiration date of [Date]. At this time you are **not authorized** to approach insurers on behalf of [Unit Type]. Doing so shall be grounds for disqualifying your firm from further consideration. At the appropriate time, the selected firm will be supplied with a broker of record for the existing insurers.

**II. The planned dates for this marketing process:**

**Activity:**

**Target Date:**

1. Qualifications and proposals received from firms. [Exact Time] p.m. on [Date]
2. Interviews with selected firms. [Date]



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**Exhibit A – Sample Request for Qualifications – Property and Casualty Broker and Risk Management Consulting Services**

<b><u>Activity:</u></b>	<b><u>Target Date:</u></b>
3. Specifications submitted to winning broker.	[Date]
4. Quotations due from broker.	[Date]
5. Effective date of most coverages.	[Date]

**III. Qualifications**

1. Broker shall be licensed by, and in good standing with, the State of North Carolina Department of Insurance; licenses shall be for all lines of property and casualty insurance.
2. Broker shall be sufficiently experienced in property and casualty insurance and risk management services to provide expert, efficient, effective, and reliable services to the [Unit Type].
3. Broker shall have extensive and continuous relationships with the insurance markets necessary to provide the [Unit Type] with superior insurance alternatives that meet the [Unit Type]’s needs and are favorably priced relative to the risk and the current market.
4. Broker shall provide continuity of services, by assigning a primary broker and a back-up broker who will be:
  - a. knowledgeable in the principles and practices of risk management, and specifically risk financing for public entities
  - b. familiar with the [Unit Type] as a risk
  - c. accessible to the [Unit Type] on short notice, and
  - d. thoroughly knowledgeable and competent in insurance alternatives in order to provide superior services to the [Unit Type].
5. Broker shall maintain the highest integrity in business relationships and practices, and shall make full and timely disclosure to the [Unit Type] of any conflicts of interest. Broker shall become familiar with state statutes regarding gifts and favors for public officers and employees, and shall adhere to those standards in the conduct of [Unit Type] business.
6. Broker shall be insured for general liability, vehicle liability, professional errors and omissions, and workers’ compensation; Broker shall be responsible for all employer taxes and social security due to the state and federal governments; Broker shall be responsible for all funds handled by Broker on behalf of the [Unit Type], and shall carry a bond sufficient to cover any losses of this nature; Broker shall not sub-contract work without the prior written permission of the [Unit Type].
7. Broker shall work with the [Unit Type] to evaluate the current plan of insurance policies and to recommend appropriate or advantageous changes; renewals shall be



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#### **Exhibit A – Sample Request for Qualifications – Property and Casualty Broker and Risk Management Consulting Services**

- effected in a timely manner, to meet the [Unit Type]’s internal time requirements and also maintain coverage.
8. Broker shall maintain office hours consistent with the [Unit Type]’s core business hours (Monday – Friday, 8:30 a.m. – 5:15 p.m.). Alternatives to maintaining these core business hours will be considered if they include provisions for responding to requests for contact within one business day.
  8. Broker shall keep written records of marketing efforts and shall make this information available to the [Unit Type] upon request.
  10. Brokers’ recommendations to purchase insurance shall be made in writing and shall be sufficiently detailed to explain alternatives and support the recommended decision.
  11. The [Unit Type] wishes to contract broker services for one year with 2 one-year optional renewals (at the [Unit Type]’s option), for a total contract term of up to 3 years. At the end of the three-year period, or earlier if annual renewal is not executed, the [Unit Type] will use a competitive process to solicit broker services, if such services are required at that time.
  12. Broker shall provide full disclosure of fees, commissions, and income to be derived from services to the [Unit Type]. Such disclosure shall also include payment terms and expectations of Broker. Brokers are encouraged to suggest alternative methods of compensation and billing that will result in cost savings, particularly if they also maintain or improve broker services.
  13. In addition to insurance brokerage services, the [Unit Type] requires:
    - Risk management consulting services specific to public entities in North Carolina.
    - Loss Control services consisting of reviewing underwriter’s recommendations and evaluating hazards facing the [Unit Type], including periodic site visits.
    - Claims audit services for claims handled by a Third Party Administrator engaged by the [Unit Type] to administer workers’ compensation claims.
  14. Broker shall describe qualifications for risk management consulting, loss control, and claims audits and shall indicate costs attributed to each area.

#### **IV. Requirements of proposals**

1. Proposals shall include an explanation of all costs.
2. Optional fee arrangements such as commission basis will be considered.
3. All proposals shall be in writing.
4. Proposals shall include information about qualifications of Broker and the individual brokers intended for this contract. Five (5) business references are required, with at least two (2) of the references being government or non-profit clients.
5. Proposals shall include an assessment of the [Unit Type]’s current program and a proposed, alternative if necessary without approaching the markets. To familiarize



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#### **Exhibit A – Sample Request for Qualifications – Property and Casualty Broker and Risk Management Consulting Services**

Brokers with the [Unit Type]’s loss exposures, a draft excess liability application for the current year is available.

#### **V. Contract**

The proposed contract is attached. Responses shall indicate whether the proposed contract is satisfactory and, if not, what changes would be requested. All changes are subject to review and approval of the [Unit Type] Attorney. After selection of the broker, specific insurance requirements will be established and added as an attachment to the final contract.

#### **VI. Process and Basis for Selection**

**[Number] copies of your response to this Request for Qualifications must be returned no later than [Exact time] p.m. on or before [Date], to:**

**[Exact Address]**

E-mailed and faxed responses will [not] be accepted.

A team of [Unit Type] staff will review the responses and select brokers for interviews based on qualifications. The interviews will be tentatively scheduled for [Date]. The selection team will recommend one or more brokers that best fit the [Unit Type]’s needs and who have agreed to accept the terms of the [Unit Type]’s contract. The [Unit Type] seeks contract services for a three-year period of time.

#### **VII. Questions**

Questions regarding services should be directed to:

[Name], [email address]

All questions must be received no later than 5:00 pm [a date several days prior to response date]. All respondents will receive copies of questions and answers received during the response period.

#### **VIII. Attachments:**

Excess Liability Insurance Application, Outline of Insurance, Commercial Property Schedule, Proposed Contract.



