

RISK MANAGEMENT ADVISORY COMMITTEE (RMAC)

Meeting Minutes
June 26, 2014
1:00 p.m.

This meeting of the Risk Management Advisory Committee was called to order in the LBJ Building, Conference Room 155, Boise, ID.

Members Present: Director Teresa Luna, Department of Administration, CHAIR
Kit Coffin, Risk Program Manager, Risk Management Program
Tanya Hellewell, Department of Lands
Representative John Gannon
Jim Carpenter, Idaho Transportation Department
Theresa Chrisman, Lewis-Clark State College (participated by phone)

Others Present: Jennifer Pike, Department of Administration
Keith Reynolds, Department of Administration
Robyn Lockett, Legislative Services Office
Nick Landry, Division of Financial Management

Members Absent: Senator Dean Mortimer

CALL TO ORDER by Director Luna at 1:05 p.m.

WELCOME – *Teresa Luna*

Director Teresa Luna welcomed the meeting attendees.

APPROVAL OF MINUTES – *Teresa Luna*

MOTION: Ms. Hellewell made a motion to approve the minutes from the November 5, 2013 as written. The motion was seconded by Rep. Gannon. With no further discussion, all members voted in the affirmative to approve the minutes and the motion carried.

RISK MANAGEMENT 101 – *Teresa Luna*

Continuing the education forum the Committee started at the June meeting, Director Luna turned the meeting over to Kit Coffin, Risk Program Manager.

ANNUAL RENEWALS: Ms. Coffin provided information on the following items:

- Most of the major renewals for Risk Management are effective on July 1, coinciding with the new fiscal year. Not all agencies participate in every kind of coverage, but there are certain coverages that do apply to all agencies. The most significant of these is the Major Property coverage. The State has nearly \$7 billion worth of insured property, including buildings, contents, stock and supplies in its Major Property coverage. Major property covers direct physical loss that is accidental and fortuitous in nature.

For Major Property the State is commercially insured for up to \$250 million per occurrence within the policy year. Risk Management retains \$250,000 of that coverage per occurrence within the policy year.

The retention, similar to a deductible, would be paid out of the Retained Risk Account. The agency pays a \$2,000 deductible per claim.

- As part of its Major Property coverage, the State has Flood and Earthquake coverage with sub-limits of \$100 million. There are limitations of coverage for certain flood zones.
- In addition to the sub-limit for Earthquake included as part of the property policy, the State has an excess Earthquake policy with a limit of \$50 million.
- Infrastructure, such as highways and bridges, is considered too exposed to the elements and is not covered under any of Risk Management's policies.
- Boiler & Machinery, or Energy Systems coverage, includes HVAC systems, certain types of electrical equipment and refrigeration equipment, for example. This coverage is for direct loss from certain types of damage that occurs within the insured object. Risk Management retains \$50,000 of that coverage per occurrence within the policy year. The retention, similar to a deductible, would be paid out of the Retained Risk Account. The agency pays a \$5,000 deductible per claim.
- Crime and Employee Dishonesty - Major Property coverage does not cover theft of money and negotiable securities for employee theft, thus a separate policy is necessary to cover those exposures. Risk Management retains \$175,000 of that coverage per occurrence within the policy year. The retention, similar to a deductible, would be paid out of the Retained Risk Account. The agency pays a \$2,000 deductible per claim.
- Faithful Performance - A number of people in state and local government are required to have performance bonds. To place this coverage on an individual basis would require each of those people to provide financial information. Fortunately, statute provides for Risk Management to place this coverage on a broad level as part of the Crime policy.
- Out of State Workers Comp covers state employees who are domiciled outside of the state of Idaho. The State Insurance Fund is responsible for Workers Comp for employees domiciled in Idaho. When an employee is domiciled in another state, not just visiting but actually living there and performing work for the state of Idaho, they are subject to the Workers Comp laws in that state. This is a difficult coverage to place for a few people. The most frequent users are the universities for their researchers. Communication from the agencies about their out of state workers is critical to ensuring those employees are in compliance with that state's Workers Comp laws.
- All of the agencies, institutions, boards and commissions of the State of Idaho are provided coverage by Risk Management. The public health districts are political subdivisions which have been permitted, in statute, to participate in the Risk Management Program. There are a few other political subdivisions which are also allowed coverage by Risk Management.
- Risk utilizes an actuary to determine the amounts needed for the retained amounts of commercial policies and self-funded amounts. For the commercial coverages, Risk utilizes a commercial broker. Risk has a 3-year contract with 3 additional years (through 2015) with its broker, Arthur J. Gallagher Risk Management. Risk does not pay a traditional broker fee; the contract is a commission-based model and the carrier pays that commission.

