RISK TRANSFER SEMINAR SERIES

Risk Transfer for Transportation

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NEW YORK SCHOOLS NYSIR INSURANCE RECIPROCAL

What is a Risk Transfer?

Transfers the responsibility to pay for claims to another entity

- The transportation company pays for claims arising from the services provided - not the District/BOCES or NYSIR

How are risk transfers completed?

- Through contracts that contain Indemnification/Hold Harmless language and Additional Insured Status

Importance of Risk Transfer

Risk Transfer is a Basic Component of any Risk Management Program

- Identifies critical exposures and assigns the responsibility to pay loss costs
- Reduces the cost of claims
- Stabilizes premiums
- Demonstrates a commitment to risk management
- Follows industry standards

Risk Transfers - Why Bother?

ADVANTAGES	CHALLENGES
➢ Reduce the cost of claims ➢ Stabilize premiums ➢ Forces the controlling party to bear the cost of claims ➢ Follow overall industry practice	➢ Time consuming ➢ Learning curve ➢ Administrative costs ➢ Disruption if third-parties don't comply ➢ Political risk

Requirements for a Successful Risk Transfer

Documents

- **Transportation Agreement/Contract**

- **Insurance Procurement Requirements for Transportation**

Requirements for a Successful Risk Transfer

Documents

- Indemnification Language
- Properly Completed Certificate of Insurance
    - Accurate Information
    - Correct Terms/Conditions
    - Additional Insured Language
    - Policy effective/expiration dates

Transportation Agreements

Purpose: Managing Transportation	What it Should Contain
➢ States <u>your</u> rules and regulations ➢ It is a written agreement – helps with enforcement ➢ Vets Prospective Companies ➢ Helps with Risk Transfer ➢ Provides Uniformity ➢ Tracks Compliance ➢ Complies with Board Policy	➢ Rules and Regulations ➢ Indemnification Language ➢ Insurance Requirements ➢ Accident Reporting ➢ Signatures or Acknowledgements

Sample Indemnification Agreements

TRANSPORTATION COMPANIES

The Transportation Company hereby agrees to defend, indemnify and hold harmless the School District from and against any and all liability, loss, damage, claim or action, to the extent permissible by law, arising out of operations performed or services provided by the contractor/ vendor under the contract, [including the transportation of students.]

Certificates of Insurance

What They Do	What they Don't Do
➢ Document Coverage ➢ Document Limits ➢ Determine Compliance with Insurance Requirements ➢ Indicate Additional Insurance Status ➢ Indicate other Conditions and Terms	➢ Prove Coverage is in Effect ➢ Prove the District/BOCES has Additional Insured Status ➢ Guarantee Coverage ➢ Amend Policy Terms

Insurance Certificates

Common Deficiencies

Problem	Reason
Required coverages are missing; insufficient limits	Contractor/vendor/user may not be able to obtain coverages or limits; broker forgot to include coverages
Insurers are not licensed in NY	Hard market conditions - Contractor/vendor/user may not be able to renew with existing insurer
No additional insured status	Broker forgot to include
Wrong or missing endorsement	Broker error or insurer unwilling to provide required endorsement

Insurance Certificates
Common Deficiencies

Problem	Reason
Wrong certificate holder (building named instead of the district/ BOCES)	Typo or misunderstanding
Expired policies	Renewal policies not received
Unacceptable exclusions or conditions listed on the certificate	Contractor/vendor/user has restricted or unacceptable coverage
Certificate is unsigned	Mistake

Insurance Requirements for Transportation

- **NYS Licensed and Admitted Carriers Strongly Preferred**

- **Additional insured status shall be provided by standard or other endorsements that extend coverage to the District/BOCES (CG 20 26) or equivalent.**

Insurance Requirements for Transportation

- **The Certificate of Insurance must describe the services provided by the transportation contractor that are covered by the liability policies.**

Insurance Requirements for Transportation

Commercial General Liability Insurance

$5,000,000 per occurrence/ $5,000,000 aggregate.

$1,000,000 for sexual misconduct.

State that the commercial general liability policy <u>affirmatively</u> provides coverage for claims of negligent hiring, training and supervision, which may arise in the context of sexual molestation, abuse harassment, or similar sexual misconduct.

Insurance Requirements for Transportation

Automobile Liability

$5,000,000 combined single limit for owned, hired, borrowed and non-owned motor vehicles.

Workers' Compensation and NYS Disability Insurance

Proof of Coverage - Statutory Workers' Compensation (C-105.2 or U-26.3); and NYS Disability Insurance (DB-120.1) for all employees.

NYSIR'S ROLE

- Review Transportation agreement for correct and complete information
- Review Certificates of Insurance for proper coverages and endorsements
- Contact carriers and/or insureds to get corrections made
- Return corrected certificates to District/BOCES and advise that all meet their requirements

Successful Risk Transfer

A driver education car was involved in a car accident in which there were three fatalities and two badly injured parties. The vehicle was owned by the Driver's Ed school and was being operated by one of the students when it collided with a tractor trailer. The Subscriber had a valid contract with a proper insurance procurement clause and NYSIR was able to effectuate a successful Risk Transfer

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