PUBLIC RISK

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IMPROVE YOUR RISK PROFILE TO BECOME

A MORE FAVORABLE RISK

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EVERY PUBLIC ENTITY faces risks that can cause losses and claims, and as a result, potentially increase insurance premiums. Understanding the entity's risk profile and implementing effective risk control measures can help the entity obtain insurance coverage at a competitive rate.

When considering a public entity as a potential customer, insurance carriers develop a risk profile of the entity that frequently includes:

- An assessment of auto, property and liability exposures
- A review of historical loss, frequency and severity
- An analysis of loss trends and payouts
- An evaluation of the entity's current risk control policies and measures

An entity with a favorable risk profile will likely find it easier to obtain coverage and have more choice in selecting a carrier.

RISK MANAGEMENT IS CRITICAL TO RISK PROFILE IMPROVEMENT

Risk management has perhaps never been more important than it is now.

As government and industry compliance rules continue to expand, scrutiny of risk management practices has also increased. This has resulted in risk management becoming an important business strategy.

Also, the risks public entities face have increased in complexity and severity, and new risks are constantly emerging. For example, the COVID-19 pandemic affected the health and safety of employees, disrupted operations and supply chains, and had lasting impact on how entities conduct business. Public entities,

like all other types of organizations, were forced to rapidly identify and address emerging risks and find new ways to operate under shifting circumstances.

For public entities to effectively deal with the changing risk landscape, as well as improve their risk profile, reduce losses and claims, and control insurance costs, they should include risk management in their organizational process.

STEPS TO IMPLEMENT AND IMPROVE RISK MANAGEMENT

1. IDENTIFY RISKS

Begin by identifying the entity's risks. Try to identify as many as possible and don't ignore the small or infrequent risks. It is critical to gather solid data on the organization's risk culture and operating procedures for the purpose of analyzing and determining how to best deal with risks.

2. ANALYZE RISKS

Once the risks are identified, analyze their potential impact, prioritize addressing them, and determine the resources needed to do so. For example, an employee calling in sick is a high-probability event that likely poses little or no risk to the entity. Addressing this risk would not be given the same level of priority and resources as preparing for the risk of a natural disaster, an example of a potentially low-probability event with high impact on the entity.
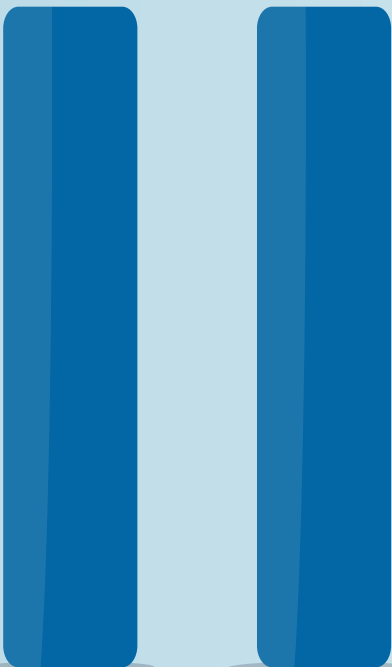
3. DETERMINE RISK CONTROL

Determine the processes and procedures most effective to reduce risks by weighing the cost versus the benefit to the entity. The goal is to have controls in place to reduce or eliminate as many risks as possible. Once established, develop and implement a communication strategy for the entity that helps ensure risk control is considered in decisions made at every level.

4. IMPLEMENT RISK CONTROL

Implement the risk control processes and procedures to reduce the frequency and severity of losses. Share the controls and improvements with the entity's insurance agent to ensure they are considered during the carrier's underwriting process to help improve the entity's risk profile.

5. MONITOR RISKS AND CONTINUOUSLY IMPROVE RISK CONTROL

Finally, assess all risks and evaluate risk control effectiveness on an on-going basis. As needed, make changes to improve the program and notify the agent when this is done. There are insurance carriers that provide insureds low- or no-cost risk control services. Public entities insured by these carriers should take advantage of these valuable programs and resources to improve their risk management.

COMMON PUBLIC ENTITY RISKS AND RISK CONTROL RECOMMENDATIONS

Public entities commonly face exposure in areas including property and auto, professional and employment law, disaster, and cybersecurity.

PROPERTY MAINTENANCE

Conduct frequent property inspections, including roof and fire and security systems. Annual roof inspections can identify maintenance issues that when corrected, can prevent property damage.

Review power protection methods, especially for electronic equipment such as servers and communication equipment that can be damaged in a lightning strike.

Address slip and fall concerns with maintenance procedures for sidewalks, wet floors, and snow and ice removal.

AUTO LIABILITY

Implement a motor vehicle policy that includes a distracted driving policy prohibiting the use of any handheld or hands-free electronic devices or voice features while driving an entity-owned motor vehicle or while driving a personal vehicle while on entity business.

The motor vehicle policy should also require annual driving record checks for all drivers and a review of any accidents and/or moving violations. The policy should include criteria for the acceptable number of points and violations for employees who drive for the entity.

