

Board of County Commissioners
Escambia County, Florida

Title: RISK MANAGEMENT POLICY AND PROCEDURES
PROPERTY/LIABILITY/WORKER'S
COMPENSATION RISKS, INSURANCE/SELF-
INSURANCE AND CLAIMS

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PURPOSE: To establish overall risk management policy and procedures, with emphasis on insuring and self-insuring County property, liability, and workers' compensation risks and processing claims against insurance policies and the internal service fund.

RISK MANAGEMENT POLICY AND PROCEDURE

Escambia County recognizes the need to protect its assets and to preserve operational continuity from risks and hazards that may arise from business activities or from other activities or events that may affect the County.

The County is committed to providing a safe and healthy environment to protect employees and other members of the public to whom the County has such a responsibility.

A RISK MANAGEMENT

1. Efficient risk management is considered essential to the successful overall management of the County.
2. The goal of risk management is the efficient minimization of potential risk to property, interruption of governmental services, and the safety of employees and the general public.
3. Catastrophic risks of potential loss are to be given the County's fullest attention. All reasonably practical techniques to avoid, control or finance such catastrophic risks shall be given due consideration.
4. An operational contingency plan shall be formulated. The plan shall consider potential property loss to the County that could significantly reduce the County's income and/or require significant additional expense to continue operations as nearly normal as possible. Preplanning of possible backup systems to minimize loss is considered essential to the plan.

B. AUTHORITY AND RESPONSIBILITY

1. The Escambia County Board of County Commissioners and the Constitutional Officers have ultimate authority and responsibility for risk management within the County. With exceptions to be determined by individual needs of the Constitutional Officers, the Board assumes responsibility for the County's insurance and self-insurance programs.
2. Staff responsibility for providing recommendations to the County to facilitate major risk management decisions is granted to the Risk Manager.
3. The County's Risk Manager is charged with day to day responsibility for ongoing administration of the risk management program and development of the County's loss control/safety policy and training.
4. Risk Management is charged with day to day responsibility for basic administration, such as coordination with the County's insurance agents and third party administrators and others who affect the risk management/insurance and self-insurance program and insurance policy maintenance.
5. Risk Management is charged with adjusting self-insurance liability and workers' compensation claims to the extent not contracted to third party administrators and reporting claims to insurers where coverage is purchased, accident investigations and related responsibilities.

6. The County's Purchasing Division and Risk Management Division are charged with review of risk management/insurance terms in agreements, contracts, and leases and shall coordinate with the County's Legal Department in periodic review of such requirements.
7. All County employees are expected to act responsibly in the conduct of their duties and shall be required to participate in the County's risk management and safety programs to the extent required by the County and its designees.
8. Recognition shall be given to federal, state, and local laws in formulating the risk management program and in all subsequent changes.

C. **RISK MANAGEMENT TECHNIQUES**

The County shall employ the following risk management techniques.

1. **Risk Identification and Analysis**

The County shall continuously seek to identify and analyze possibilities of loss with potentially significant financial or personal impact.

2. **Risk Avoidance**

Where future undertakings of the County shall be accompanied by risks of such a hazardous nature that control or financing of potential risks of financial loss is impossible or impractical, then the County shall consider avoiding such undertakings.

3. **Risk Control**

- a. Where possible, and within reasonable cost, the County shall seek to prevent risks of loss and act to limit or reduce the potential extent of any losses that cannot be totally prevented.
- b. Efforts at risk control shall be continuous, so long as substantial risks persist.
- c. Insurers of major risks shall be asked to what extent their premium charges contemplate provision of risk control services and such services shall be required when judged to be in the best interests of the County.

4. **Risk Finance**

Upon evaluation of its risks of financial loss, the County shall provide for appropriate financing measures. Depending on the nature of the individual risks, the County shall decide whether to retain risks of loss on an uninsured basis, transfer risk of loss to an insurer or transfer risks of loss to another party (such as through a hold-harmless agreement with an indemnification provision).

a. **Retention of Risk Loss**

- (1) The County shall consider being uninsured or shall consider acceptance of insurance deductibles, exclusions or restrictions when:

- Potential amounts of loss are small; there would be no significant effect on the budget
- Insurance premium for coverage is unreasonably expensive
- Risk of loss is so remote that insurance would not ordinarily be purchased
- Budgetary considerations do not permit purchase of all insurance that is needed

