

Airport Council International 2020 Risk Management Conference

Updating Your Insurance Requirements for Maximum Protection

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Agenda

- What is Contractual Risk Transfer?
- Types of Contracts for Airport Operations
- The Insurance Compliance Process
- Common Flaws
- Maximum Protection
 - Your Plan of Action
 - Risk Matrix
 - Tips for Success

What is Contractual Risk Transfer?

Assigning financial responsibility of a project or service to another party through contractual provisions and ensuring those protections are always in place.

Indemnity vs. Insurance Requirements

This is always a work in progress.

Why?

Types of Contracts for Airport Operations

- Airline
- Purchase Order
- Vendor
- Leases

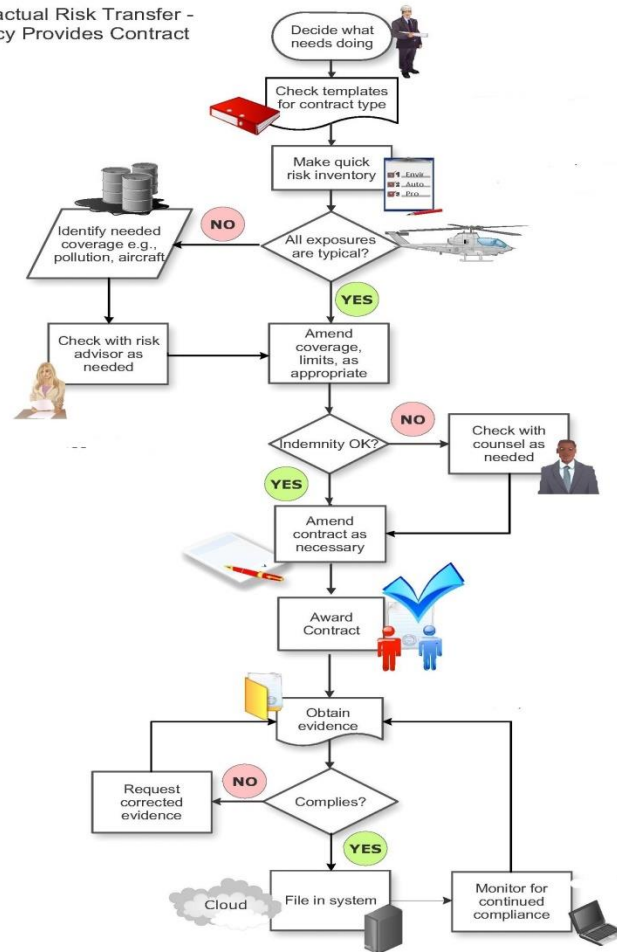
Types of Contracts for Airport Operations

- Professional Services
- Construction
- Permits/Facility Use
- Between Public Agencies
- Others?

The Insurance Compliance Process

The Contractual Risk Transfer Process

Contractual Risk Transfer - Agency Provides Contract



The Insurance Compliance Process

Compliance Variables:

- Checked at contract award; not revisited
- Checked at contract award; revisited at renewal
- NTP a matter of insurance compliance
- Certificate checked w/o endorsements
- Certificate checked w/endorsements

The Insurance Compliance Process

Compliance Variables:

- Full policy review required
- Certificate received, sits in large box or dumped in contract file; not checked
- Knowledge base of individuals conducting compliance?
- Review with legal

The Insurance Compliance Process

Compliance Variables:

- Review with claims examiners
- Varying compliance systems:
 - Excel
 - Manual spreadsheet
 - Sophisticated systems
 - Managed by vendors
- Maintaining compliance stats to measure progress

Common Flaws

Contract Type:	General Liability	Auto Liability	Professional Liability	Property	Workers Comp
Vendor	✓	?	?		✓
Professional	✓	?	✓		?
Construction	✓	✓	?	?	✓
Lease	✓	?		✓	?
Inter-Agency	✓	?		?	✓
Permit	✓	?	?		?

Common Flaws

Coverage Required	Minimum Limit(s) Required
<u><i>Workers' compensation/ Employer's liability (EL)</i></u>	Specifications should require "statutory benefits" or benefits "as required by law." Employer's liability limits usually should be \$1 million (\$1,000,000) to be equal to general and auto liability limits.
<u><i>General liability (GL)</i></u>	One million (\$1,000,000) per occurrence and two million (\$2,000,000) general aggregate. Construction contracts and contracts with manufacturers or suppliers should also contain a \$2,000,000 products and completed operations aggregate limit.
<u><i>Automobile liability (AL)</i></u>	One million (\$1,000,000) combined single limit (CSL) per accident. Auto liability policies have no aggregate. Generally, your Agency should ask for "commercial" auto liability.
<u><i>Umbrella or excess liability</i></u>	When limits greater than one million (\$1,000,000) are appropriate for any of the liability coverages listed above (EL, GL, AL), such limits usually are arranged by use of umbrella or excess liability insurance policies.
<u><i>Professional liability</i></u>	One million (\$1,000,000) per claim and aggregate is the most common level obtained by professional service providers. Major contracts should require higher limits.
<u><i>Property insurance</i></u>	Replacement cost for tenant improvements and betterments, or if the lessee arranges the all risk insurance on the property. If the agreement is for a construction project, the owner may require the contractor to buy "builder's risk" insurance on a "completed value" basis.

