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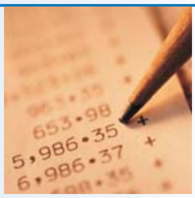

Insurance Primer for Municipal Secretaries

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Foreword

This document offers a brief synopsis of the terminology and generally accepted practices applied in administering a complex insurance program for a Pennsylvania municipality. To a somewhat lesser degree, this document touches on how to use the risk management process to better control losses. This publication is not a comprehensive, sole-source document. There are numerous other organizations and resources available to the serious student of public risk management, including but not limited to:

- local insurance agents.
- insurance company loss control representatives.
- the national and the Pennsylvania Chapter of the Public Risk Management Association (PRIMA).
- the Risk and Insurance Management Society (RIMS).
- the Society of Chartered Property Casualty Underwriters (CPCU).
- the Public Entity Risk Institute (PERI).

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I. The Extent of Municipal Liability

Prior to the mid-1970s in Pennsylvania, municipalities and their agents enjoyed sovereign immunity, an English common law term meaning the "king can do no wrong." In effect, no matter how negligent a municipality was in performance of its duties, claimants had no recourse for recovery. The Pennsylvania Supreme Court overturned this concept in 1973 with *Ayala v Philadelphia Board of Education*. After this ruling, municipalities and municipal officials were held responsible for their acts under the same legal standing as corporations and individuals. This illustrates the importance of orientation and ongoing training in order for public officials and employees to be aware of acting within the scope of their official duties and responsibilities.

About the same time, litigation was beginning to become the preferred method of resolving disputes. As a result, the filing of complaints against public entities began to increase.

In response to a plea from local government, the Pennsylvania State General Assembly passed the Pennsylvania Political Subdivisions Tort Claims (Governmental Immunity) Act in 1978. The Tort Claims Act (Chapter 85 of the Judicial Code) re-established the concept of governmental immunity except for eight areas, or exceptions to immunity, where a municipality could be held liable.

The Act limits or caps damages at a maximum of $500,000 per occurrence for a political subdivision, regardless of the number of plaintiffs. Claimants are required to notify a municipality of a claim within 180 days of the incident, unless physically unable to do so. Finally the statute requires a municipality to defend an official/employee as long as the official/employee acted, or believed he/she acted, in good faith on behalf of the municipality.

The eight *exceptions* to governmental immunity in Pennsylvania are:

- Operation of any motor vehicle owned or controlled by the political subdivision including vehicles operated by rail or through water or in the air.
- Care, custody or control of personal property of others by the political subdivision.
- Real property in the care, custody or control of the political subdivision.
- A known dangerous condition of traffic lights, street lights, traffic controls or trees under the care, custody or control of the political subdivision.
- A dangerous condition of steam, water, sewer, electric and gas systems owned by the political subdivision
- A dangerous condition of streets owned by the political subdivision.
- A dangerous condition of sidewalks owned by the political subdivision (if known in sufficient time to have taken corrective action).
- Animals controlled by or in the possession of the political subdivision, including but not limited to police dogs and horses. Wild animals such as bear and deer are not included in this definition.

The Act limits liability to only those defects that the municipality was aware of, or should have known about. Under a pure and simplistic interpretation of the Act, there is no liability for a defect in the roadway if the first notice of the defect was the plaintiff's filing of a claim. If the municipality is unaware of the defect, it cannot be reasonably expected to repair it. However, the Act goes on further to say not only is the municipality responsible *for known defects,* but also for defects about which the municipality *"should have known."* For example, if the municipality's highway superintendent drives to work everyday over the road with the defect, or if the municipal police department regularly patrolled the same road, a plaintiff attorney will argue that the municipality “had constructive notice” even though it was not formally reported by a motorist. On the other hand, the Act stipulates that the municipality must have sufficient time to correct any defect and the extent of the corrective measure must be reasonable relative to budgetary considerations.

