

ACI Risk Management Challenges in Risk in Managing Contracts



Contract Management

- Roles and responsibilities
 - Legal (in-house/outside counsel)
 - Procurement and Contracts
 - Business development
 - Contract managers
- Risk Management's interaction and lines of communication



Status Assessment

- Relationships
 - Legal
 - IT
 - Internal Audit
 - Requesting Organizations
 - Other internal groups (vendors, consultants)
- How template requirements are made and procedural triggers to prompt:
 - Contacting risk management
 - Additions (pollution, cyber, builder's risk, etc.)
 - Modification to standard limits



Certificate Compliance Review and Management Model

- Risk Management
 - Initial
 - Throughout Term
- Owner of Project/Contract
 - Reference guides/manual and Risk Management training
 - Outreach and assistance
- Third Party Vendor
 - Full Service
 - Partial Service
- Blend of vendor and in-house management



Insurance Provision Review

- Prior to RFP issuance?
- Form development and contract review
 - Construction
 - Professional Service Agreement
 - Personal Service Agreement
 - Leases
 - Permits and access agreements
- Deviations
 - Inability or unwillingness for third party to meet requirements?
 - Who authorizes and are there corresponding adjustments made to the agreement?
 - Self-insurance or high deductible/SIR arrangements?
 - Grant assurance requirements?



Construction Project Insurance Analysis

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|---|
| Project Name: IWS Segregation Meters |
| Location of Project: SEATAC Industrial Waste Water Treatment Plant |
| Estimated Start Date: 2nd Quarter 2020 |
| Estimated Completion Date: 3rd Quarter 2020 |
| Estimated Cost (if over \$5million, please attach Engineer's Estimate): Estimate Bid Amount; \$1,275,000 Total project authorization \$2,274,000 |
| Describe the Scope of the Work: <small>This project would install two Total Organic Carbon (TOC) analyzers in the IWS conveyance system serving the Terminal Areas of the Airport. The new TOC analyzers will provide data that the Port of Seattle Industrial Water Treatment Plant (IWT) operators will use to manage waste water. TOC analyzer will measure the Total Organic Carbon (TOC) which are correlated to Biochemical Oxygen Demand (BOD). The operators will be able to segregate High BOD waters from Low BOD waters to prevent additional High BOD water from contaminating the Low BOD water. High BOD water is discharged to the King County Waste Water Treatment plant for processing. Low BOD water can be discharged directly to the Puget Sound, per the Port of Seattle's National Pollution Discharge Elimination System (NPDES) permit. The Port of Seattle on average pays the King County Waste Water Treatment plant \$1,250,000 per year to treat the High BOD water.</small> |
| CPO Contact Name: WR# Todd Rehm |
| U00299 |
| CIP# C800665 |
| Will work require auto's to be brought onto the AMA Movement area (taxiway or runway)? The AOA non-movement (ramp)? Or Both? YES |
| Will any Port furnished materials be used? (valued at over \$200k) No |
| Is the contractor doing any design? No |
| Will the contractor be using any vessels for work done on water? No |
| Will work involve any removal, abatement, demolition etc... of known and identified hazardous materials? No |
| What is the Completed Operations insurance requirement? |

Please submit the completed form to [Jeff Hollingsworth](#) in Risk Management.

SUBMIT

Allow for a five day turn around.

