

Component #4: General Liability

General Liability Form

Risk Management Services administers a self-funded Liability Insurance Program that protects state government and its employees from claims brought against them while performing official duties.

This program provides financial protection to state entities and employees for third party property damage and/or bodily injury claims. The Liability Program offers coverage to state agencies for third party liability exposures including general liability, automobile liability, and professional liability. It also provides timely and effective claims management and resolution. Liability functions include coverage determination, investigations, liability assessment, case assessment and claim evaluation, settlement negotiation, litigation management and claim resolution for: Tort (for state entities under the Georgia Tort Claims Act), General Liability (for state employees), Automobile Liability, Professional Liability and Employment Practices Liability.

Here is a link to the forms for General Liability claims:

General Liability Accident Report Form:

http://doas.ga.gov/assets/Risk%20Management/Liability%20Insurance%20Publications%20and%20Forms/GL_Incident_%20Report_%20Form.doc

Contracts and Agreements

Introduction

The State of Georgia agencies often enter into contracts that expose it to third-party claims for bodily injury, personal injury or property damage. If work performed on the State of Georgia's behalf by a contractor results in damage to a third party, the State could be held liable even if the contractor is solely negligent.

An important part of the Comprehensive Loss Control Program is loss avoidance and the transfer of risk through the terms and conditions of contract agreements. This section explains four ways we can deal with contractual risk. The topics include:

1. Screening contractors
2. Safety requirements for bid specifications and contracts
3. Contractual risk transfer through indemnification/hold harmless clauses
4. Insurance requirements

Screening Contractors

There simply is no substitute for dealing with a safety-conscious contractor who prevents or minimizes damages and injuries through safe work practices. All contractors will be screened carefully before entering into any contract. Screening is probably the simplest and yet most effective method of controlling contractual risk. The Screening steps that should be taken include:

1. Dealing only with reputable firms

In some cases, the State of Georgia may request that a clause be inserted into the bid proposal mandating contractors explain their safety program and safety problems or violations over the past five years. Also, we may need to conduct a review records from other projects performed by that contractor.

2. Check references

Bid proposals may require the contractor to disclose the name, address and telephone number of at least three people who have hired the contractor to do a similar job in the past five years. The bid proposal will also provide that State of Georgia may contact each reference for additional information.

3. Monitor compliance with contract terms

Each Agency will determine if contractor's activities are consistent with each part of the contract. However, the agency will not monitor contracts by retaining control over the means, method and manner of producing the result because that blurs the line between whether the contractor is actually an independent contractor, for which the State of Georgia may have very limited liability, or an employee, for which the State of Georgia may have much greater liability.

Safety Requirements for Bid Specifications and Contracts

A key step in a major construction project is preparing the bid specifications outlining the scope and requirements of the project. Safety requirements are a vital part of the bid specifications.

The Contractor shall submit to each agency a copy of the written safety program to be used as guidelines and direction for the Contractor's and subcontractors' activities. This program must meet all federal, state and local laws, regulations and other legal requirements and include the following minimum provisions:

1. A worksite safety policy statement
2. Assigned responsibilities among management, supervisors and employees
3. A system for periodic self-inspections, including inspections of job sites, materials, work performance and equipment
4. A thorough accident and injury reporting and investigation process
5. A safety orientation and training program

Indemnification/Hold Harmless Agreements

Contractual risk is generally transferred with an indemnification/hold harmless agreement. The hold harmless and indemnification agreement should be written to take effect immediately upon execution of the contract. It should contain provisions that the State of Georgia be held harmless, defended and indemnified, and should describe the extent of such indemnification.

Additional Insured

Some of the recommended insurance provisions require that the State of Georgia be included as an "additional insured" under the policies of the contractor. The contractor's insurance policy must be specifically endorsed to add State of Georgia as an "additional insured." Merely obtaining a certificate of insurance to this effect does not guarantee that the endorsement has been issued, so agency will obtain a copy of the actual policy endorsement whenever possible.

Insurance Requirements for Contractors

All contractors are required to maintain reasonable insurance coverage and provide written proof of this protection. This insurance becomes especially important when the contractor has agreed to defend and indemnify the State of Georgia.

The insurance required in the various contracts will vary and will depend on the nature of the work being performed and the resulting exposures. Different types of contracts may include:

1. Construction and Service Contracts

Includes projects such as most construction and remodeling, janitorial services, on-site equipment maintenance agreements, plumbing, painting and electrical work.

2. Tenants, Facility Use, Concessionaires and Vendors

Includes tenants, food and beverage concessionaires, space rental to lessees, facility use, exhibitors (i.e. exhibitors within student centers) and vendors who supply equipment or other products

3. Professional Services

Includes professional services such as architects, engineers, consultants, attorneys or accountants.

Insurance Guidelines

Before commencing work, the contractor shall obtain at its own cost and for the duration of the contract, the following insurance:

1. Commercial General Liability: At least a \$1,000,000 single limit and \$3,000,000 combined per occurrence for bodily injury, personal injury and property damage should be obtained. Coverage shall include, Premises and Operations, Independent Contractors, Products and Completed Operations, Contractual Liability and Broad Form Property Damage coverage.
2. Automobile Liability: Coverage extends to owned, hired and non-owned automobiles.
3. Professional Liability

4. Workers' Compensation and Employers Liability:
Statutory coverage in compliance with the
Compensation laws of the State of Georgia.

Verification of Coverage

The Contractor is required to provide the agency with all the appropriate written proof of insurance coverage and additional insured documentation. "Written proof" consists of certificates of insurance and endorsements to policies.

A Certificate of Insurance must provide clear evidence that the contractor's insurance policies contain the minimum limits of coverage, terms and conditions. Additionally, the certificate must include the following:

- Certificate shall clearly identify the agency as an **Additional Insured**.
- Certificate shall clearly indicate project name, project number or some easily identifiable reference to the relationship to agency or the State of Georgia).
- Certificate shall indicate a minimum thirty (30) day endeavor to notify requirement in the event of cancellation or non-renewal of coverage.

The certificate is to be received and approved by the agency before work commences.

Cyber-Insurance

Click on the following [link](#) for detailed information about the [NEW CYBER INSURANCE COVERAGE](#) policy and claims reporting processes.