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**Exhibit A – Sample Request for Qualifications – Property and Casualty Broker and Risk Management Consulting Services**

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**Exhibit B – Sample Risk Management and Insurance Questionnaire**



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**Exhibit B – Sample Risk Management and Insurance Questionnaire**

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Exhibit B – Sample Risk Management and Insurance Questionnaire

Sample Risk Management and Insurance Questionnaire

Section 1: Basic Information

1. Entity Name: \_\_\_\_\_

2. Address:

\_\_\_\_\_

Street

\_\_\_\_\_

City

\_\_\_\_\_

State

\_\_\_\_\_

Zip Code

3. Mailing Address:

\_\_\_\_\_

\_\_\_\_\_

City

\_\_\_\_\_

State

\_\_\_\_\_

Zip Code

4. County: \_\_\_\_\_ Date Incorporated: \_\_\_\_\_

5. Contact: \_\_\_\_\_ E-mail: \_\_\_\_\_

Title: \_\_\_\_\_ Phone No.: \_\_\_\_\_

Mobile No.: \_\_\_\_\_ Facsimile No.: \_\_\_\_\_

6. Existing Liability and Property Insurance Coverages (general, automobile, law enforcement, errors and omissions, aviation, pollution) - Please indicate if your entity currently self-insures a particular exposure. (Attach a separate sheet if necessary.)

Type of Coverage:	Company:	Policy #:	Limits:	Deductible:	Expiration Date:	Premium:
-------------------	----------	-----------	---------	-------------	------------------	----------

_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____



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**Exhibit B – Sample Risk Management and Insurance Questionnaire**

**Section 2: General Checklist**

**Does The Entity Have Any Of The Following Exposures?**

**General Operations:**

- a. Do you own or operate any **Day Care Facilities**? ..... Yes\_\_\_ No\_\_\_
- b. Do you own or operate any **Parking Garages** or **Parking Lots** that produce revenue?..... Yes\_\_\_ No\_\_\_
- c. Do you operate any **Media** (radio, newspaper, T.V.)?..... Yes\_\_\_ No\_\_\_
- d. Do you own or maintain any **Streets, Roads, Highways** or **Bridges**? ..... Yes\_\_\_ No\_\_\_
- e. Do you own or operate any **Housing Projects**?..... Yes\_\_\_ No\_\_\_
- f. Do you maintain a **Dog Pound**? ..... Yes\_\_\_ No\_\_\_
- g. Do you conduct any **Blasting Operations**? ..... Yes\_\_\_ No\_\_\_
- h. Do you own or operate a **Landfill**?..... Yes\_\_\_ No\_\_\_

If any of the above are answered "Yes," please complete the corresponding portions of Section 4: General Operations.

**Dams, Levees, Dikes and Reservoirs**

- a. Do you have any **Dams, Levees** or **Dikes**? ..... Yes\_\_\_ No\_\_\_
- b. Do you have any **Water Reservoirs**?..... Yes\_\_\_ No\_\_\_

If any of the above are answered "Yes," please request and complete a separate questionnaire for each dam, levee, dike or water reservoir.

**Medical and Fire Services and Facilities**

- a. Do you provide **Emergency Medical Services**?..... Yes\_\_\_ No\_\_\_
- b. Do you own or operate a **Hospital** or **Clinic**? ..... Yes\_\_\_ No\_\_\_
- c. Do you have a **Health Department**? ..... Yes\_\_\_ No\_\_\_
- d. Do you provide **Fire Protection Services**?..... Yes\_\_\_ No\_\_\_

If any of the above are answered "Yes," please complete the corresponding portions of Section 7: Medical and Fire Services and Facilities.

**Recreation Facilities**

- a. Do you own or operate any **Arenas** or **Stadiums**? ..... Yes\_\_\_ No\_\_\_
- b. Do you own or operate any **Convention Centers**?..... Yes\_\_\_ No\_\_\_
- c. Do you own or operate any **Permanent Amusement Parks**? ..... Yes\_\_\_ No\_\_\_
- d. Do you sponsor any **Carnivals, Fairs, Parades, or Festivals**?..... Yes\_\_\_ No\_\_\_
- e. Do you sponsor any **Athletic Recreation Events**? ..... Yes\_\_\_ No\_\_\_
- f. Do you own or operate any **Parks** or **Playgrounds**? ..... Yes\_\_\_ No\_\_\_
- g. Do you own or operate any **Golf Courses**?..... Yes\_\_\_ No\_\_\_
- h. Do you own or operate any **Swimming Pools**?..... Yes\_\_\_ No\_\_\_



## Department of State Treasurer – Policy Manual for Local Governments

### Section 85: Insurance and Risk Management

#### Part V – Exhibits

##### Exhibit B – Sample Risk Management and Insurance Questionnaire

- i. Do you own or operate any **Beaches**? ..... Yes\_\_\_ No\_\_\_
- j. Do you own or operate any **Zoos or Wildlife Parks**? ..... Yes\_\_\_ No\_\_\_

If any of the above are answered "Yes," please complete the corresponding portions of Section 8: Recreation Facilities.

##### Marine Operations

- a. Do you own or operate any **Wharves, Docks or Marinas**? ..... Yes\_\_\_ No\_\_\_
- b. Do you own or operate any **Watercraft**? ..... Yes\_\_\_ No\_\_\_

If any of the above are answered "Yes," please complete the corresponding portions of Section 9: Marine Operations.

##### Transportation

- a. Do you own or operate any **Bus Terminals**? ..... Yes\_\_\_ No\_\_\_
- b. Do you own or operate a **Transit Authority**? ..... Yes\_\_\_ No\_\_\_

If any of the above are answered "Yes," please complete the corresponding portions of Section 10: Transportation.

##### Utilities

- a. Do you own or operate a **Water Utility or Sewer Utility**? ..... Yes\_\_\_ No\_\_\_
- b. Do you own or operate a **Gas Utility**? ..... Yes\_\_\_ No\_\_\_
- c. Do you own or operate an **Electric Utility**? ..... Yes\_\_\_ No\_\_\_

If any of the above are answered "Yes," please complete the corresponding portions of Section 11: Utilities.

##### Care, Custody and Control

- a. Do you **rent** or **lease** any **Buildings**? ..... Yes\_\_\_ No\_\_\_
- b. Do you **rent** or **lease** any **Equipment** (computer, electronic equipment, mobile equipment, etc.)? ..... Yes\_\_\_ No\_\_\_
- c. Do you have any **Equipment on Loan** to you? ..... Yes\_\_\_ No\_\_\_
- d. Do you have any **Impound Lots** for vehicles? ..... Yes\_\_\_ No\_\_\_

If any of the above are answered "Yes," please complete the corresponding portions of Section 12: Care, Custody and Control.