- (2) In the last condition, priorities shall be set as to which types and amounts of insurance are critical, which are important, and which are desirable but can be foregone.

b. Insurance Purchase

The County shall consider purchase of insurance when:

- Potential amounts of loss are too large to be retained without budgetary problems
- Required by contract or law

c. Transfer of Risk to Others

- (1) The County shall consider transferring risks of loss to others (by hold harmless agreements and/or contractual requirement that insurance be provided by others on the County's behalf) when:

- The transfer will not directly or indirectly increase the County's costs above the amount of such costs the County would have incurred had it retained or insured the risks of loss.

- The other party can prove that it can successfully finance the amounts of loss transferred, either by providing adequate financial position if insurance is not required or by purchase of insurance (preferable).

- (2) Insurance provided by others on behalf of the County must be rated as a Secure Best Rating with a Financial Size Category VII according to latest edition of the A.M. Best Guide. The County's standard limits are \$1 million for liability (i.e. general, auto, professional, liquor, etc, as appropriate) and statutory requirements for worker's compensation. The County's insurance requirements for solicitations are outlined in the Purchasing Procedure Manual. In some instances, insurance ratings and limits may vary depending on the level of risk involved and will be outlined in individual leases or contracts. Insurance requirements may be waived by the County Administrator.

D. INSURANCE MARKETING POLICY

1. The County shall endeavor to seek insurance from capable insurers and agents.
2. So long as coverages and premium costs of current insurers and service by current agents and insurers remain satisfactory, it may be considered acceptable to renew these insurance programs.
3. However, in the event that coverage, premium cost or service become unacceptable, consideration should be given to obtaining competition for replacement.
4. At least every three to five years the County's insurance program should be evaluated to determine if it is either necessary or desirable to solicit competitive proposals. If it is likely that competition would produce much better cost, coverage, or service to the County's benefit, then proposals should be requested.

5. Should competition be solicited in the future for the County's insurance programs, the County should endeavor to provide sufficient information to agents and insurers to assure that solicited proposals shall be comparable. This should be accomplished by preparation of formal specifications, even if in the form of a few pages, simply stating desirable coverages, amounts, endorsements, etc. and setting forth premium and loss information and rating data which insurers normally require.
6. When competition is desirable, additional and optional coverages, amounts, etc. should be requested for the County's consideration.
7. The broadest coverage available shall be preferred if the premium cost is reasonable.
8. Although premium cost should not be the sole consideration for accepting a competitive insurance proposal, it should receive major emphasis, so long as other considerations are consistent.
9. Cancellation notices required of insurers should be no less than 90 days and should include insurer notice of non-renewal, adverse change, and rate increase.
10. Renewal premium quotations, whether in competitive situations or not, should be required well in advance of policy renewal dates.

INSURANCE, SELF-INSURANCE, FUNDING, CLAIMS:

E. FUNDING OF COUNTY INSURANCE AND SELF-INSURANCE

1. The internal service fund is used to account for the financing of property, liability, and workers' compensation insurance and self-insurance and administration and related costs of the risk management and safety program. It is also used to finance the county's employee benefits plan, such as life, medical, and dental benefits.
2. Revenue is received from participating County Agencies and Departments and service funds on a cost reimbursement basis. Rates are set annually and are charged to the Agencies and Departments based on property/liability/workers' compensation exposure, number and type of employees, and funding required for program administration, incurred claims reserves, and incurred but not reported claim estimates.

F. PROFESSIONAL LIABILITY (Adopted 2/79)

Various County employees perform professional services and exercise professional judgment and skills in the course of their employment. These employees are expected to obtain and maintain applicable state, local, or Board licenses and certifications either as a condition of their employment or in performing their duties. In recognition of the fact that public employment is seldom as remunerative as employment in private concerns, and carries significantly greater potential for liability, these employees have not been expected to obtain insurance which would protect them and Escambia County from any claims resulting from negligence, malpractice, malfeasance, or misfeasance in the exercise of their professional services, judgments, or skills, although persons employed in the same or similar capacity by private employers are almost universally protected by such insurance. Escambia County may, from time to time, determine that it is in the best interests of the County to purchase such insurance; but in any event, Escambia County will indemnify and defend such employees from any such claims in connection with their official County duties and will look to such insurance, and to such insurance alone, for satisfaction of any past, present, or future claims or judgments.