Common Flaws

Type of policy	Limits basis	Usage
General liability	Per occurrence	Applies to each “occurrence” regardless of number of claims made if each arose from same accident or event
Auto liability	Per accident	Applies to each “accident” regardless of number of claims made if each arose from same accident or event
Professional liability	Per claim	Applies to each separate claim
Workers’ compensation	Per occurrence	Applies to each “occurrence” regardless of number of claims made if each arose from same accident or event
Employer’s liability	Each accident Each employee	“Each accident” applies to bodily injury by accident “Each employee” applies to bodily injury by disease

Maximum Protection: Your Plan of Action

- ❖ Stay on top of emerging risks
- ❖ Engage your agent/broker or outside risk management consultant to frequently update your language
- ❖ Update language on a regular basis – trends, judgements, coverage changes
- ❖ Develop relationships with peer airports / form working group to stay on top of emerging risks and best practices

Maximum Protection: Your Plan of Action

- ❖ Map out your compliance process and integrate improvements in the process to ensure maximum protection
- ❖ Memorialize consistent general provisions amongst all types of contracts
- ❖ Develop and implement a risk matrix for your type of contracts
- ❖ Subscribe to IRMI on line

Maximum Protection: Risk Matrix

Risk Category	Risk Level	Examples
1	Negligible	<ul style="list-style-type: none"> • No insurance required • Interagency agreements • Master MOUs
2	Low	<ul style="list-style-type: none"> • Landscape vendors • Vending machine providers • Facilities use • Special events • General contracts
3	Intermediate	<ul style="list-style-type: none"> • Construction contracts • Some professional service providers • Technology consultants • Facilities use • Special events
4	High	<ul style="list-style-type: none"> • Major construction contracts • Garbage haulers • Some professional service providers
Other	Undefined	<ul style="list-style-type: none"> • Insurance is needed (alcohol, coach on loan, etc.) • The risk is unique • Custom insurance requirements needed

Maximum Protection: Risk Matrix

Risk Category	Workers' Compensation	General Liability	Auto Liability
1	None	None	None
2	Statutory Employer's Liability \$1,000,000	\$1,000,000 per occurrence \$2,000,000 general aggregate \$1,000,000 products/completed operations	\$1,000,000 Combined Single Limit
3	Statutory Employer's Liability \$1,000,000	\$1,000,000 - \$2,000,000 per occurrence \$2,000,000 - \$4,000,000 general aggregate \$1,000,000 - \$4,000,000 products/completed operations	\$1,000,000 - \$5,000,000 Combined Single Limit
4	Statutory Employer's Liability \$1,000,000	\$1,000,000 - \$10,000,000 per occurrence \$2,000,000 - \$10,000,000 general aggregate \$1,000,000 - \$10,000,000 products/completed operations	\$1,000,000 - \$10,000,000 Combined Single Limit
Other	Consult with Risk Management Professionals	Consult with Risk Management Professionals	Consult with Risk Management Professionals

Maximum Protection: Tips for Success

- Use your own contract language vs. language from other parties
- Read all contracts carefully!
- Ensure all parties are protected – you, elected officials, employees, agents, etc.
- Have legal counsel review all contracts including indemnity agreements
- Don't overreach. Draft reasonable insurance and indemnity language.
- Do not provide NTP without a signed contract. May prohibit coverage.
- Keep indemnity agreements separate from insurance requirements.

Maximum Protection: Tips for Success

- Attach insurance requirements as an exhibit to the contract. Makes easier for insurance agent to comply.
- Watch language in additional insured endorsements. May limit your protection.
- Create an effective system to monitor your insurance requirements pursuant to your contract specifications.
- Keep good records of all compliance and especially liability insurance - indefinitely.
- Keep track of all claims. Revise insurance requirements as needed.

Maximum Protection: Tips for Success

- Your contractor may have put together a program that works for their corporate structure and not your requirements.
- There may be hidden costs with CRT. Don't pay for coverage that isn't needed.
- CRT risk is not "free insurance"
- Keep up with the industry through your broker or insurance consultant by not using outdated terminology or requiring forms that were out of date years ago
- Require status as an additional insured on general and excess /umbrella liability policies



Thank You!

More Questions?