##### Automobile

- a. Do you **own** any **Automobiles or Trailers**? ..... Yes\_\_\_ No\_\_\_
- b. Do you **lease** any **Automobiles or Trailers**? ..... Yes\_\_\_ No\_\_\_
- c. Do any of your volunteers or employees use their own vehicles on official business? ..... Yes\_\_\_ No\_\_\_

If any of the above are answered "Yes," please complete the corresponding portions of Section 13: Automobile.



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#### Exhibit B – Sample Risk Management and Insurance Questionnaire

##### Aviation

- a. Do you own or operate an **Airport** or **Airport Facilities**? ..... Yes\_\_\_ No\_\_\_
- b. Do you provide **Services** (other than police, fire, water and sewer, etc.), fuel, etc. **to an Airport**?..... Yes\_\_\_ No\_\_\_
- c. Do you own or operate any **Aircraft**?..... Yes\_\_\_ No\_\_\_

If any of the above are answered "Yes," please complete the corresponding portions of Section 14: Aviation.

##### Law Enforcement

- a. Do you own or operate a **Jail** or **Holding Facility**? ..... Yes\_\_\_ No\_\_\_
- b. Do you provide any **Law Enforcement Services** through **employees** or with **volunteers**? ..... Yes\_\_\_ No\_\_\_
- c. Do you provide any **Law Enforcement Services** through a **contract** or **interlocal cooperation agreement**?..... Yes\_\_\_ No\_\_\_

If any of the above are answered "Yes," please complete the corresponding portions of Section 15: Law Enforcement.

#### Section 3: Budget and Financial Information

NOTE: Please answer all questions in this Section. If any questions do not apply to your unit, please answer "N/A." It is important for us to know that you do not have these items.

- a. **Population** Based on last official U.S. Census: 2010 .....  
Based on most recent non-official figures .....  
b. **Employees** Number of total employees .....  
Number of total volunteers .....

##### Budget Information

In addition to providing the following information, please **attach copies** of your latest audited financial statements (CAFR, if prepared) and your current budget ordinance. You must still complete all items in this Section.

- What are the unit's Fiscal Year End and Budget Period? .....  
a. **Total budgeted** Expenditures for Current Fiscal Year (please include ALL expenditures from current budget – include any and all special funds, enterprise funds, etc.) ..... \$  
b. **Total budgeted** amount of any **Capital Improvements, Debt Service on Bonds or Other Indebtedness, or Major Capital Purchases** which will be paid out **in the current budget year** including interest thereon. (Work performed by the unit in connection with such purchase or improvement should be included in Item 1.) ..... \$



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##### Exhibit B – Sample Risk Management and Insurance Questionnaire

- c. Total budgeted expenditures for Contracted Work and Services where the contractor provides its own insurance. This includes any services to be funded through your budget and performed by a person or firm **other than** your regular employees. Include funds for all contract costs (payroll, materials, etc.) to be expended in the current budget year. This **excludes** any capital improvements, etc., itemized in Item 2 above. .... \$ \_\_\_\_\_
- d. Total budgeted expenditures on the following performed by employees of the unit or by contractors who do not have their own insurance. Do not include separate entities – only departments of the unit. .... \$ \_\_\_\_\_
- e. **Net Operating Budgeted Expenditures\*\*** ..... \$ \_\_\_\_\_

\*\* Subtract sum of Items 2+3+4 from Item 1.

f. **Audit Summary (Last 5 years)**

<u>Fiscal Year</u> <u>Ending</u>	<u>Total Revenues</u>	<u>– Total Expenditures</u>	<u>=</u>	<u>Increase</u> <u>(Decrease)</u>
.....	\$ .....	\$ .....	\$ .....	.....
.....	\$ .....	\$ .....	\$ .....	.....
.....	\$ .....	\$ .....	\$ .....	.....
.....	\$ .....	\$ .....	\$ .....	.....
.....	\$ .....	\$ .....	\$ .....	.....

##### Section 4: **General Operations**

a. **Day Care Facilities**

1. Do you own a day care facility, or lease it from a third party? ..... Yes\_\_\_ No\_\_\_
2. Do you operate a day care facility with your own employees or volunteers? ..... Yes\_\_\_ No\_\_\_
3. If you own a day care facility, but a third party operates it for you, is the unit contractually responsible for maintaining liability insurance? ..... Yes\_\_\_ No\_\_\_
4. Are the day care personnel state certified?..... Yes\_\_\_ No\_\_\_
5. For each facility, attach a list indicating square footage of the facility and the number of personnel, the number and age range of the children at the facility..... Yes\_\_\_ No\_\_\_



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Exhibit B – Sample Risk Management and Insurance Questionnaire

b. **Parking Garages and Parking Lots – Revenue Producing Only**

1. Do you own a parking garage or parking lot, or lease one from a third party?..... Yes\_\_\_ No\_\_\_
2. Do you operate a parking garage or parking lot through your own employees or volunteers?..... Yes\_\_\_ No\_\_\_
3. If you own a parking garage or lot but a third party operates it for you, is the unit contractually responsible for maintaining liability insurance? ..... Yes\_\_\_ No\_\_\_
4. Do you park vehicles for customers?..... Yes\_\_\_ No\_\_\_
5. Do you operate vehicles for customers? ..... Yes\_\_\_ No\_\_\_
6. Do you use outside firms to store impounded vehicles? ..... Yes\_\_\_ No\_\_\_
7. For **each** garage or parking lot, **attach a schedule** indicating whether fenced, the average capacity, and total receipts. For **each** garage or parking lot, include a brief description of its construction and its protection.

c. **Media – Radio, Newspaper, TV**

1. Do you own any media facility or lease any from a third party?..... Yes\_\_\_ No\_\_\_
2. Do you operate any media facility through your own employees or volunteers? ..... Yes\_\_\_ No\_\_\_
3. If you own a media facility but a third party operates it for you, is the unit contractually responsible for maintaining liability insurance?..... Yes\_\_\_ No\_\_\_
4. For **each** media facility, **attach a list** indicating whether it is educational or commercial, the annual revenues and the annual advertising expenditures.