G. **DAMAGES RESULTING FROM ACTIONS OR OMISSIONS OF EMPLOYEES (Adopted 8/3/93)**

The Board of County Commissioners reserves the right not to pay any damages resulting from acts or omissions of employees, if the employee acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. BCC will not be liable for the acts or omissions of an employee committed while acting outside the course and scope of her or his employment. In addition, BCC reserves the right not to pay any damages or provide a defense to any employee who is alleged or is found to have caused damages resulting from any acts or omissions which were intentionally tortious or which form the basis for imposition of punitive damages. BCC reserves the right to refuse to pay damages resulting from the acts or omissions of employees who have violated County policies.

H. **INSURING COUNTY PROPERTY**

1. Risk Management, through a competitive bid process, obtains property and casualty insurance coverage on all existing County property and such miscellaneous coverages as boiler and machinery, crime, flood, windstorm, etc.
2. To include additional property on existing insurance policy(ies), departments must submit a Request for Insurance Coverage form to Risk Management. This form must be submitted for all newly purchased, constructed, donated, and/or leased property. The Request for Insurance Coverage form must also be submitted as modifications are made to existing structures (i.e., expansion projects, demolition).
3. If departments are occupying leased office space, the contents must be insured. Contents may be included on the County's existing policy by submitting the Request for Insurance Coverage form and a list of the contents. **Employee's personal property will not be covered on the County's policy.**

I. **MANDATORY PERSONAL AUTO INSURANCE COVERAGE**

1. Employees who elect to receive car allowances to use their personal vehicles to conduct County business are required to maintain an insurance limit (not less than the State's sovereign immunity) \$100,000 per person/\$300,000 per accident or occurrence. The monthly car allowance offsets the cost associated with the increased insurance limit.
2. Employees to whom this policy applies are subject to an annual drivers' license review by Risk Management. Departments are responsible for verifying proof of insurance each year and submitting to Risk Management.
3. The County will not assume any liability for bodily injury or property damage the employee may become personally obligated to pay arising out of an accident occurring in connection with operation of his/her personal vehicle.
4. The County does not specify and assumes no responsibility for any other coverage employees carry on their own cars since this is a matter of individual status and preference.
5. Failure to maintain the mandatory insurance limit may result in disciplinary action, up to and including termination.

J. **LIABILITY CLAIMS PROCEDURES**

1. Claims against Escambia County must be submitted to Risk Management, which is authorized to process claims or assign claims to a third-party licensed adjuster. Claims represented by an attorney will be processed through the County Attorney's Office.
2. All incidents/accidents involving County vehicles and/or bodily injury will be reported to Risk Management. Risk Management will follow up with the department to verify that unsafe conditions have been rectified.
3. At the claimant's request, Risk Management will mail the claimant a claim form. Before a claim is established, the claimant must complete, sign and return the claim. If reimbursement is requested, documentation of repairs (i.e. receipts, work orders) will be requested.
4. All investigations by Risk Management into claims, incidents, or accidents are made at the direct and express direction of the County Attorney and are made in anticipation of litigation. All findings, witness interviews or statements, photographs, reports, and data generated as a result of investigations by Risk Management, are protected by the work product privilege and/or anticipation of litigation privilege recognized by Florida and federal law.

a. **Claims Involving Real and Personal Property**

- (1) Once a claim has been established and County investigation supports liability, Risk Management may request an official appraisal of the damaged property by a licensed appraiser.
- (2) The appraiser will contact the claimant to schedule the appraisal. The claimant may select the vendor of their choice for repairs.
- (3) The County will make reimbursement based on the appraiser's recommendation and only in exchange for a release.

b. **Settlement of Real and Personal Property Claims**

- (1) Settlement of real and personal property claims will be authorized if the investigation of the accident/incident supports the County's liability by meeting each of the following criteria:
 - the County records reflect that the alleged causation existed for more than 48 hours after the County received knowledge of the potential hazard;
 - the alleged causation could reasonably be expected to have caused the damage;
 - the accident/incident could not prudently have been avoided by the citizen;
 - damages can be documented with receipts and/or estimates if claimant is seeking reimbursement.
- (2) If the claim is assigned to an outside adjuster and investigation of the accident/incident supports the County's liability, the County will make reimbursements based on the adjuster's recommendation.
- (3) If the claim is processed in-house and investigation of the accident/incident supports the County's liability, payment to citizens will be based on the documented damages.
- (4) The County will not make reimbursements for damaged windshields by road hazards if the damaged vehicle is registered in the State of Florida.

