

BUSINESS SERVICES

5735 47th Avenue • Sacramento, CA 95824

Lisa Allen, Interim Superintendent

Janea Marking, Chief Business and Operations Officer

2023-24 NO. BS-31

BOARD OF EDUCATION **DATE:** March 6, 2024

TO: All Principals, Administrators, Admin Assistants, and Office Managers

FROM: Janea Marking, Chief Business and Operations Officer

RE: District Standards for Vendor Insurance Minimums

The purpose of this bulletin is to provide information on district insurance requirements. Board Policy 3530 requires a risk management program that protects district resources and promotes safety of students, staff, and the public. Insurance is required for all

x Implement the district Risk Management

During a recent contract audit process, it was found that the district does not consistently meet insurance requirements consistently. In an effort to reduce liability, we are working toward ensuring all vendors

- All vendors must provide a Certificate of Insurance. The requirements depend on the type of services. The minimums and higher risk activities that require a certificate are determined by the district; for more details

- All vendors are required to have background checks/fingerprints prior to services.
- A Data Share Agreement is required if the use of services or products requires

NOTE: This document is to be used as a general guide only, as the specific risk factors for each project, activity and event must be evaluated to determine the appropriate limits.





Insurance and Indemnity in Contracts: A Guide to Risk Transfer Fundamentals

REVISED February 2024

Contents

Purpose.....	4.....
Section1 ContractuaRiskTransfer:OverviewandMiscellaneousDefinitions.....	5.....
ContractuaRiskTransfer.....	5.....
Indemnity.....	5.....
Insurance.....	5.....
Certificateof Insurance.....	5.....
AdditionalInsuredEndorsement.....	5.....
EndorsemenForms.....	6.....
Limitsof Insurance.....	6.....
Limitationsof Liabilityclauses.....	6.....
“Occurrence”vs. “ClaimsMade” policyforms.....	6.....
PrimaryInsurancdanguage.....	6.....
Section2.....	7.....
TheRiskMatrix.....	7.....
Table1: DeterminingRiskLevels.....	7.....
Table2: DeterminingLimits.....	8.....
Section3.....	9.....
InsuranceLanguageTemplatesfor RiskCategories1-3.....	9.....
Category1 “Low Risk”.....	9.....
InsuranceRequirements.....	9.....
Category2 “IntermediateRisk”.....	10.....
InsuranceRequirements.....	10.....
Category3 “High Risk”.....	12.....
InsuranceRequirements.....	12.....
Section4.....	14.....
AncillaryCoverageRequirements.....	14.....
AncillaryInsuranceRequirementsSampleLanguage.....	15.....
Section5.....	17.....
IndemnityLanguageSamples.....	17.....
IndemnityLanguage- Standard.....	17.....
IndemnityLanguage- ProfessionalServices.....	17.....
Indemnityfor ProfessionalLiability.....	17.....
Indemnityfor OtherThanProfessionalLiability.....	17.....

IndemnityLanguage- ConstructionContracts.....	18....
IndemnityLanguage- FacilityUse.....	18....
Section6.....	19.....
CoreInsuranceCoverageDefined.....	19.....
CommerciaGeneralLiability.....	19.....
Auto Liability.....	19.....
ProfessionalLiability(Errors& Omissions).....	19....
Workers'Compensation.....	19.....
ContactInformation.....	21.....

Purpose

This document provides indemnity language and insurance requirements samples for our members to use when drawing up contracts and agreements, while also providing definitions and descriptions of general risk transfer fundamentals. It is meant to be used as a guide and to encourage SIA members to assess a project's level of risk when determining insurance and indemnity requirements as opposed to the project's cost and/or size of the project.

These 4e8scun45.2 (n45.2)2.2 (e)-3J 0 T-3 (saan)2.3i(u)6..4 sf9TJ -0fon45.3 (l(u)6..4 wi)-3.2 gzerpk-0.7 kasfe

Section 1
Contractual Risk Transfer: Overview and Miscellaneous Definitions

IN SHORTAs an “Additional Insured”, the District is entitled to coverage from the other party’s General Liability insurance policy. The Additional Insured Endorsement is very important to secure and confirm that it is in place for all projects where this is a requirement.