SC- 11. 04 - CONTRACTOR LIABILITY INSURANCE

- A. Within ten (10) calendar days after receipt of the Notice of Intent to Award, the Contractor at Contractor's own expense shall satisfy the insurance required in this section. All insurance is to be kept in force for the life of this Contract and until the work is completed.
1. Insurance shall be procured from primary and excess insurance carriers, whether admitted or on surplus lines basis, that have a A.M. Best's rating of no less than "A Minus FSC VI" or higher. Should a rating of an insurance company fall below an A.M. Best's rating of "A Minus FSC VI", the Contractor shall replace the insurance company with a company that can meet the required rating at its expense.
 2. Within ten (10) days after receipt of the Notice of Intent to Award, the Contractor shall submit to the Port a Certificate of Insurance and all Additional Insured Endorsements (where specified below) and any Waivers of Subrogation (where specified below); and primary and non-contributory endorsements (where specified below) which shows that it has obtained the required coverage(s).
 3. The Port reserves the right to reject any insurance policy or endorsement as to company, form, or substance. Upon rejection, Contractor shall replace with an acceptable policy and/or endorsement form within ten days of notice to Contractor from Port.
 4. The Port's acceptance of the Contractor's certificate of insurance and endorsements does not waive the Contractor's obligation to comply with the insurance requirements of this contract.
 5. Certificates of Insurance shall list each deductible or retention in excess of \$25,000 for each line of required insurance coverage.
 6. The required insurance shall cover all of the Contractors' operations of whatever nature connected in any way with this Contract, including any operations under subcontract. It is the obligation of the Contractor to ensure that all Subcontractors (at whatever level) carry a similar program which provides the identified types of coverage and limits of liability, unless otherwise specifically indicated within these Supplementary Conditions.
 7. Contractor is solely responsible for all deductibles or self-insured retentions under any required policy of insurance, including any deductibles that are triggered by claims that the Port may submit to Contractor's insurance carrier as an additional insured on any policy. This deductible responsibility extends to deductibles that are owed on any policy of insurance following termination of the Contract if the event or cause of loss occurred during the term of the Contract.
 8. Contractor shall provide evidence of insurance including certificates of insurance, endorsements and waivers, where required, annually up until the Contract is closed out or on a more frequent basis if requested by the Port.
 9. Any insurance deductible or retention that equals or exceeds \$1 million is considered a form of self-insurance which requires written approval from the Port. See Section "C" below.
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10. The Port reserves the right to request a copy of Contractor's and Sub-Contractor's policies of insurance at any time throughout this project, with thirty days advance written notice to Contractor. Upon such notice and request by the Port, Contractor shall submit electronic copies to the Port along with all applicable endorsements for each policy of insurance requested.
 11. Cancellation/Non-Renewal - Insurance is to remain current throughout the term of the Contract. The Port shall receive documentation annually to include a certificate of insurance and all applicable endorsements to validate the insurance required herein has been purchased and is compliant with the Contract requirements within ten (10) days of each insurance renewal. Should any insurance required herein be terminated, cancelled, or not renewed, the Contractor will have five (5) days to obtain replacement insurance from the date of the termination, cancellation or non-renewal. Allowing the insurance to lapse, or the failure to maintain required insurance is a material breach of this contract.
 12. Contractor may meet required insurance limits for commercial general liability and automobile liability insurance through a combination of primary and umbrella or excess insurance. Excess and coverage insurance must include the specific components of the underlying required coverage identified below. Any insurance the Port carries will apply strictly on an excess and noncontributory basis over any applicable insurance the Contractor carries.
- B. Contractor shall procure and maintain insurance in the following minimum form and limits.
1. Commercial General Liability insurance on ISO Form CG 00 01 10 01 (or equivalent) for third party property damage, bodily injury, personal and advertising injury, and medical payments in an amount which is not less than **\$5 million per occurrence. If the policy contains an annual general aggregate limit, this limit shall be no less than \$X million per year. The insurance shall cover liability** arising from premises, operations, independent Contractors, products completed operations, personal and advertising injury, and liability assumed under an insured contract. The Contractor's insurance shall be primary and non-contributory with respect to any insurance the Port carries and apply separately to each insured. The Port shall be named as an additional insured for all work arising out of Contractors Work, including "on-going" and "completed operations" using ISO Endorsement Form CG 20 26 11 85 or an equivalent endorsement approved by the Port.
 - a) Completed operations coverage shall continue for **three (3) years** beyond project completion and include the Port as an additional insured. The additional insured coverage shall remain as primary insurance with respect to any other insurance or self-insurance the Port may carry. Evidence of coverage shall be provided by means of a Certificate of Insurance and additional insured endorsement during this time frame.
 - b) If the policy contains a general aggregate limit, the policy shall be endorsed such that the limits of insurance that are specified herein shall apply separately to this contract and an appropriate endorsement forwarded to the Port to validate this.
 - c) **Sub-Contractors performing work at a construction value of \$x million or more shall maintain insurance limits of not less than \$x million per occurrence.**
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- d) Sub-Contractors performing work at a construction value of \$x million or more but less than \$x million shall maintain insurance limits of not less than \$x million per occurrence.
 - e) Sub-Contractors performing work at a construction value of less than \$x million shall maintain insurance limits of not less than \$x million per occurrence.
 - f) The Port shall be named as an additional insured, by endorsement, for all work performed by Sub-Contractors.
2. Automobile Liability Insurance. Contractor shall provide business automobile insurance for all owned, non-owned, hired, leased, borrowed, or rented vehicles, including trailers, in an amount not less than **\$X million per occurrence** for all driving on the ramp of the aircraft non-movement area and **\$X million on the movement area of the air operations area at Seattle-Tacoma International Airport**. Minimum limits elsewhere are **\$1 million per occurrence** to include all areas outside of the Air Operations Area.
- a) The Port shall be included on the policy form as an insured; or an additional insured endorsement shall be provided.
 - b) Where applicable and as required by the Motor Carrier Act of 1980 (which requires evidence of mandatory liability insurance coverage for transportation of hazardous materials), attach a copy of an MCS-90 Endorsement to the commercial auto liability policy for all operations in which the Contractor is to remove and transport any hazardous or other regulated material onto or off the project site.
3. Contractor's Pollution Liability. Contractor shall provide this coverage, with the Port named as an additional insured on the policy, with limits of not less than **\$1 million per occurrence**. The coverage shall extend to sudden and accidental incidents, claims, damages, and losses, including defense costs that arise from the operations of the Contractor as it relates to the services to be performed under this contract and that occur on or after the notice to proceed (NTP) and extending to include all claims occurring during the project, including claims from incidents occurring during the project period but reported after project completion, for up to 60 days following the end of the project.
- a) The policy shall cover incidents, claims, damages, and losses, at the project site, including clean-up and remediation as well as third party bodily injury, third party property damage, and clean-up/remediation, both on and off the project site.
 - b) The Contractor shall have the discretion to determine which of its sub-contractors, if any, shall purchase this coverage, and to what limit if applicable.
4. **Protection and indemnity coverage in the amount of \$X million per occurrence** for all work that the Contractor is to complete in (or on) water to include, such as, but not limited to, dredging, dock improvements, crane work, tower improvements, fender piles, and pile driving; **and** in which the work will utilize floating docks or platforms, skiffs, boats, vessels, or any other equipment that floats.
- (1) Coverage shall be written on marine vessel form issued by the American Institute of Marine Underwriters such as the SP-23, the
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SP-38, and the American Institute of Marine Underwriters (equivalent forms accepted upon review). Insurance coverage shall provide liability coverage for the vessel owners, and the Port of Seattle as an additional assured, on a scheduled basis for each vessel, platform, skiff, boat, or other watercraft which is to be used in the completion of the project whether or not the vessel, dock/platform, skiff, boat, or watercraft is actually owned by the Contractor.