d. **Streets, Roads, Highways, Bridges**

1. How many miles of streets and roads are you responsible for maintaining?..... \_\_\_\_\_ miles
2. How many bridges are you responsible for maintaining? ..... \_\_\_\_\_
3. How many one-lane bridges are there?..... \_\_\_\_\_
4. Are appropriate warning signs posted prominently? ..... Yes\_\_\_ No\_\_\_
5. Are any bridges closed? ..... Yes\_\_\_ No\_\_\_  
If "Yes," how many?..... \_\_\_\_\_  
**Attach schedule** specifying reason(s) for closing(s).
6. When was the last inspection by the state or federal authorities? ... \_\_\_\_\_
7. Were there any serious structural defects noted by the authorities? Yes\_\_\_ No\_\_\_  
If "Yes," **Attach schedule** providing details including repairs made since inspection.

e. **Housing Projects**

1. Who owns the housing project? ..... \_\_\_\_\_
2. Who operates the housing project? ..... \_\_\_\_\_



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##### Exhibit B – Sample Risk Management and Insurance Questionnaire

3. Who manages the housing project?.....
4. Who appoints the housing project board or commission?.....
5. Are the housing project employees employed by the unit?..... Yes\_\_\_ No\_\_\_  
If "No", who employs the housing project employees?.....
6. How many housing project employees are there?.....
7. How many individual rental units are there?.....
8. Is the local Housing Authority involved?..... Yes\_\_\_ No\_\_\_

**Note:** If your housing project is operated by a housing authority, it is most likely a separate legal entity and will need to complete a separate exposure summary.

f. **Animal Control**

1. Do you own or maintain a dog pound?..... Yes\_\_\_ No\_\_\_
2. Do you operate a dog pound with your own employees or volunteers? ..... Yes\_\_\_ No\_\_\_
3. If you own a dog pound, but a third party operates it for you, is the unit contractually responsible for maintaining liability insurance?..... Yes\_\_\_ No\_\_\_
4. Do you operate an animal control operation? ..... Yes\_\_\_ No\_\_\_

g. **Blasting Operations**

1. Is blasting done by the unit? ..... Yes\_\_\_ No\_\_\_  
If "Yes," **attach detailed statement** describing operations.
2. Is blasting contracted out? ..... Yes\_\_\_ No\_\_\_  
If "Yes," what are the limits of liability required of the subcontractor?

h. **Landfills**

Please provide the following information for **each** landfill site:  
(Additional information may be requested at a future date.)

**Landfills:**

<b><u>Site Locations</u></b>	<b><u>Size</u></b> <b><u>(acres)</u></b>	<b><u>Years in</u></b> <b><u>Operation</u></b>	<b><u>EPA ID #</u></b> <b><u>(if applicable)</u></b>
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**Transfer Stations:**

<b><u>Site Locations</u></b>	<b><u>Size</u></b> <b><u>(acres)</u></b>	<b><u>Years in</u></b> <b><u>Operation</u></b>	<b><u>EPA ID #</u></b> <b><u>(if applicable)</u></b>
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**Transfer Stations:**

<b><u>Site Locations</u></b>	<b><u>Size</u> <u>(acres)</u></b>	<b><u>Years in</u> <u>Operation</u></b>	<b><u>EPA ID #</u> <u>(if applicable)</u></b>
.....	.....	.....	.....

**Collection Sites:**

<b><u>Site Locations</u></b>	<b><u>Size</u> <u>(acres)</u></b>	<b><u>Years in</u> <u>Operation</u></b>	<b><u>EPA ID #</u> <u>(if applicable)</u></b>
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....

**Multi-material Recycling Facilities:**

<b><u>Site Locations:</u></b>	<b><u>Size</u> <u>(acres)</u></b>	<b><u>Years in</u> <u>Operation</u></b>	<b><u>EPA ID #</u> <u>(if applicable)</u></b>
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....

**Section 5: Contracts and Joint Ventures**

a. Does the unit require the following:

1. Certificate of Insurance for each contractor and/or subcontractors is received?..... Yes\_\_\_ No\_\_\_
2. Limits of liability at least equal to those carried by the unit? ..... Yes\_\_\_ No\_\_\_
3. Is the entity named as an additional insured on the contractor's policy and a copy of policy filed with the unit? ..... Yes\_\_\_ No\_\_\_
4. Are "Hold Harmless" agreements used in all of the unit's contracts?..... Yes\_\_\_ No\_\_\_

b. **Joint Ventures**

**Please list all** joint ventures the unit is currently in or will enter into within the next 18 months. Include **for each** the nature of the venture, unit's percentage participation and the hold harmless agreements and insurance requirements of each party.

**Section 7: Medical and Fire Services and Facilities**

a. **Emergency Medical Services**

1. Does the unit provide its own emergency medical services? ..... Yes\_\_\_ No\_\_\_  
If "No," what is the name of the department or entity that provides you with your emergency medical services?.....



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2. Is there a full-time Medical Director? ..... Yes\_\_\_ No\_\_\_
3. What is the name and title of the individual who supervises and coordinates the activities of the EMS and EMT? ..... \_\_\_\_\_
4. If a third party is providing emergency medical services, is the unit contractually responsible for providing the EMS with liability insurance? ..... Yes \_\_\_ No\_\_\_
5. What is the total number of annual EMS treatments? ..... \_\_\_\_\_
6. What is the number of annual treatments classified as an emergency? ..... \_\_\_\_\_
7. What is the number of annual treatments involving transfer of patients? ..... \_\_\_\_\_
8. What is the total number of emergency vehicles operated? ..... \_\_\_\_\_
9. Does the unit own the emergency vehicle(s)? ..... Yes\_\_\_ No\_\_\_  
If "No," who owns the vehicles? ..... \_\_\_\_\_
10. What is the total number of EMS personnel:

<u>Category</u>	<u>Paid</u>	<u>Volunteer</u>
<u>EMT:</u>		
Paramedics.....	_____	_____
Nurses.....	_____	_____
Other.....	_____	_____

11. For other than unit employees, who pays the EMS personnel salaries?  
\_\_\_\_\_
12. Do you provide workers' compensation coverage to the volunteers?. Yes\_\_\_ No\_\_\_
13. Do EMS personnel receive Emergency Drivers Training? ..... Yes\_\_\_ No\_\_\_
14. List the type of training received by EMS personnel.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
15. Do you receive any compensation from injured or sick parties for providing EMS services? ..... Yes\_\_\_ No\_\_\_
16. Do you receive any compensation from another political subdivision for providing EMS services? ..... Yes\_\_\_ No\_\_\_
17. If a third party provides you with emergency medical services, do you compensate the EMS providers in any way? ..... Yes\_\_\_ No\_\_\_

b. **Hospitals or Clinics**

1. Do you own or operate any facility that has beds used for overnight stays? ..... Yes \_\_\_ No\_\_\_
2. Do you own or operate any facility where surgery or radiology is performed? ..... Yes \_\_\_ No\_\_\_
3. Do you own or operate any clinics? ..... Yes \_\_\_ No\_\_\_  
If "Yes," indicate location and total square feet for each:



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Note: If any Hospital or Clinics question is answered "Yes," then a special supplemental exposure summary is required.

c. **Health Departments**

1. What is the total annual patient utilization? .....
2. What is the number of employed physicians?.....
3. What is the number of physicians under contract? .....
4. What is the number of employed nurses? .....
5. What is the number of nurses under contract? .....
6. Do you require certificates of malpractice insurance?..... Yes\_\_\_ No\_\_\_

d. **Fire Protection Services**

1. Does the entity provide its own fire protection services? ..... Yes\_\_\_ No\_\_\_  
If "No," what is the name of the department (volunteer fire department) or entity that provides you with fire protection services?.....
2. What is the name and title of the individual who supervises or coordinates the fire protection activities?.....
3. If fire protection services are provided by a third party, is the unit contractually responsible for providing the provider fire protection services with liability insurance? ..... Yes\_\_\_ No\_\_\_
4. What is the total number of fire vehicles operated? .....
5. Does the entity own the fire vehicles?..... Yes\_\_\_ No\_\_\_  
If "No," who owns the fire vehicles?  
.....
6. What is the total number of fire personnel:.....
7. For other than entity employees, who pays the fire personnel salaries?  
.....
8. Do you provide workers' compensation to the volunteers?..... Yes\_\_\_ No\_\_\_
9. How many firehouses are there?.....  
What is the total square footage of all firehouse combined? ..... ft<sup>2</sup>
10. Do you receive any compensation from other political subdivision for providing fire protection services? ..... Yes\_\_\_ No\_\_\_
11. Do you compensate the fire protection services providers in any way? ..... Yes\_\_\_ No\_\_\_
12. Are unit fire personnel responsible for building inspection?..... Yes\_\_\_ No\_\_\_



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**Exhibit B – Sample Risk Management and Insurance Questionnaire**

13. Does unit provide formal training programs for fire personnel?

For Paid employees..... Yes\_\_\_ No\_\_\_

For Volunteers ..... Yes\_\_\_ No\_\_\_

14. Do fire personnel receive Emergency Drivers' Training? ..... Yes\_\_\_ No\_\_\_

**Section 8: Recreation Facilities**

**a. Arenas, Stadiums, Convention Centers, Halls and Community Centers**

1. Do you own your own facilities of this type, or lease them from a third party? ..... Yes\_\_\_ No\_\_\_

2. Do you operate such facilities through your own employees or volunteers? ..... Yes\_\_\_ No\_\_\_

3. If you own such facilities, but a third party operates them for you, is the unit contractually responsible for maintaining liability insurance? ..... Yes\_\_\_ No\_\_\_

4. How many such facilities do you have?..... \_\_\_\_\_

5. What is the total square footage of all facilities?..... \_\_\_\_\_ ft<sup>2</sup>

6. What are the total annual receipts for all facilities? ..... \$ \_\_\_\_\_

**b. Amusement Parks**

1. Do you own your own facilities of this type, or lease them from a third party? ..... Yes\_\_\_ No\_\_\_

2. Do you operate such facilities through your own employees or volunteers? ..... Yes\_\_\_ No\_\_\_

3. If you own such facilities, but a third party operates them for you, is the contractually responsible for maintaining liability insurance? ..... Yes\_\_\_ No\_\_\_

4. What is the total acreage of grounds? ..... \_\_\_\_\_

5. What are the total annual receipts from admission? ..... \$ \_\_\_\_\_

6. What are the total annual receipts from rides? ..... \$ \_\_\_\_\_

7. Are inspection records maintained? ..... Yes\_\_\_ No\_\_\_

8. How often are the rides inspected? ..... \_\_\_\_\_

Who inspects rides? ..... \_\_\_\_\_

**Attach a list** of rides.

9. Have there been any accidents related to the operation of the rides within the last five years? ..... Yes\_\_\_ No\_\_\_

If "Yes," **Attach a schedule** describing each accident.

**c. Carnivals, Festivals, Fairs, Parades and Fireworks**

1. What are the total annual receipts from all special events?

In-building exhibits ..... \$ \_\_\_\_\_

Outside exhibits ..... \$ \_\_\_\_\_

Fairs ..... \$ \_\_\_\_\_



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##### Exhibit B – Sample Risk Management and Insurance Questionnaire

2. How many fireworks displays are sponsored annually? ..... \_\_\_\_\_
3. If any events are co-sponsored, is the co-sponsoring organization required to provide its own liability insurance? ..... Yes\_\_\_\_ No\_\_\_\_  
If “No”, **provide complete list** of events.

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4. **List** the special events to be held this year, including the type of activity and the co-sponsor, if any, involved with each. If fireworks are involved, specify whether licensed pyrotechnicians are employed.

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##### d. **Athletic and Recreation Events**

1. How many athletic or recreation events do you sponsor annually? .. \_\_\_\_\_ \*\*  
\*\* Total number of games.

**List** the types of sports and events that occur:

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##### e. **Parks and Playgrounds**

1. What is the total number of parks and playgrounds? ..... \_\_\_\_\_
2. What is the total acreage of the parks and playgrounds? ..... \_\_\_\_\_
3. What is the number of registrants for recreational programs? ..... \_\_\_\_\_

##### f. **Golf Courses**

1. What are the total annual receipts from all courses? ..... \_\_\_\_\_
2. What is the number of motor driven golf carts? ..... \_\_\_\_\_
3. Are golf balls retrieved from water?..... Yes\_\_\_\_ No\_\_\_\_  
If “Yes”, by whom? ..... \_\_\_\_\_
4. Do you contract for any service connected with the golf course operation? ..... Yes\_\_\_\_ No\_\_\_\_

##### g. **Swimming Pools**

1. Do you own such a facility, or lease it from a third party?..... Yes\_\_\_\_ No\_\_\_\_
2. Do you operate this facility through your own employees or volunteers? ..... Yes\_\_\_\_ No\_\_\_\_
3. If you own such a facility, but a third party operates it for you, is the unit contractually responsible for maintaining liability insurance? ..... Yes\_\_\_\_ No\_\_\_\_