Table 2:

Section 3 Insurance Language Templates for Risk Categories 1-3

Category 1 “Low Risk”

Insurance Requirements

I. Commercial General Liability

- a. Vendor shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office (ISO) form CG 00 01, in an amount not less than two million dollars (\$2,000,000) per occurrence for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability. A general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. Vendor's general liability policies shall be primary and shall seek contribution from the District's coverage and be endorsed with a form at least as broad as ISO form CG 20 10 or CG 20 26 to provide that District and its officers, officials, employees, and volunteers shall be additional insureds under such policy. For remodeling and new construction projects, an endorsement providing completed operations coverage for the additional insured, at least as broad as ISO CG 20 37, is also required.

II. Business Automobile Liability

- a. Vendor shall provide auto liability coverage for owned, ~~owned~~, and hired autos using ISO Business Auto Coverage form CA0001 (or equivalent) with a limit of no less than two million dollars (\$2,000,000) per accident.

III. Workers' Compensation and Employers Liability

- a. Vendor shall maintain Workers' Compensation Insurance with Statutory Limits, and Employer's Liability Insurance with limit no less than \$1,000,000 per accident for bodily injury or disease. Vendor shall submit to District, along with the certificate of insurance, a waiver of subrogation endorsement in favor of District.

IV. All Coverages

- a. Each insurance policy required by the agreement shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice has been given to the District, except that ten (10)

days' prior written notice shall apply in the event of cancellation for nonpayment of premium.

- b. All self-insured retentions and deductibles above \$100,000 must be declared to and approved by the District.
- c. Evidence of Insurance- Prior to commencement of work, the Vendor shall furnish the District with certificates, additional insured endorsements, and waivers of subrogation evidencing compliance with the insurance requirements above. The Vendor must agree to provide complete, certified copies of all required insurance policies if requested by the District.
- d. Acceptability of Insurers- Insurance shall be placed with insurers admitted in the State of California and with an AM Best rating of A VII or higher.
- e. Vendor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein. However, insurance requirements may be determined on a "per subcontractor" basis, considering the particular work to be done by the subcontractor.

Category 2 "Intermediate Risk"

Insurance Requirements

- I. Commercial General Liability
 - a. Contractor shall maintain commercial general liability insurance with coverage as broad as Insurance Services Office (ISO) form CG 00 01, in an amount not less than three million dollars (\$3,000,000) per occurrence for bodily injury, personal injury, and property damage, including without limitation, blank contract liability. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. Contractor's general liability policies shall be primary and shall not seek contribution from the District's coverage and be endorsed with a format at least as broad as ISO form CG 20 10 or CG 20 26 to provide that District and its officers, officials, employees, and volunteers shall be additional insureds under such policies. For remodeling and new construction projects, an endorsement providing completed operations coverage for the additional insured, at least as broad as ISO CG 20 37, is also required.
 - b. Any failure to comply with reporting provisions of the policies by Contractor shall not affect coverage provided to the District.

- c. Coverage shall contain a waiver of subrogation in favor of the District.
- II. Business Automobile Liability
- a. Contractor shall provide auto liability coverage for owned, non-owned, and hired autos using ISO Business Auto Coverage form CA 00 01 (or equivalent) with a limit of no less than three million dollars (\$3,000,000) per accident.
- III. Workers' Compensation and Employers Liability
- a. Contractor shall maintain Workers' Compensation Insurance with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. Contractor shall submit to District, along with the certificate of insurance, a waiver of subrogation endorsement in favor of District.
- IV. All Coverages
- a. Each insurance policy required by the agreement shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice has been given to the District, except that ten (10) days' prior written notice shall apply in the event of cancellation for nonpayment of premium.
 - b. All self-insured retentions and deductibles above \$100,000 must be declared to and approved by the District.
 - c. Evidence of Insurance - Prior to commencement of work, the Contractor shall furnish the District with certificates, additional insured endorsements, and waivers of subrogation.