- (2) Liability coverage shall also extend to property such as materials and equipment to be installed into the project should the property be damaged in part or in whole while on board, or during the course of being loaded or unloaded from the vessel.
 - (3) The Port of Seattle shall be listed as an additional assured on all policies which apply to the vessel(s) used to complete the Work.
- C. Employers Liability Insurance (Washington Stop Gap Liability). The Contractor shall provide Washington State Stop Gap employers' liability insurance. This shall be in an amount of \$1 million per accident and \$1 million per disease using ISO CG 04 42 11 03 or equivalent. This coverage may be provided by endorsing the primary commercial general liability policy. An endorsement evidencing this coverage must be submitted to the Port, along with the other insurance documentation.
- D. Self-Insurance - Any Company wishing to use a program of self-insurance to meet any or all of the required pollution liability, general liability and/or automobile liability insurance (excluding Industrial Insurance as defined in Title 51 of the Revised Code of Washington) must receive written approval from the Port during the bidding process and prior to the award of the Contract. If professional liability insurance is required as part of this Contract, a commercial policy must be purchased and self-insurance will not be an option in lieu of a professional liability practice or project specific policy. Self-insurance as applicable to this Contract means that the Contractor is itself or through an owned insurance captive acting as though it were the insurance company providing the liability insurance required under the Contract, including self-insured retentions that exceed \$1 million. The Port agrees that it will reasonably consider any request by Contractor to use a program of self-insurance to meet required insurance limits.
1. If Port agrees to Contractor's self-insurance program, Contractor agrees to waive any subrogation rights it may have against the Port for any and all claims it pays or is required to pay, due to loss or damage resulting from the risks for which Contractor has elected to self-insure.
 2. In the event that the Port permits Contractor to self-insure and an event or claim occurs for which a defense and/or coverage would have been available from the insurance company, Contractor shall specifically: (i) undertake the defense of any such claim, including a defense of the Port, at Contractor's sole cost and expense; and (ii) use its own funds to pay any claim or replace property or otherwise provide the funding which would have been available from insurance proceeds but for such election by Contractor's to self-insure.
 3. To evaluate a Contractor's program of self-insurance, Contractor during bidding shall disclose to the Port its lines it seeks to use self-insurance, a statement of company net worth, statement of worth from any insurance captives used to fund claims (if applicable), and a general statement that explains how it manages third
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party claims within the self-insured line of coverage and/or the self-insured retention, including claims from additional insured's.