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4. How many pools do you have?.....
5. What are the total annual receipts for all pools? ..... \$
6. Are certified lifeguards employed at all times when the pool is open to the public? ..... Yes\_\_\_ No\_\_\_
7. Are the pools enclosed with fences, and self-closing gates?..... Yes\_\_\_ No\_\_\_
8. Are the gates locked when the pool is not open? ..... Yes\_\_\_ No\_\_\_
9. Are employees trained for use of chlorine? ..... Yes\_\_\_ No\_\_\_

##### h. Beaches

1. How many beach areas do you have (both ocean and lake)? .....
2. What are the total annual receipts for all beaches combined? ..... \$
3. Do you contract for any service connected with the operation of any beach? ..... Yes\_\_\_ No\_\_\_  
If “Yes”, please describe.  
\_\_\_\_\_  
\_\_\_\_\_
4. Are there certified lifeguards on duty? ..... Yes\_\_\_ No\_\_\_
5. Are appropriate warning signs posted in prominent places throughout the areas? ..... Yes\_\_\_ No\_\_\_

##### i. Zoos and Wildlife Parks

1. Do you own such a facility, or lease it from a third party? ..... Yes\_\_\_ No\_\_\_
2. Do you operate this facility through your own employees or volunteers? ..... Yes\_\_\_ No\_\_\_
3. If you own such a facility but a third party operates it for you, is the unit contractually responsible for maintaining liability insurance? ..... Yes\_\_\_ No\_\_\_
4. Is there a petting zoo? ..... Yes\_\_\_ No\_\_\_  
If “Yes”, is it supervised? ..... Yes\_\_\_ No\_\_\_
5. What are the annual receipts? ..... \$

#### Section 9: Marine Operations

##### a. Wharves, Docks and Marinas

1. Do you own wharves, docks or marinas, or lease them from a third party?..... Yes\_\_\_ No\_\_\_
2. Do you operate such a facility through your own employees or volunteers?..... Yes\_\_\_ No\_\_\_
3. If you own such a facility, but a third party operates it for you, is the unit contractually responsible for maintaining liability insurance? ..... Yes\_\_\_ No\_\_\_
4. What are the total annual receipts for all wharves, docks and marinas combined? ..... \$



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5. What is the total square footage for all wharves, docks and marinas combined? .....
6. Do you move any boats? ..... Yes\_\_\_ No\_\_\_
7. Do you supply gasoline? ..... Yes\_\_\_ No\_\_\_
8. Do you repair wharves or docks? ..... Yes\_\_\_ No\_\_\_
9. Do you contract out such repair work? ..... Yes\_\_\_ No\_\_\_
10. Do you provide any convenience store facilities? ..... Yes\_\_\_ No\_\_\_

b. **Watercraft: Less Than 26 Feet**

1. What is the total number of inboard motorboats under 26 feet? .....
2. What is the total number of outboard motorboats under 26 feet? ...
3. Are watercraft used to transport employees? ..... Yes\_\_\_ No\_\_\_  
If "Yes," how many employees are in one craft at one time? .....
4. Do you operate any public pleasure craft? ..... Yes\_\_\_ No\_\_\_
5. Please list all navigated bodies of water, especially inter-coastal waterways.

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#### Section 10: **Transportation**

a. **Bus Terminals**

1. Do you own bus terminals, or lease bus terminals from a third party? ..... Yes\_\_\_ No\_\_\_
2. Do you operate bus terminals through your own employees or volunteers?..... Yes\_\_\_ No\_\_\_
3. If you own a bus terminal, but a third party operates it for you, is the unit contractually responsible for maintaining liability insurance? ..... Yes\_\_\_ No\_\_\_
4. How many bus terminals do you own or operate? .....
5. What is the total square footage of all terminals? .....
6. What is the number of buses you own? .....
7. What is the number of non-owned buses?.....

b. **Transit Authorities**

1. Do you own a transit authority, or lease it from a third party? ..... Yes\_\_\_ No\_\_\_
2. Do you operate a transit authority through your own employees or volunteers? ..... Yes\_\_\_ No\_\_\_
3. If you own a transit authority, but a third party operates it for you, is the unit contractually responsible for maintaining liability insurance? ..... Yes\_\_\_ No\_\_\_
4. What are the total annual passenger receipts? ..... \$ .....
5. What are the total annual revenue miles?.....
6. What is the radius of operation (miles)? .....



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7. Do buses operate in other states? ..... \_\_\_\_\_
8. What is the total passenger capacity?..... \_\_\_\_\_
9. How many buses operate daily?..... \_\_\_\_\_

#### Section 11: Utilities

##### a. Water or Sewer

1. Do you own or lease a water or sewer utility? ..... Yes\_\_\_\_ No\_\_\_\_
2. Do you operate a water or sewer utility with your own employees or volunteers? ..... Yes\_\_\_\_ No\_\_\_\_
3. If you own the water or sewer utility, but a third party operates it, is the unit contractually responsible for maintaining liability insurance ..... Yes\_\_\_\_ No\_\_\_\_
4. Please provide payroll information for the current year:

<u>Position</u>	<u>Numbers</u>	<u>Annual Turnover %</u>	<u>Estimated Payroll</u>
Officers	.....	..... %	\$ ..... .....
Supervisors	.....	..... %	\$ ..... .....
Maintenance	.....	..... %	\$ ..... .....
Clerical	.....	..... %	\$ ..... .....

##### b. Gas Utility

1. Do you own or lease a gas distribution system? ..... Yes\_\_\_\_ No\_\_\_\_
2. Do you operate this facility through your own employees or volunteers? ..... Yes\_\_\_\_ No\_\_\_\_
3. If you own this facility, but a third party operates it for you, is the unit contractually responsible for maintaining liability insurance? ..... Yes\_\_\_\_ No\_\_\_\_
4. Name and address of company and subsidiaries:  
.....  
.....  
.....

5. Indicate type of ownership and operation of utility:

\_\_\_\_\_ Municipally owned and operated  
\_\_\_\_\_ Utility district owned and operated  
\_\_\_\_\_ Municipally-operated utility district  
\_\_\_\_\_ Privately owned corporation  
\_\_\_\_\_ Other (Specify: \_\_\_\_\_)

6. How many years has the utility been in operation? ..... \_\_\_\_\_



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7. What is the territory that the gas utility serves? (List political subdivisions.)

