

Construction Contract Process

Lines of Business: General Liability, Professional Liability, Property, Workers Compensation

Risk Control Strategy/Key Issues: Develop contract protocols to reduce potential non-recoverable losses when using outside service providers

Suggested Program Elements:

1. Policy statement:

- Assignment of responsibilities and accountabilities
- Management position against policy deviation

2. Contracts and Purchase Orders:

- Establish review process for all contracts and purchase orders
 - Identify team for reviews
 - Set parameters of review process
- Establish protocol for local counsel review and in-put

3. Certificates of Insurance:

- Determine insurance and minimum liability limits to be required of providers
- Incorporate requirements into Bid Specifications
- Establish timelines for receipt of certificates prior to activity
- Require your entity and its directors be named as an additional insured
(Exceptions for professional liability/workers compensation coverage)
- For professional liability coverage, require endorsements to policies for contractual liability coverage and defense and indemnification of your entity and its directors (elected and appointed officials) by the contracting party
- Police Certificates of Insurance requiring Limits of Liability as required by specification
 - Clear description of coverage and extension endorsements
 - Statement that the policy will stay in-force and that no material change will occur without prior notification
 - Statement that the term of the policy covers the term of the contract
- For a self-insured contractor and those with high retention
 - A recently audited financial statement

4. Hold Harmless Agreements of Indemnity:

- Consult with legal council
 - ✓ Determine if hold harmless agreements are allowed or prohibited in your state jurisdiction
 - ✓ If allowed could they be considered to be unenforceable as against public policy.

- Require hold harmless agreements to have specific language that requires any contractor (and their employees, agents, and subcontractors) to defend and indemnify your entity and its directors (elected and appointed officials) for activities of the contractor (and their employees, agents and subcontractors) associated with performance of the contracted activities.

Program Activities Calendar:

- Review of all contracts before signing
- Seek final approval from local counsel
- Annual review of program and in-force contracts for compliance

Web Site Links:

- Public Risk Management Association
<http://www.primacentral.org>
- Arizona Interscholastic Association
<http://www.aiaonline.org/>

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