- E. Contractor is fully responsible for providing evidence of current compliance with the Revised Code of Washington, Title 51 Industrial Insurance for Contractor and all subcontractors. Contractor shall submit a current worker's compensation certificate as issued by the Washington Department of Labor and Industries that shows the status of Contractor's worker compensation account prior to commencing work on any portion of the Contract.
- F. Other Insurance. The insurance required within this Contract may not fully cover the Contractor for any indemnity obligations the Contractor may have to the Port or others. It is Contractor's obligation to review the scope of the Contract with Contractor's insurance agent or broker to address coverage needs for Contractor. The Port reserves the right to modify and add insurance requirements if the scope of the Contract changes during the course of construction and/or if the Contract is amended or extended beyond original agreed upon completion date.
- G. The insurance requirements required within this section shall apply to any Subcontracts that the Contractor may enter into for completion of Contract unless otherwise specifically indicated within the insurance requirements.
- H. No Limitation of Liability. The limits of insurance required in this contract or as carried by Contractor shall not limit the liability of Contractor nor relieve Contractor of any obligation hereunder. Any specified limits of insurance shall not be construed as to relieve the Contractor from liability in excess of the limits. The minimum limits indicated below do not indicate that the Port has assessed the risks that may be applicable to the Contractor under this Contract.
- I. Waiver of Subrogation. Without affecting any other rights or remedies, Contractor (for itself and on behalf of anyone claiming through or under it by way of subrogation or otherwise) hereby waives any rights it may have against the Port, its officers, agents and employees (whether in contract or in tort) on account of any loss or damage occasioned to Contractor arising out of or incident to the perils required to be insured against within the Contract. Accordingly, Contractor shall cause each insurance policy required by Contract to further contain a waiver of subrogation clause. The effect of such release and waiver of the right to recover damages shall not be limited by the amount of insurance carried or required or by any deductibles applicable thereto.
- J. If the Contractor is required to make corrections to the Work after the Work has been given Notice of Completion, the Contractor shall obtain at its own expense, prior to the commencement of any corrective work, such insurance coverage as is required by Section G-11.04 and the Supplementary Conditions of this contract. Coverage shall be maintained until the corrections to the Work have been accepted by the Port.
- K. Safety and Abatement of Fire and Other Hazards. Contractor agrees to evaluate and follow up on all recommendations and requirements of Contractor's or Port's insurance company as they pertain to safety and loss control while work is being performed under this contract.

Delete SC 11.05 if the project cost is under \$50 million.

To Engineer: There are no changes relative to SC's for G-11.05 for projects under \$50 Million. If a project exceeds \$50 Million, the Port will evaluate purchasing a separate builder risk policy, and if this is done, a modification will be made to the SC's below.
Allow for a five day turn around.

