

RESOLUTION NO. 29-13
MASON COUNTY RISK MANAGEMENT POLICY

WHEREAS, the Mason County Board of Commissioners recognizes the need to protect the people, property and finances of Mason County against issues of risk in a cost effective and efficient manner; and

WHEREAS, Mason County is a member of the Washington Counties Risk Pool and subject to the policies of the Washington Counties Risk Pool Membership Compact; and

WHEREAS, the Washington Counties Risk Pool Membership Compact requires member counties to adopt, review and actively promote loss control programs in order to manage risk.

NOW, THEREFORE, BE IT RESOLVED, that the Board of County Commissioners of Mason County hereby adopt a Mason County Risk Management Policy, attached hereto as "Exhibit A".

DATED this 4th day of JUNE 2013.

ATTEST:


BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON


Shannon Goudy, Clerk of the Board


Randy Neatherlin, Chair

APPROVED AS TO FORM:


Terri Jeffreys, Vice-Chair


Tim Whitehead,
Chief Deputy Prosecuting Attorney


Tim Sheldon, Commissioner

Exhibit A

MASON COUNTY RISK MANAGEMENT POLICY

A. Objective

To protect the people, property, and finances of Mason County against issues of risk in a cost effective and efficient manner.

B. Risk Management Statement

The Mason County Board of Commissioners recognizes the need to manage public funds wisely. The intent of this policy is to proactively preserve and protect from losses the assets of County operations in the most economical and efficient manner. Further, the intent is to provide a safe, secure, and healthful working environment for County employees.

The Board provides for a program of risk management within the financial ability of the County consistent with related legal requirements. This policy applies to all risks of accidental loss, such as fire, liability, theft, property damage, malpractice, illness, and injury, both direct and indirect, as relates to all County employees including elected officials and documented volunteers.

The success of the risk and safety management program is impacted by the sincere, constant, and cooperative effort at all levels of management and the participation of all elected officials, appointed officials, department directors, managers, supervisors, employees, and bona fide volunteers. Therefore, the Board of Commissioners anticipate the full support of all elected officers, appointed officials, department directors, managers, supervisors, employees, and documented volunteers regarding risk reduction efforts associated with this critical program.

The County has elected to retain exposure to loss through self-insurance and transfer exposure through purchased insurance only when the premium is determined to be cost-effective compared to the exposure. The insurance funds are established and maintained to pay pooling contributions/assessments, insurance premiums, bonds, deductibles, and insured claims.

C. Purpose

(a) Risk Management - The management and control of the County's Risk Management Program shall be the function of the Board of Commissioners as delegated to the Risk Manager.

(b) Claims and Lawsuits - See sections G and H.

(c) Duties –

- The Risk Manager shall be responsible for reviewing, assessing and controlling the exposures to County employees, property and the general public.
- The Risk Manager shall identify and analyze risks to the County and make recommendations to the Board of Commissioners regarding insurance coverage(s), reserves, deductible, self-insured retention (SIR) levels, loss prevention, and general risk issues.

D. Definitions

- 1) "**Covered Claim**" means a formal demand by a third party for monetary damages because of an occurrence as defined in the applicable Joint Self Insurance Liability Policy ("JSILP").
- 2) "**County**" means Mason County.
- 3) "**County Claims Administrator**" means the employee designated by the Board of County Commissioners to administer civil claims and to serve as its liaison with the Pool regarding the administration of claims.
- 4) "**Joint Self Insurance Liability Policy**" (JSILP) means the coverage document which defines who is covered, the events that are covered and the extent of coverage for the named insured.
- 5) "**Member**" means a county of the state of Washington that is signatory for the WCRP Interlocal Agreement.
- 6) "**Pool**" means the Interlocal Cooperative, a joint local government entity, known as the Washington Counties Risk Pool that was established under Chapters 48.62 and 39.34 RCW, to provide its member counties with joint programs and services including self-insurance, purchasing of insurance, and contracting for or hiring of personnel to provide administrative services, claims handling and risk management.
- 7) "**Risk Manager**" means the employee designated by the Board of County Commissioners to administer the county risk management program and to serve as the liaison between the County and Pool regarding risk management.
- 8) "**Risk Management**" means a coordinated and continuous program for the identification, analysis, control, and financing of risk and exposure to loss, including, but not limited to property, and liability.
- 9) "**Safety Officer**" means the person who is assigned the responsibility to ensure that safety rules and regulations adopted by local, state and federal regulators are followed, and shall consider all recommendations of the Pool concerning the development and implementation of a loss control policy to prevent unsafe practices.