**County, City or Other:**

**Population**


8. Please provide payroll information for the current year:

<u>Position</u>	<u>Numbers</u>	<u>Annual Turnover %</u>	<u>Estimated Payroll</u>
Officers		%	\$
Supervisors		%	\$
Maintenance		%	\$
Clerical		%	\$

**Total annual payroll** ..... \$ \_\_\_\_\_

c. **Electric Utility**

1. Do you own or lease an electric utility? ..... Yes \_\_\_\_ No \_\_\_\_
2. Do you operate this facility through your own employees or volunteers? ..... Yes \_\_\_\_ No \_\_\_\_
3. If you own this facility, but a third party operates it for you, is the unit contractually responsible for maintaining liability insurance? ..... Yes \_\_\_\_ No \_\_\_\_
4. Name and address of company and subsidiaries:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. Indicate type of ownership and operation of utility:  
\_\_\_\_\_ Municipally owned and operated  
\_\_\_\_\_ Utility district owned and operated  
\_\_\_\_\_ Municipally-operated utility district  
\_\_\_\_\_ Privately owned corporation  
\_\_\_\_\_ Other (Specify: \_\_\_\_\_)
6. How many years has the electric utility been in operation? ..... \_\_\_\_\_



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7. What is the territory that the electric utility serves? (List political subdivisions.)

County, City or Other:

Population


8. Please provide payroll information for the current year:

<u>Position</u>	<u>Numbers</u>	<u>Annual Turnover %</u>	<u>Estimated Payroll</u>
Officers		%	\$
Supervisors		%	\$
Maintenance		%	\$
Clerical		%	\$

	<u>Gross Revenue</u>	<u>Total Annual Payroll</u>
Current Year (Estimated)	\$	\$
Prior Year (Actual)	\$	\$
Two Years Prior (Actual)	\$	\$

9. Customers - Give approximate number by classification:

Domestic	_____	Mercantile	_____
Industrial	_____	Municipal	_____

10. List any customer accounting for more than 5% of average output.


**Capacity**

11. Total generating capacity:

**Peak Demand:**

Maximum peak last year.....

Estimated peak this year .....

12. Capacity of largest generating unit .....

- 13 How many days of operation at 80% or more capacity:

Last Year .....

Estimated current year .....



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**Section 12: Care, Custody and Control**

The following questions deal with exposures related to property owned by a third party. **Attach a list** of all non-owned facilities, leased, rented or borrowed from a third party to be used by the unit. (**Attach separate schedules as necessary.**)

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**Real Property (Buildings)**

For each building and facility, **attach a schedule** providing the following information:

- a) Address;
- b) Use of building;
- c) Square Footage;
- d) Annual Cost of Lease; and
- e) Estimated value of building or portion leased thereof.

**Personal Property (Equipment and Contents)**

1. Does the unit lease or rent any mobile equipment? ..... Yes\_\_\_ No\_\_\_
2. Does the unit lease or rent any computer equipment or electronic equipment?..... Yes\_\_\_ No\_\_\_
3. Does the unit have in its custody any equipment or goods owned by outside firms on loan to the unit or being used for demonstration purposes? ..... Yes\_\_\_ No\_\_\_  
If "Yes," for a, b or c above, **attach a list** of applicable property including its description and value.
4. Does the unit have an equipment floater policy which covers leased, rented or borrowed equipment? ..... Yes\_\_\_ No\_\_\_  
If "Yes," **attach schedule from policy.**

**Contractual Responsibility**

1. For any real or personal property indicated above, is the unit contractually responsible for insurance coverage? ..... Yes\_\_\_ No\_\_\_  
If "Yes," please specify. (Attach separate schedules, as necessary)

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**Vehicle Impound Lots**

1. Does the unit have or operate any vehicle impound lots? ..... Yes\_\_\_ No\_\_\_
2. Is lot fenced? ..... Yes\_\_\_ No\_\_\_
3. What is the average number of vehicles in impound lots at any one time? .....



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4. If the unit owns the impound lot, but a third party operates it, is the unit contractually responsible for maintaining liability insurance? ..... Yes \_\_\_\_ No \_\_\_\_

#### Section 13: Automobiles

1. How many employees drive your vehicles on official business? ..... \_\_\_\_\_
2. How many employees drive their own vehicles on official business? \_\_\_\_\_
3. Do you require proof of their insurance?..... Yes \_\_\_\_ No \_\_\_\_
4. What is your policy concerning allowable driving records, probation, remedial procedures, etc. (Attach separate pages, as necessary.)  
\_\_\_\_\_  
\_\_\_\_\_

5. Do you have a regular defensive driving course or training program for your employees who drive on official business? ..... Yes \_\_\_\_ No \_\_\_\_

#### 6. **List of Vehicles and Mobile Equipment:**

Please follow the following descriptive guidelines in determining how to categorize your vehicles and equipment:

- Private Passenger: Two and four door vehicles used to primarily transport people. Include jeeps and vans, as well as police cars and ambulances.
- Pickups: Include vehicles with weights up to and including one ton.
- Large Trucks: Vehicles over one ton. Electrical, Sanitation and Fire trucks are generally in this category.
- Public Transport: Mini-vans and buses (except school buses transporting children) that are used to transport groups of people.
- Mobile Equipment: Distinguished from large trucks by the fact that mobile equipment is not designed to be used on roads. Includes mowers, loaders, backhoes, tractors, graders and the like.
- Values: For all vehicles and mobile equipment, use actual cash value. Actual cash value is the "blue book" value--the cost new, minus depreciation.

#### Section 14: Aviation

##### Aircraft

1. Do you own, operate or lease any aircraft? ..... Yes \_\_\_\_ No \_\_\_\_
  2. Do any of your employees pilot their own aircraft on unit business? ..... Yes \_\_\_\_ No \_\_\_\_
  3. Do any of your employees pilot any aircraft on unit business? ..... Yes \_\_\_\_ No \_\_\_\_
- If you answer yes to any question above, you will need to complete a separate exposure summary.