SC- 11. 05 – PORT PROPERTY INSUR ANCE

End of Document

Risk Management Guidelines Service Agreement Insurance Review Form

| | | | |
|-------------------------|--|---------------------------|--|
| Project Name | | Project Number: | |
| RFQ # (if known) | | Contract Duration: | |
| Advertise Date | | Contract Value: | |
| RDR Name | | RDR Phone Ext | |

This Form to be presented to Risk Management (RM) for review of Service Agreement Insurance requirements if any of these apply: (check applicable boxes)

- The Value is over \$200,000;
- Any Vessels will be used for water work (boat, skiff, other watercraft);
- The Contract Duration is 2 years or more;
- It does not fall under any of the services listed on the Matrix;
- Any deviation from the Matrix.

Attachments required:

- Scope of Work
- Cost Estimate
- Project Schedule
- Other documents you may feel are relevant

Type of Contract: (pick one)

- Personal Services
- Professional Services

Request Risk Management review the attached documentation to determine Insurance Values as apply to Service Agreement Section XXII: (for RM use only)

| A.1 | Commercial General Liability | Required? | \$ Per Occurrence? | \$ Annual Aggregate? | Additional Insured Endorsement? | Additional Insured Completed Ops? Yes/No |
|---------------------------|--|-----------|--------------------|----------------------|---------------------------------|--|
| | | Always! | | | Always! | |
| A.2 | Auto Liability Insurance: If required, please define requirements per below: | | | | | Required? |
| A.2.a. | The limit of insurance shall be not less than \$1 million per occurrence for all driving on Port Terminals, 5, 10, 18, 25, 30, 46, 47, 86, 90, 91, 104, and 115; | | | | | |
| A.2.b. | The limit of insurance shall be not less than \$5 million per occurrence for all driving on the non-movement area of the airfield operations area at Seattle-Tacoma International Airport; | | | | | |
| A.2.c. | The limit of insurance shall be not less than \$10 million per occurrence for all driving on the movement area of the airfield operations area at Seattle-Tacoma International Airport; | | | | | |
| A.2.d. | The limit of insurance shall be not less than \$300,000 per occurrence | | | | | |
| A.2.e. | The limit of insurance shall be not less than \$500,000 per occurrence for any individual or entity that is to use a Port Vehicle as identified in Section VI.G. of this Agreement. | | | | | |
| A.3. | Professional Liability | Required? | \$ per Occurrence | \$ Policy Aggregate | or | \$ Project Specific |
| Other Comments/Questions: | | | | | | Risk Management Response |
| | | | | | | Spec |
| | | | | | | ific |
| RM Responder: | | | | Date: | | |
| Other Insurances: | | | | Required? Yes/No | | |
| A.4. | Employers Liability (Stop Gap) | | | | | |
| A.5. | Special Insurance | | | | | |
| B. | WA State Workers Comp/Industrial Ins | | | | | |

Risk Management Guidelines

Insurance Matrix for Professional Service Agreements under \$200,000

All contracts over \$200,000 must have insurance requirements reviewed by Risk Management prior to solicitation process.

Fill out and turn in RM Guidelines Service Agreement Insurance Review Form for contracts over \$200,000

Professional Services Insurance Required: (applies only to SA's with a contract value of = or < \$200,000)

Any deviations must be approved in writing by Risk Management and documented in the contract file