- (5) The County will not make reimbursements for claims resulting from acts of God. This includes damage from fallen trees or limbs. (An act of God is damage resulting from natural events such as heavy rain, lightening, windstorms, floods, etc.)
- (6) The County will not make reimbursement for damage, theft, or loss of employees' personal property (i.e. tools, eyewear, jewelry, cash, etc.).
- (7) Whenever possible, the County will only make reimbursement for the actual cash value of the real or personal property.
- (8) The property owner(s) and the lien holder must release the County from any further liability by executing the appropriate release in exchange for payment.
- (9) Checks not picked up within 14 days from the date of notification will be returned to Accounts Payable for void. Citizens will then be required to resubmit their claims.

K. CLAIMS FOR COMMERCIALLY INSURED COUNTY PROPERTY

1. Claims for property covered under the County's commercial insurance policy (i.e. buildings, contents, traffic signals, microwave towers, EDP and vehicles/equipment exceeding the commercial policy deductible) are subject to a \$1,000.00 deductible/per occurrence.
2. Each incident must be reported to Risk Management within 48 hours and then submitted on the Supervisor's Report when reimbursement is requested. All paid receipts must accompany the request for reimbursement along with the appropriate cost center and object code.
3. Risk Management will be responsible for the payment of all repairs, less the \$1,000 deductible. The deductible amount will be charged against the department's account.
4. Risk Management will coordinate with the departments and the insurers for reimbursement for contents, if applicable.
5. For damage to property that has been appraised as a total loss, Risk Management will make reimbursement based on the Actual Cash Value (ACV) of the property, less the applicable deductible.
6. Deductible will be waived in the event of damages that result during a named storm or FEMA declared emergency.

L. CLAIMS FOR DAMAGES TO COUNTY AUTOMOBILES AND HEAVY EQUIPMENT

1. Claims for damages to County automobiles and heavy equipment must be reported to Risk Management immediately. The departments will be responsible for a \$500.00 deductible/per occurrence. If the claim is filed on the County's commercial policy, the \$1,000.00 deductible would apply. Documentation of repairs (i.e., work orders, estimates, receipts, etc.) must accompany the claim.
2. If your department's loss *exceeds the deductible*, claims for reimbursement must be submitted to Risk Management with the Supervisor's Report.
3. The department is responsible for coordinating the repairs of the damaged automobiles and/or heavy equipment.

4. If the department pays for the repairs, Risk Management will upon request, reimburse the departments for the repairs in *excess of the deductible*. All paid receipts must accompany the request for reimbursement.
5. If the department chooses to have Risk Management pay for the expenses rather than request reimbursement, the department must forward all invoices to Risk Management. The department must also send the appropriate cost center/object code to charge the deductible.
6. For accidents where damage exists and law enforcement cited the other driver to be at fault, Risk Management will coordinate and pay for repairs and seek reimbursement from the other party or their insurer, in accordance with Section O of this policy.
7. For damage to property that has been appraised as a total loss, Risk Management will make reimbursement based on the Actual Cash Value (ACV) of the property, less the applicable deductible.
8. Deductible will be waived in the event of damages that result during a named storm or FEMA declared emergency.

M. CLAIMS FOR LOST, STOLEN OR VANDALIZED COUNTY EQUIPMENT

1. Lost, stolen or vandalized equipment must be reported immediately to the proper law enforcement authorities and Risk Management. Claims may be submitted to Risk Management on the Supervisor's Report. The department will be responsible for a \$1,000.00 deductible/per occurrence.
2. If your department's loss *exceeds the deductible*, claims for reimbursement must be submitted to Risk Management on the Supervisor's Report.
3. The department is responsible for coordinating the repair/replacement of lost, stolen or damaged equipment.
4. Risk Management will, upon request, reimburse the departments for the repairs in *excess of the established deductible*. All paid receipts must accompany the request for reimbursement, and the department must provide the appropriate cost center and object code.
5. Reimbursement will not be made without an official report from law enforcement officials.