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<u>Position or Classification</u>	<u>Number</u>	<u>Annual Payroll</u>
Jailers or matrons, <u>part-time</u> /auxiliary/reserve officers with <b>arrest authority</b> (includes auxiliary and reserve officers)		\$
Part-time, auxiliary and reserve officers without arrest authority, school crossing guards, parking control officers (includes part-time bailiffs)		\$
Non-officers – clerical, communication and dispatchers, cooks, etc.		\$
Police Dogs		

**Policies and Procedures**

1. Does unit allow off-duty employment for law enforcement employees? ..... Yes \_\_\_\_ No \_\_\_\_  
If "Yes," please answer the following:
  - Is off-duty employment allowed where alcoholic beverages are sold? ..... Yes \_\_\_\_ No \_\_\_\_
  - Do you use written contracts with off-duty employers?..... Yes \_\_\_\_ No \_\_\_\_
  - Do you require "hold-harmless" clauses from off-duty employers? ..... Yes \_\_\_\_ No \_\_\_\_
2. Are officers required to qualify with off-duty weapon? ..... Yes \_\_\_\_ No \_\_\_\_
3. Are officers required to qualify with exact weapon used on-duty?.... Yes \_\_\_\_ No \_\_\_\_  
If "Yes," please describe (how frequently, standards, exemptions, etc.)  
\_\_\_\_\_  
\_\_\_\_\_
4. Does unit have a written departmental procedures manual? ..... Yes \_\_\_\_ No \_\_\_\_  
If "Yes," please answer the following:
  - What is the date of the last revision? ..... \_\_\_\_\_
  - Is the manual distributed to all personnel? ..... Yes \_\_\_\_ No \_\_\_\_
  - Is the manual reviewed with them periodically? ..... Yes \_\_\_\_ No \_\_\_\_
  - Are individuals required to put in writing the fact that they have reviewed it? ..... Yes \_\_\_\_ No \_\_\_\_
5. Does the unit have written policies governing:
  - Disciplinary procedures ..... Yes \_\_\_\_ No \_\_\_\_
  - High speed and tactical pursuit ..... Yes \_\_\_\_ No \_\_\_\_
  - Inmate access to legal services ..... Yes \_\_\_\_ No \_\_\_\_
  - Inmate access to medical services ..... Yes \_\_\_\_ No \_\_\_\_
  - Inmate access to reading materials..... Yes \_\_\_\_ No \_\_\_\_
  - Inmate discipline ..... Yes \_\_\_\_ No \_\_\_\_



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##### Exhibit B – Sample Risk Management and Insurance Questionnaire

- Personnel hiring and firing ..... Yes\_\_\_ No\_\_\_
- Police dog use..... Yes\_\_\_ No\_\_\_
- Search procedures..... Yes\_\_\_ No\_\_\_
- Strip searches ..... Yes\_\_\_ No\_\_\_
- Weapon use and use of deadly force ..... Yes\_\_\_ No\_\_\_
- 6. Does unit have mandatory training for tactical pursuit driving..... Yes\_\_\_ No\_\_\_  
If "Yes," how often must officers be recertified? .....
- 7. Does department have a general in-service training program? ..... Yes\_\_\_ No\_\_\_  
If "Yes":
  - Are films used?..... Yes\_\_\_ No\_\_\_
  - Is role playing used? ..... Yes\_\_\_ No\_\_\_
- 8. Please list other special training programs the unit has in place for department.  
\_\_\_\_\_  
\_\_\_\_\_

##### Section 16 Public Officials Errors and Omissions

1. Does the unit award exclusive contracts for:
  - Cable television..... Yes\_\_\_ No\_\_\_
  - Food services ..... Yes\_\_\_ No\_\_\_
  - Sanitation and garbage collection ..... Yes\_\_\_ No\_\_\_
  - Utilities ..... Yes\_\_\_ No\_\_\_
  - Others (include list) ..... Yes\_\_\_ No\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
6. Are these contracts awarded by a competitive bidding process?. Yes\_\_\_ No\_\_\_
2. **Attach a list** the various boards and commissions that are a part of your unit. Include the number of members of each board or commission.
3. Number of members comprising council, commission or governing Board.....
4. Number of licensed or certified positions:  
\_\_\_\_Attorneys                      \_\_\_\_Architects  
\_\_\_\_Accountants                      \_\_\_\_Judges  
\_\_\_\_Other (Specify: \_\_\_\_\_)
5. Are ordinances and resolutions reviewed and approved in writing by the unit's attorney before consideration by Council? ..... Yes\_\_\_ No\_\_\_
6. Are franchises and contracts reviewed and approved in writing by the unit's attorney before consideration by Council?..... Yes\_\_\_ No\_\_\_
7. Does legal counsel advise, review and approve actions taken by the boards listed for b. above which are not merely advisory? ..... Yes\_\_\_ No\_\_\_
8. Total amount of outstanding bonds: ..... \$\_\_\_\_\_



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9. Latest Bond Ratings:  
Rating Agency: \_\_\_\_\_ Rating \_\_\_\_\_  
Rating Agency: \_\_\_\_\_ Rating \_\_\_\_\_  
Rating Agency: \_\_\_\_\_ Rating \_\_\_\_\_
10. Previous Bond Rating (If changed within last three years):  
Rating Agency: \_\_\_\_\_ Rating \_\_\_\_\_  
Rating Agency: \_\_\_\_\_ Rating \_\_\_\_\_  
Rating Agency: \_\_\_\_\_ Rating \_\_\_\_\_
11. Has the unit been in default on principal or interest of any bond?... Yes \_\_\_\_ No \_\_\_\_
12. Does unit have written policy procedures including such items as personnel, competitive bidding, etc. .... Yes \_\_\_\_ No \_\_\_\_
13. Any person, former employee or job applicant made claim alleging unfair or improper treatment regarding employee hiring, remuneration, advancement, or termination of employment? ..... Yes \_\_\_\_ No \_\_\_\_
14. Dispute involving integration, segregation, discrimination, or violation of civil rights? ..... Yes \_\_\_\_ No \_\_\_\_  
If "Yes," **attach details** on separate sheet including the date, the nature of the situation and its present status.

**Section 17 Workers' Compensation – Claims**

1. Explain your claim reporting guidelines to the Third Party Administrator ("TPA") and how claims are reported (i.e. timeframe, reporting mechanism) if handled in house please explain that process.
  - You would discuss how employees are provided with instructions through class training, employee web sites, etc. about reporting work-related accidents and occupational diseases.
  - Describe how claim forms are processed in the unit.
  - Discuss role of employee nurse.
  - How bloodborne pathogens are handled.
  - Discuss how claims requiring medical treatment are handled.
2. Describe your staffing for internal claims administration. What are the related responsibilities and duties?
3. Explain what Paid Provider Organization ("PPO") or bill reduction services you utilize. Request information on how a pharmacy program will be managed for Workers Compensation claimants, networks, discounts off of brand, plans for generic substitution, etc.
4. Explain how initial medical attention and direction is given to the injured worker.
5. Describe your frequency of communication with your TPA and what issues are covered.
6. Describe your return to work program from a departmental and organizational standpoint.



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**Exhibit B – Sample Risk Management and Insurance Questionnaire**

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**End of Section 85: Insurance and Risk Management**