10) **“Lawsuit”** means a civil proceeding brought on by a third party in which monetary damages are alleged due to bodily injury, property damage, personal injury, errors and omissions or advertising injury.

11) **“WCRP”** see #6 “Pool” above.

E. Risk Management

As required by the WCRP Interlocal Agreement, each county shall appoint an official or an employee of the county to be responsible for the risk management function of that county (“County Risk Manager or designee”), and to serve as the liaison between the county and the Pool regarding risk management.

(a) **Designation** - The Risk Manager is designated by the Board of County Commissioners and serves as advisor to the Commissioners and other County officials related to risk management. The Risk Manager shall be given full authority to manage the responsibilities of the position. The Prosecuting Attorney, or his/her designee, shall serve as legal advisor to the Risk Manager.

(b) **General Duties** – In general, the Risk Manager will play a significant role in the planning, organizing, leading and controlling of risk. The goal is to minimize risk and provide for loss from damage to County property, for injury to officers and employees of the County, and for loss or injury to the public.

- The Risk Manager shall meet the requirements and perform the duties as defined as a participating county by the WCRP Membership Compact.
- The Risk Manager shall develop and implement programs for the reduction of risk or exposure to loss.
- The Risk Manager shall make periodic recommendations to the Board of Commissioners concerning insurance procurement, self-insurance, deductibles, risk rate structure, loss prevention, and alternative techniques for the sound management of risk.
- In conjunction with the Prosecuting Attorney's office and Claims Administrator, the Risk Manager shall maintain complete and accurate records with respect to insurance, claims against the County, lawsuits filed against the County, losses incurred by the County, all accidents or incidents giving rise to possible liability against the County, and an inventory of all property in which the County has an insurable interest.
- When an application for defense is received from a County employee, past or present, the Risk Manager must immediately notify the Pool.
- The Risk Manager shall perform an annual risk exposure assessment and will work with elected and appointed officials to identify, measure, analyze and finance risks which face the County.

F. Claims Administration

Washington Counties Risk Pool Claims Handling Policies and Procedures will govern claims administration practices in addition to what is included in the Risk Management Policy.

- (a) Designation - The Claims Administrator is designated by the Board of County Commissioners. The Claims Administrator shall establish procedures for the prompt administration of every claim and maintain records in conformance with the Pool's Claims Database Policy to insure the accuracy of the Pool's loss reporting system.
- (b) Claims Reporting - In accordance with Resolution 64-01, the Clerk of the Board shall receive any and all claims for damages made under RCW 4.96. Upon receipt of the claim, the Clerk of the Board shall distribute copies of the claim to the Risk Manager, Claims Administrator, Prosecuting Attorney, and appropriate elected official or department head. The Claims Administrator shall prepare a monthly report of claim activity for the Board of County Commissioners. The Claims Administrator shall also be responsible for sending copies of all claims/lawsuits to the Pool as follows:
- All claims where monetary damages will equal or exceed 50% of the member's deductible amount within seven days from formal presentment to the county.
 - All claims where monetary damages will not exceed 50% of the member's deductible amount within thirty days from formal presentment to the county.
 - All lawsuits shall be sent immediately, but not later than five days from the date of service.
 - No County official, employee or volunteer, not even the County Risk Manager or a member of the Prosecuting Attorney's Office, shall accept service of process, except as provided by statute.
 - The Prosecuting Attorney or assigned defense counsel will file a Notice of Appearance for the County with the court. A copy of the Notice of Appearance will be sent to the Pool, which shall coordinate the defense with the County.
- (c) Known Incidents - The Claims Administrator should also report to the Pool all known incidents which could involve the following within thirty days of knowledge:
- Ultimate liability may exceed \$100,000;
 - Death;
 - Brain injury or spinal cord damage, real or specific (quadriplegia or paraplegia);
 - Impaired or loss of use of limbs (amputation of major members);
 - Injury significantly affecting the capacity of sight, taste, smell or hearing;
 - Significant disfigurement;