N. AUTHORITY AND LIMITS FOR CLAIMS SETTLEMENT

Property damage claims, workers' compensation indemnity and medical claims, bodily injury claims, breach of contract claims, and labor and employment discrimination claims may be settled by the County Attorney and/or Risk Manager if the settlement is up to \$10,000. All claim settlements in excess of \$10,000 must be authorized by the Board of County Commissioners.

O. SUBROGATING CLAIMS/FUND RECOVERY

1. When it has been determined that the County is not liable for an accident which has resulted in a financial loss to the County, Risk Management will make every effort to recover losses exceeding \$1,000.00.
2. Departments experiencing loss should submit the Supervisor's Report to Risk Management. Estimates, work orders, or receipts must accompany the report.

3. Risk Management will file a claim against the other party or their insurance carrier to recover full damages.
4. All payments recovered by Risk Management will be forwarded to the Accounting and Finance Office to be credited to the appropriate accounts.

P. **REWARD FOR INFORMATION LEADING TO THE ARREST OF THOSE WHO STEAL OR VANDALIZE COUNTY PROPERTY (Adopted 1/31/94)**

The Board provides a means of prevention and prosecution of those who steal and/or cause damage to County-owned property through establishment of a reward for information leading to their arrest to be consistent with Florida law.

The Board of County Commissioners, in conjunction with Crime Stoppers, will offer a monetary reward for information leading to the arrest of those who caused a loss of property owned by or in the care of Escambia County and its organizational entities or employees, under the following guidelines:

1. A loss, eligible for payment of a reward, is defined as:
 - a. A loss to County property of any kind having a current value of \$1,000 or more.
 - b. Theft of any County property from County premises, right-of-way or any other public or private property.
 - c. Damage to County property caused during an act of theft, misappropriated use, or vandalism.
2. Loss must be reported to the appropriate law enforcement agency and to Risk Management.
3. The amount of the reward will not exceed \$1,000. (Due consideration shall be given to the age, condition and repair and/or replacement cost of the property loss as obtained from the Clerk's Fixed Asset Report.) The reward shall be paid from funds budgeted for this purpose.
4. The reward shall be given for information leading to the arrest of the perpetrators of the loss.
5. The reward shall be advertised in any media and format deemed appropriate and approved by the Risk Manager for an appropriate length of time.
6. Neither County Risk Management employees nor law enforcement officers are eligible for the reward. A reward shall not be paid to anyone prosecuted for the theft.
7. Payment of any reward will have prior review by the Risk Manager and be based upon court documentation of arrest. The Risk Manager shall approve payment of all rewards. The individual claiming the reward must claim the reward in accordance with Crime Stoppers.

Q. **NOTICE OF CLAIMS / REQUEST FOR PUBLIC RECORDS / PRIVATE INVESTIGATORS**

Employees involved in accidents are not authorized to be interviewed by private investigators. All notices of claims, request for public records involving County accidents/incidents, and/or requests for interviews by private investigators and insurance companies must be referred to Risk Management.

R. **LITIGATED CLAIMS**

1. Lawsuits and notices of claims are processed through the County Attorney's Office. Once the lawsuit and/or notice of claim is received, the County Attorney's Office may request via memo that Risk Management establish a claim file with a recommended reserve amount.
2. The County Attorney's Office will forward all invoices/settlements to be charged against the reserve to Risk Management.
3. Risk Management will process all vouchers for payment from the internal service fund. Risk Management is responsible for keeping track of all expenditures charged against the reserve as well as the reserve balance; however, revision to the reserve amounts will only be changed at the request of the County Attorney's Office.
4. Once Risk Management receives a request from the County Attorney's Office to process a settlement check, a voucher is prepared and forwarded to the Clerk's Office. The voucher will have instructions to deliver the check to the County Attorney's Office. The County Attorney's Office will prepare all Board Recommendations for payment of settlements over \$10,000.
5. The County Attorney's Office is responsible for obtaining the appropriate releases.
6. Unless otherwise requested, the claim file will remain open for 30 days pending final invoices. After 30 days, the claim file will be closed and the any remaining reserve will be reduced to a zero balance.