| Scope of Work Details | CLASS F | CLASS G | CLASS H-1 | CLASS H-2 | CLASS I-1 | CLASS I-2 |
|--|--|---|---|---|---|--|
| Location of where work will be performed. | Off-site design specific engineering and architecture work done at consultants office. | Off-site project management services performed at consultants office. | On-site project management support including work done at a Port site, but not on the Air Operations Area at STIA. | On-site project management support including work done at a Port site, including work on the Air Operations Area at STIA. | On-site Architect and Engineering services work on Port Property, excluding the Air Operations Area at STIA. | On-site Architect and Engineering services work including work on the Air Operations Area at STIA. |
| Scope of work will be performed: (list is not inclusive of all work, contact RM if questions) | Preparing plans and specifications, work requiring a stamp; any work to be approved by the City or other code authority. | Project work which may include reviewing change orders, estimating, updating drawings, cost estimating. | Project work done on-site which may include reviewing change orders, estimating, field surveys, updating drawings, cost estimating. | | Engineering (Structural, Mechanical, Electrical, etc), Architectural, Surveying, and other professional field work including building code inspections, engineering or architectural reviews of complete or in process construction work; review/approve change orders, answer RFI's, testing, commissioning. | |
| Type of Insurance Coverage Required | Limits Required (Minimum) | | | | | |
| Commercial General Liability with Port as additional insured, limits are per occurrence and in the aggregate | 1 million | 1 million | 1 million or 2 million ² | 1 million or 2 million ² | 1 million or 2 million ² | 1 million or 2 million ² |
| Endorse Port as an additional insured for completed operations ⁷ | Not Required | Not Required | Not Required | Not Required | Not Required | Not Required |
| Automobile - even if driving a Port owned vehicle ^{6,9} | Not Required | Not Required | \$1,000,000 ⁸ | 5 Million or 10 Million ³ | \$1,000,000 ⁸ | 5 Million or 10 Million ³ |
| Professional Liability Errors & Omissions ⁵ | Yes ⁴ | Maybe ^{4,5} | Maybe ^{4,5} | Maybe ^{4,5} | Yes ⁴ | Yes ⁵ |
| Protection and Indemnity - Vessel Liability | Contact Risk Management if work to be conducted from/in/on any watercraft | | | | | |
| Employers Liability Insurance | Not Required | Not Required | 1 million | 1 million | 1 million | 1 million |
| Workers Comp & Industrial Insurance ¹ | Yes | Yes | Yes | Yes | Yes | Yes |

Footnotes:

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|---|
| 1 - Sole proprietors are exempt from state industrial insurance, workers compensation. |
| 2 - One million if 10 or less workers/consultants on site; Two million if 10 or more consultants/workers on site. |
| 3 - \$ 5 million if driving in the AOA-non movement area; \$10 million in in the AOA movement (AMA) area |
| 4 - \$1 million per claim and per policy for contract up to 2 years in duration, otherwise \$2 million per claim and per policy if over 2 year duration up to five years. |
| 5 - For Project Management Services - errors and omissions insurance coverage is required if scope of work includes oversight or management of design, reviewing design change orders, reviewing or approving site engineering surveys, reviewing or approving architectural field changes, and approving designs for scaffolding, trenching, rigging, or fall protection. If there is a question on whether coverage is needed - contact Risk Management to discuss. |
| 6 - Any vendor or consultant driving a Port vehicle must have proof of insurance and comply with EX-17 and EX-14; all names of drivers have to be on file with Risk Mgmt. |
| 7 - Not used |
| 8 - If not driving on a Seaport Marine Terminals - the minimum is as described in the Service Agreement XVIII.A.2.d., \$300,000. |
| 9 - Minimum limit as described in the Service Agreement XVIII.A.2.e., is \$500,000 if vendor or consultant is using a Port vehicle (See also Note 6). |

due to the CONSULTANT'S default. In such event, the PORT shall consider the actual costs incurred by the CONSULTANT in performing the project work to the date of termination, the amount of work originally required which was satisfactorily completed to the date of termination, whether that work is in a form or of a type which is usable and suitable to the PORT at the date of termination, the cost to the PORT of completing the work itself or of employing another firm to complete it and, the inconvenience and time which may be required to do so, and other factors which affect the value to the PORT of the work performed to the date of termination. Under no circumstances shall payments made under this provision exceed the total price set forth in this Agreement. This provision shall not preclude the PORT from filing claims and/or commencing litigation to secure compensation for damages incurred beyond that covered by withheld payments.

- C. Upon receipt of a termination notice the CONSULTANT shall at no additional cost to the PORT:
 - 1. Promptly discontinue all services affected (unless the notice directs otherwise);
 - 2. Terminate all subcontracts to the extent they relate to the work terminated; and
 - 3. No later than thirty (30) calendar days after receipt of termination, promptly deliver or otherwise make available to the PORT all documentation or materials CONSULTANT or subconsultants may have accumulated in performing this Agreement, whether completed or in progress.
- D. Upon termination, the PORT may take over the work and directly or through a third party complete the work.
- E. If, after termination for default, it is determined that the CONSULTANT had not defaulted, the termination shall be deemed to have been effected for the convenience of the PORT. In such event, the equitable adjustment shall be determined as set forth in the Termination for Convenience provision.