Require vehicle operation training for special-use vehicles, such as those used in public works departments.

Provide specialized training for those operating emergency response vehicles. Enhanced driver performance skills include how to:

- Drive defensively and professionally at all times
- Drive at higher speeds
- Correctly use required warning equipment on emergency runs
- Back vehicles and maneuver in close-quarters situations

EMPLOYMENT LAW

Employers must comply with employment laws at the local, state and federal levels. Nationally, employee-related claims are on the rise. Consider these areas of employment law:

Hiring Practices – Standardize your application process. Apply best practices such as pre-employment physicals, drug tests and background checks. Provide every employee with a comprehensive employee handbook that is compliant with federal and state laws, clearly written, easily accessible and reviewed annually for updates.

Wage and Hour Rules – Ensure policies are current and compliant with the Family Medical Leave Act and the Fair Labor Standards Act.

Harassment and Discrimination – Ensure policies are current and address the Civil Rights Act, the Americans with Disabilities Act and the Age Discrimination in Employment Act.

Health and Safety – Enhance safety practices throughout the entity to minimize accidents for employees and customers. The Occupational Safety and Health Administration standards address minimum guidelines for workplace safety.

DISASTER PREPAREDNESS

Disasters caused by storms and other weather-related events are on the rise and can negatively impact public entities for long periods of time.

Every entity should have a plan that includes actions to be taken to protect the entity as much as possible in advance of a weather event and during the response and recovery phases of a disaster. The Federal Emergency Management Agency offers guidance on crafting a preparedness plan: fema.gov/emergency-managers/national-preparedness/plan.

Disaster preparedness planning can help build resiliency and sustainability. Identifying and addressing potential risks improves an entity's ability to identify future threats, develop solutions, adapt to changing conditions, and quickly recover from the impact of a disaster.

CYBERSECURITY

Public entities of all sizes are vulnerable to cyberattack, so internal security policies and remaining informed on emerging security risks are necessary to protect the organization from threats. Cybersecurity best practices include frequent software updates, on-going employee training programs, multi-factor access authentication and data backup procedures.

There are a number of additional risks public entities face that can be managed through risk control, including:

FINANCIAL

Public entities face a variety of financial risks. Measuring, monitoring and responding to these risks minimize threats to the entity's financial well-being and reputation. Implement risk control processes such as two-person check sign off to help prevent internal crime.

CONTRACTS AND AGREEMENTS

Well-written contracts and agreements that include risk transfer, indemnification, hold

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harmless language, insurance requirements, and additional insured status help protect entities from risk. Before entering into any contract or agreement, qualified legal counsel should review and approve.

GOVERNANCE

Any new regulation has the potential to impact entity operations, create new responsibilities or require new technologies. Because federal, state and local laws change often, it is necessary to stay informed to ensure compliance. Robust governance processes and controls are essential to reducing risks and public officials should be trained on ethics and regulations to avoid any potential missteps.

OPERATIONS

Each department faces its own set of risks that must be assessed and managed. Ensure departmental policies are current and updated at least annually to meet current federal and state laws.

Law Enforcement – Claims related to use of force, pursuits and civil right infringement have increased, and risk management is essential to address these areas. Ongoing training and enforcement of written policies help reduce the potential for liability. Review department contracts and agreements, including any task force agreements, to ensure they include governing policies and chain of command.

Fire – Fire departments should operate under updated policies, procedures, contracts and agreements such as mutual aid. Although compliance with National Fire Protection Association standards are not required, these standards are considered best practices under duty of care.

Parks and Recreation – Parks and recreation departments face a wide variety of risks in both their indoor and outdoor physical spaces and in their program offerings. To provide positive participant experiences and avoid losses and claims, these risks must be identified and addressed.

Up-to-date policies and procedures should include documented park inspections, preferably by a certified playground safety inspector. Playground equipment should be installed by certified installers, in accordance with manufacturers recommendations, and maintained regularly.

Groups sponsoring special events should be required to complete an application that includes providing a description of the event, the number of expected participants and facilities to be used. Hold harmless agreements and certificates of insurance with additional insured status should be required when public facilities are used. Public safety agencies should be included in planning for traffic control and emergency situations such as severe weather, fire or casualties.

Public Works – Public works departments provide critical infrastructure services, and their responsibilities require maintaining a proper level of governance and adherence to regulatory requirements. Disruption of public works services can lead to emergency situations such as interruption to the water or power supply.

Deterioration of infrastructure (e.g., roads, sidewalks and water and sewer lines) can result in liability issues as well as reputational risk for the entity.

A robust risk management program is important to help an entity comply with laws and rules, promote transparency, build public trust, increase resiliency and reduce costs to the taxpayers. In today's changing risk landscape, developing such a program can be a challenge. When public entities partner with an insurance carrier that provides risk management services, they benefit from risk control expertise and strategies that help them identify and manage current and emerging risks.

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