The municipality may be held secondarily liable in certain circumstances. Exception number 7, the sidewalk exception, stipulates that a municipality is secondarily liable for sidewalks owned by others. The municipality is responsible for notifying the property owner of a defect and seeing that the defect is corrected in order to protect the public. Also, courts have held that municipalities should notify property owners of sight distance problems created at intersections by overgrowth of foliage. Failure to notify residents of a dangerous condition on their property could carry liability if the condition existed with the knowledge of the municipality. Knowledge could mean the condition was on a street routinely patrolled by police or passed by other employees of the municipality.

The Tort Claims Act also limits the municipality’s financial obligation to any uninsured portion of the loss. If a motorist is involved in a vehicle accident with a municipal vehicle, he or she is required under the Act to report the loss to his or her personal auto insurer. If the municipality were found to be liable for the accident, the municipality’s auto liability insurer would reimburse the motorist only for his or her deductible or for the uninsured portion of the loss. The motorist’s personal auto insurer pays for any loss above the deductible.

The important thing to remember is to respond to problems and known defects quickly and to document when you became aware of any defect. A good *complaint intake and tracking system* (see Appendix VIII) can help tremendously in defending cases with little or no merit. Defense counsel assigned to defend the public entity in litigation greatly appreciates records, time-lines and particularly photographs. Photos really are worth a thousand words.

Recent Pennsylvania court decisions are holding municipalities responsible for notifying PennDOT of traffic control problems where State highways and municipal roadways intersect. If you know of an intersection where there have been numerous accidents, and an upgrade in traffic control may be justified (e.g. from two to four way stop, adding a traffic signal, restricting left turns), notify PennDOT in writing and ask them to perform a traffic study. Follow-up with the Department on a regular basis.

Questions occasionally arise about the liability of repairing a dangerous condition such as a pothole in a State highway or county road. If you know of a dangerous condition, notifying the proper agency is essential. If the defect creates a serious hazard, you should warn the motorists of the condition with cones or even consider closing the road. If you decide to warn the motorists or go as far as to repair the defect in another agency’s road, you may be held responsible for negligently warning or negligently making the repairs.

For more details on how applicable case law has re-defined the eight exceptions over the years, be sure to contact your Solicitor or insurance company’s defense counsel.

A final note on immunity. A separate statute, the Pennsylvania Recreational Land Use Act of 1968, confers immunity to any property owner who makes their land available to the public for recreational use free of charge, provided the real estate is unimproved land.

Municipalities, for several reasons should not rely on the damage cap as a reasonable barometer for setting their insurance **limits of liability.** In addition to suits brought in state courts, municipalities are also subject to legal actions under federal laws. Federal judgments against the municipalities and their public officials are not limited to the state cap of $500,000. Therefore, in order to be adequately protected, a municipality needs to purchase higher limits than the state cap. On this same subject, case law in the past has stipulated that delay damages, may be awarded on the full award by the jury, not just the reduced or molded cap limit. These delay damages which are awarded to the plaintiff based on loss of interest earnings for the time it took to resolve the matter in the Commonwealth’s court system, are *in addition* to the cap limit. Delay damages on the full jury award plus compensatory damages could result in the total award exceeding the $500,000 cap by several hundred thousand dollars. A Pennsylvania Supreme Court case, struck down the practice of awarding delay damages against the full jury verdict. In *Allen v Pennsylvania Department of Transportation,* the Pennsylvania Supreme Court ruled that delay damages should only be assessed against the capped damages rather than the entire jury verdict.

Municipalities and public officials involved in litigation in the U.S. Federal court system or administrative law system will discover plaintiffs typically alleging some constitutional violation of their civil rights. Cases may involve wrongful discharge or disciplining of an employee, zoning land use issues, discrimination in hiring or awarding contracts for service, licensing, restrictive ordinances and deprivation of due process. The best advice is to get legal advice before taking action that may result in a Federal complaint. A labor attorney is a good source of advice on any personnel matter. Ask yourself if your actions are justifiable and defensible. Always document conversations and follow legal advice.