XX. INSURANCE

- A. The Contractor, an agency of the State of Washington, warrants that it is self-insured against liability claims in accordance with the risk management and tort claims statutes, including chapter 4.92 RCW and RCW 43.19.760 et seq. The tort claims procedure, RCW 4.92.100 et seq., provides the fundamental remedy for all tort liability claims against the Contractor and its officers, employees, and agents acting as such and all such claims must be filed and processed as provided therein.

XXI. INDEMNITY

- A. CONSULTANT'S duty to indemnify the PORT under this Agreement varies, as more particularly set forth below, depending on the circumstances that give rise to the obligation of indemnity. However, CONSULTANT'S indemnity obligation shall extend – under any and all such circumstances – to all liability, claims, damages, losses and expenses incurred by the PORT, whether direct, indirect, consequential, and specifically including (but not limited to) attorneys' and CONSULTANT'S fees and other expenses of litigation or arbitration (for convenience, these are collectively referred to as "losses") that arise from the particular act or omission giving rise to the indemnity obligation.
 - 1. GENERAL INDEMNITY. Except to the extent subject to one of the more specific indemnity obligations set forth below, CONSULTANT shall defend, indemnify, and hold the PORT harmless from all losses which are caused, or alleged to be caused, in whole or in part, by any negligent act or omission of CONSULTANT. This obligation of indemnity includes negligent acts, which are concurrent, contributory, or both by the PORT. The obligation of indemnity under this Subparagraph does not, however, extend to losses caused by the sole negligence of the PORT.
 - 2. PROFESSIONAL ERRORS AND OMISSIONS. For any losses that arise from any error, omission or other malpractice in the exercise of CONSULTANT'S professional judgment, CONSULTANT shall defend, indemnify, and hold the PORT harmless from all such losses to the extent caused, or alleged to be caused, by any negligent act or omission of CONSULTANT. The obligation of indemnity under this Subparagraph does, however, not extend to losses caused by the negligence (whether sole, concurrent or contributory) of the PORT.
- B. In any and all claims against the PORT by any employee of CONSULTANT, the indemnification obligations set forth above shall not be limited in any way by any limitation on the amount or type of damages or compensation benefits payable by or for CONSULTANT under applicable worker's or workmen's compensation, benefit, or disability laws (including, but not limited to, the Industrial Insurance laws, Title 51 of the Revised Code of Washington). To the extent necessary to effectuate such indemnity, CONSULTANT expressly waives any immunity CONSULTANT might have under such laws, and, by entering into this Agreement, acknowledges that this waiver has been mutually negotiated.
- C. The obligations of this Paragraph shall not be construed to negate, abridge, or otherwise reduce any other right or obligation which would otherwise exist as to any person or entity described in this paragraph.
- D. For purposes of this provision only, the term "PORT" shall mean and include the PORT and its commissioners, other officers, employees, and agents, and the term "CONSULTANT" shall mean and include CONSULTANT, all

Other Issues

- Indemnity and limit of liability
- Additional insured endorsement form
- Construction
 - Non-OCIP contract management
 - Loss control personnel and safety concerns
- IT and cyber exposures (vendors, etc.)
- Small Business/MBE/WMBE
- Statutory requirements
 - Workers' compensation compliance
- Previously unencountered or emerging issues
 - Engagement of Agent and other available resources



Opportunities and Challenges

- What opportunities exist for risk to be more involved with:
 - Crafting language which removes insurance as an initial reliance
 - Consequences/remedies such as fines in accordance with airport ordinances
 - FOD, safety requirements, etc.
 - Construction contract safety manual requirements
 - Safety training, etc.
- Further outreach within your organization
 - Onboarding new employees
- Use of disparate systems for contracts, insurance, etc.
- Execution of agreements without impeding operational necessities



Lessons Learned

- Post-mortem examples
 - Afoa considerations (ground handler inspections)
 - HUB parking collection issue
- Process changes to enhance collaboration
 - SMS, etc.
- Preventing repeat occurrences
 - Modifications or additions to contract templates (e.g. use of airport-owned autos)



Q&A