Section 4
Ancillary Coverage Requirements

Contract Activity Involving:	Sexual Abuse Molestation (SAM) \$3M-\$5M	Cyber Liability \$1M-\$2M	Professional Liability \$2M	Pollution Liability
------------------------------	---	---------------------------------	-----------------------------------	------------------------

Ancillary Insurance Requirements

III. Professional Liability Insurance

- a. Contractor shall maintain professional liability insurance that insures against professional errors and omissions that may be made in performing the Services to be rendered in connection with this Agreement, in the minimum amount of two million dollars (\$2,000,000) per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this agreement, and Contractor agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this agreement.

IV. Builders Risk Insurance

- a. Contractor shall obtain and maintain Builders Risk/Course of Construction insurance. Policy shall be provided for replacement value on an ~~all-risk~~ basis, including

ear-0.6 (f)5wrll(u)-0.7 ((g)2a0.5 (e)-6 (t)--6 (t)--6 l)10.9 (E)0risl9196 0 Td -0.6 (f6 (a)-36 (n)2.1
P v pnf Codingce(u)-0.c [(P9 1.513(p)26 (u)-0.7 04 Tw 0.-1.9: 0 Td [(e)-31 0 T

Section 5 Indemnity Language Samples

(Please note that these are examples only. Indemnity language can and should be customized to fit the specific risks and commitments of a project. The following examples represent common scenarios and language that could fit those scenarios.)

Indemnity Language- Standard

Vendor shall indemnify, defend, and hold harmless the District, its officers, employees, agents and volunteers, from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable legal counsels' fees and costs of litigation, arising out of the Vendor

Indemnity Language- Construction Contracts

(Note: Indemnity language in construction contracts is prohibited by California Civil Code 2782 to require the contractor to indemnify for the project owner's active negligence, thus "active negligence" must be listed as an exception as shown below. If this civil code is violated, the entire indemnity agreement may be deemed null and void. Please contact Joe Costamagna with any questions.)

Contractor shall indemnify, defend, and hold harmless the District, its officers, employees, agents and volunteers, from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable legal counsel fees and costs of litigation, arising out of the Contractor's performance of its obligations under this agreement or out of the operations conducted by Contractor, except for such loss or damage arising from the active negligence, ~~sole~~ negligence or willful misconduct of the District. In the event the District is made a party to any action, lawsuit, or other adversarial proceeding arising from Contractor's performance of this agreement, the Contractor shall provide a defense ~~to~~ to.emo(t)-6 (h)-0e(li (54 (at)-3 (i)10.6 (o)-6.6 (n)2.2 (,))TJ 0 Tc 0 Tw 3.826p0 Td ()T-6-9.6 (r)-2.8

Section 6 Core Insurance Coverages Defined

Commercial General Liability

- x Cover the policyholder's liability for:
 - o bodily injury
 - o personal injury
 - o property damage
- x Should be a requirement in virtually all District contracts and agreements.
- x The District should also require it be named as an "Additional Insured" on the General Liability policies of its contractors, vendors and consultants.
- x Standard minimum limits are \$2M per occurrence/\$4M aggregate. Limits should be increased (or decreased) based on level of risk of project.

Auto Liability

- x Cover the policyholder's liability for bodily injury and property damage to other parties due to the operation of a vehicle.
- x General Liability EXCLUDES Auto Liability claims.
- x Auto Liability is a significant exposure and should be required in limits equal to that of General Liability, in most cases.

Professional Liability (Errors & Omissions)

- x Cover the policyholder's liability for "financial loss" claims that are not typically covered by General Liability.
- x Should be required for any consultant contracts, design/architectural work, software implementations and legal work that may result in financial loss to the District. Think of it as "Bad Advice" insurance.
- x Beware of and reject "Limitations of Liability" contract language based on the cost of the project (common in Professional Service Agreements).
- x The District does NOT ask for an Additional Insured endorsement for this coverage.
- x Standard minimum limits required are \$2M per claim, but \$1M can be acceptable.

Workers' Compensation

- x Cover the policyholder's statutory obligation to provide medical benefits and disability income for all employees.

x Waiver of Subrogation should also be required whenever another party is liable to the insured.

Contact Information

Keyshun Marshall
Director, Risk Management
RiskM@scusd.edu
(916)643-9421

Please reach out anytime for clarifications, questions, content recommendations for this guide, or to discuss the risk factors of your next project. Thank you.