2013 LEGISLATION RECAP:

Ms. Coffin provided a recap of unsuccessful higher education "opt-out" legislation from the 2012 and 2013 legislative sessions and the potential impacts on the Risk Management Program should either bill have passed.

Insurance is essentially a pooling of risk. Higher education makes up 50 – 60% of the State's total insured property values. By decreasing that pool by 50 – 60%, rates for all remaining agencies would increase significantly.

The universities would need to hire additional staff, or contract for services, and obtain several policies to replace the coverages currently provided by Risk. If this idea were to move forward, an actuarial study would need to be conducted, which was not a cost contemplated in either piece of legislation, and should be incumbent on the universities who would benefit from this process to bear the expense of the study.

The State could also see significant financial impacts from institutions opting back in to Risk Management and bringing with them several years of bad loss history. That loss history would have a direct effect on the risk assessed for all agencies and premiums would increase.

Regardless of the manner in which changes might be made for the authority of the universities and colleges, there are issues to consider regarding tort claims and lawsuits brought against these entities if they are no longer affiliated with the State's Risk Management Program for coverage. Most claims and lawsuits against these institutions also name the Board of Regents or the Board of Trustees for the institution. The State Board of Education is also the Board of Regents for the University of Idaho. (Idaho Code §33-2802.) The State Board of Education is the Board of Trustees for Idaho State University, Boise State University, and Lewis-Clark State College. (Idaho Code §33-3003, §33-4002, and §33-3102, respectively.)

The State Board of Education would continue to be a state entity under any scenario. As such, it would be entitled to defense by Risk Management. It would be extremely difficult for Risk Management to coordinate defense of the Board with the institutions without full knowledge and cooperation of all aspects of the circumstances giving rise to the claim or suit. Should the separation of these institutions from Risk Management coverage proceed in any form, there exists a need for statutory language addressing the relationship of the Board and the institutions for claim purposes. It would seem reasonable to include statutory provisions transferring the duty to defend and indemnify the Board and its members, and provide liability insurance coverage for them, for any claims or suits arising from the Board's function as the Board of Regents or Board of Trustees.

SUBROGATION:

One of the lesser known aspects of the Risk Management Program is subrogation. Subrogation is the legal doctrine whereby one person takes over the rights and remedies of a creditor against his/her debtor. For instance, in the case of vandalism to property, if the perpetrator is caught then Risk Management will pursue restitution and make applicable payment plans. If and when restitution is received in whole or in part, Risk returns the deductible paid, either in whole or in part, to the agency. Risk does not have the statutory authority to garnish wages for restitution. Recently Risk Management pursued subrogation on a claim against the federal government and recovered 100% of the amounts paid by Risk Management, by the Travelers and by the agency, for those items that were not covered.

Member Tanya Hellewell thanked Ms. Coffin for conducting a training session at the Department of Lands. Ms. Coffin offered her services and expertise to any agencies seeking information about the risk management process or guidance on process improvements to mitigate risk.

COMMUNICATIONS AND WEBSITE – *Teresa Luna*

Director Luna let the Committee know that Risk continues to make improvements to the Risk Management Program website at www.adm.idaho.gov/risk.

NEXT MEETING – *Teresa Luna*

The next meeting will be held in late fall, date to-be-determined.

ADJOURNMENT

The Committee adjourned at 2:00 p.m.

Jennifer Pike, Public Information Specialist, Department of Administration