- Injury to the reproductive organs;
- Significant highway design/maintenance liability;
- Significant law enforcement liability;
- Extended disability (six months);
- Severe burns;
- Multiple persons injured in a common occurrence;
- Significant psycho-neurotic involvement; or
- Other incidents that may merit special notification.

- (d) Service of Process - Service of process for lawsuits shall be made upon the County Auditor.
- (e) Receipt of Claim - Upon receipt of a claim for damages, the Pool determines, after discussion with Mason County Risk Management, whether the claim will be handled in-house by the County or assigned to an independent adjuster for investigation and evaluation. An acknowledgement form is sent to Mason County Risk Management identifying the Pool claim number, date of loss, reserve and who is handling the claim. The claim is entered into the Pool claims database.
- (f) Immediately upon receipt of a lawsuit from the County Auditor, the Claims Administrator shall distribute copies of all papers involving the lawsuit to the Prosecuting Attorney, named defendants, and to the Pool (based on WCRP Claims Handling Policies and Procedures). Along with the copies distributed, the Claims Administrator shall maintain a log of claims and lawsuits.
- (g) Upon receipt of a Summons and Complaint, the Pool will determine after discussion with Mason County Risk Management if defense counsel is required and assign the lawsuit to defense counsel when appropriate. If defense counsel is assigned by the Pool, then defense counsel shall, in the discretion of the County's Prosecuting Attorney, either substitute for or associate with the Prosecuting Attorney.
- (h) All claims filed against the County in error will be tendered to the responsible party.

G. Claims Adjudication

- (a) Claims Adjustment and Settlement - Mason County may adjust and settle claims within its deductible limit if the claim does not involve actual or potential exposures for bodily injury or reporting to the reinsurance carriers. The decision to adjust or settle claims less than \$5,000 will be made by the Risk Manager following consultation with the Prosecutor, WCRP and appropriate elected official or department head. The Risk Manager shall request authority from the County Commissioners to adjust and settle claims of more than \$5,000 and less than the County's deductible limit. The County Commissioners also have the authority to adjust or settle any claims within the County's deductible limit after consultation with the Prosecutor and WCRP.

- (b) Claims Reserve Fund - Each County should establish a claims reserve account and fund it adequately pursuant to Governmental Accounting Standards Board (GASB) Statement No. 10 to pay claims, deductible amounts and costs as they come due. The claims reserve fund will be managed by the Board of Commissioners.
- (c) Reserves - Claims reserves are established and maintained by the Pool's Claims Manager or designees on all open files using the Jury Verdict Value process. The County may appeal any claim reserve determination utilizing the procedures established by the Washington Counties Risk Pool.
- (d) Transmittal by the Auditor - Immediately upon receipt of a lawsuit, the County Auditor shall transmit a copy to the Risk Manager and Prosecutor.
- (e) Duties of the Prosecuting Attorney for Lawsuits - The responsibility for litigation shall be with the Prosecuting Attorney or assigned outside counsel.
- (f) Reporting Status of Pending Cases. The attorneys defending a lawsuit shall report the progress and significant developments (updated status) to the Pool and Risk Manager.

H. Risk Transfer/Contract Review

- (a) Uniform Procedures - The sole contracting authority of the County is the Board of Commissioners. No elected official, employee or agent can commit the County to a legally binding contract without the express, written consent of the Board of Commissioners. Upon occasion, the Board of Commissioners may delegate authority to bind the County in contracts and agreements that have pre-approved language, form and hold harmless/indemnification clauses to certain key operational personnel.
- (b) Contractor Insurance - For the duration of each contract and until all work specified in the applicable contract is completed, the contractor shall be required to maintain in effect all insurance as required and comply with all limits, terms and conditions stipulated. Work under any contract shall not commence until evidence of all required insurance and bonding is provided to the County. Evidence of such insurance shall consist of a completed copy of the certificate of insurance and additional insured endorsements signed by the insurance agent for the contractor and returned to the County. If for any reason, any material change occurs in the coverage during the course of the contract; such change will not become effective until 30 days after the County has received written notice of the change. The policy shall be endorsed and the certificate shall reflect that the County is an additional insured on the contractor's general liability policy with respect to activities under the contract.

The insurance policy shall provide and the certificate shall reflect that the insurance afforded applies separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company's liability.

The policy shall be endorsed and the certificate shall reflect that the insurance afforded therein shall be primary insurance and any insurance or self-insurance carried by the owner or County shall be excess and not contributory insurance to that provided by the contractor.

(c) **Contract-Agreement Approvals** - Prior to the signing of any contract, personal services agreement, lease or rental agreement by the Board of Commissioners, the following approvals must be secured:

- Prosecuting Attorney's Office Approval: Review to ensure proper contracting authority, form of legal document.
- Risk Manager Approval: Review to ensure acceptable risk, insurance and hold harmless and indemnification stipulations.
- A copy of the Certificate of Insurance naming the County as an additional insured.

Upon approval, submit the proposed contract/agreement to the Clerk of the Board for inclusion on the Commissioners' agenda for approval.

I. Defense of County Officers and Employees

The County has adopted procedures for defense of County Officers or Employees as required by RCW 4.96 in Mason County Ordinance No. 127-03

J. Duties of County Officers and Employees

(a) **Cooperation** - All County officers and employees shall cooperate to the fullest extent with the Risk Manager, Claims Administrator, Prosecuting Attorney, and outside counsel toward reviewing and resolving claims and defending lawsuits in the following particulars:

- Provide information, testimony, exhibits and documents for the investigation, settlement and/or trial of claims and claims lawsuits;
- Provide information which will assist in the implementation and/or operation of the risk management program;
- Issue directives to subordinate officers or employees necessary to implement the risk management program.

(b) Reporting Accidents and Incidents - County officers and employees shall immediately report to the Risk Manager any accident or incident which a reasonable person would expect to result in the eventual filing of a claim or lawsuit.

- As soon as possible, but no later than 24-hours, after the incident or accident the employee shall complete an Incident Reporting Form.
- The Incident Reporting Form shall be signed by the supervisor and then transmitted to the Risk Manager for review.
- The Claims Administer shall log all known incidents and report serious known incidents to the Pool according to Section G (c) of this policy.

(c) Responsibility - The Board of Commissioners anticipates that elected officials and department heads will:

- Communicate and support the intent and contents of this policy;
- Establish, supervise and enforce procedures to assure a safe and healthy work environment;
- Identify and correct potential risk and safety hazards;
- Communicate uncorrectable risk and hazards to Risk Management in writing;
- Provide appropriate response to recommendations by office staff and Risk Management to eliminate or reduce risk;
- Implement recommendations by Risk Management or demonstrate other acceptable mitigation efforts; and
- Support completion and follow through of the accident/incident review process.

(d) Prohibited Acts - Without prior authorization of the Risk Manager, the Prosecuting Attorney or outside legal counsel, County employees shall not:

- Attempt to affect the settlement of a claim or lawsuit;
- Make an admission of liability involving a claim or lawsuit;
- Speak to media (newspaper, radio television, internet, etc.) sources about potential or ongoing litigation; or
- Discuss incidents, decisions, or issues with a person not serving as a County officer or employee when a reasonable person would understand that such discussion may lead to a claim or lawsuit against the County.

K. Safety and Loss Prevention.

Safety and Loss Prevention Policies and Procedures shall be maintained by individual departments. Policies and procedures should be periodically reviewed and updated to ensure compliance.