Employment practices liability is a new and growing area of litigation in Federal court today. Employees have a new sense of awareness about their rights under Federal anti-discrimination statutes. If you are considering taking action:

- Establish grounds for disciplinary action, with good documentation.
- Use progressive discipline and be patient.
- Document all discussions with the employee, performance reviews and warnings.
- Ask employees to acknowledge in writing receipt of performance reviews.
- Seek advice of experts.

For any Federal allegations, seek the advice of attorneys familiar with defending Federal court cases. Attorneys assigned to defend municipalities in Federal cases by insurers are good sources of advice and counsel. Regularly attending training programs offered by law firms, municipal associations, insurers and pools is a good way to stay on top of changing case law and liability exposures in general.

How you manage the municipal assets under your control will have a direct bearing on losses paid by the insurer and ultimately on the premium paid by the public entity.

II. Types of Municipal Insurance

Insurance is a contract between the municipality and an insurer whereby the insurer agrees to indemnify the municipality in the event of a loss, subject to the terms, conditions and limitations of the contract, in exchange for payment of the premium. A typical insurance policy requires the insured to report claims in a timely fashion and to cooperate fully with the insurer during its investigation of the claims.

A typical municipal insurance package includes the following policies:

General Liability – provides legal defense and indemnification for claims filed by third parties alleging bodily injury or property damage caused by the negligent condition of the premises, operations or products of the municipality.

Automobile Liability – provides legal defense and indemnification for the negligent use of a licensed motor vehicle.

Automobile Physical Damage – provides collision and comprehensive coverage for damage to automobiles owned by your organization.

Public Officials Liability – provides coverage for damages (other than property damage and bodily injury) caused by the wrongful acts of public officials acting within the scope of their official duties. This coverage form also typically provides coverage for employment practices liability.

Police Professional Liability – provides liability coverage for the professional exposures associated with providing law enforcement services.

Property / Boiler and Machinery – provides coverage for first party (municipal owned) real and personal property losses.

Workers' Compensation – provides no-fault coverage for employees injured within the scope of their employment. Benefits include payment of medical costs and lost wages. Also covers work-related diseases.

Crime – provides coverage for the organization's money and securities lost as a result of criminal activity or lack of fidelity on the job.

Employee Benefits – a variety of insurance coverages offered to employees and their dependents as part of an employment package. Examples include term life insurance, health insurance, short and long term disability.

Property Insurance

Buildings and Contents. A property policy provides coverage for real (other than land) and personal property owned by the municipality.

The property insurance policy should include an up-to-date list and current valuations of all municipal-owned buildings and contents. Perils should be insured on "All Risk" basis and replacement cost new coverage should apply to all buildings and contents. Property insurance is written on a "location" basis. If a property location is not shown on the policy, the site is not insured. Consider adding automatic coverage for newly-acquired property, subject to a maximum limit if reported within 90 days. Furthermore, if municipal-owned property (including records) is stored offsite and away from an insured location, the policy will need to address coverage for property off premises.

A coinsurance clause may be included in this type policy as a negative incentive for the insured to inadvertently under-report property values to the insurer. If the property values are understated, the coinsurance percentage (usually 80% or 90%) will be used to reduce the amount paid in the event of a loss. In effect, the municipality will be partially self-funding the loss. It is important to keep property values current when coinsurance is used. This can be done inexpensively through an appraisal service or through the municipal engineer. Some insurers offer inflation guard protection to automatically increase property values with each renewal based upon cost indexing. Another option is to insure the property on an agreed amount basis. In exchange for the additional premium, the insurer will pay full replacement cost up to the agreed amount of value for each building and its contents that were damaged or destroyed.

Earthquake and Flood Coverage. A typical property policy excludes losses caused by these two high-risk perils, in effect resulting in the perhaps unintentional assumption of these risks by the property owner. Both flood and "quake" losses fall into the low frequency, high severity loss category—risks that are recommended by most risk managers for transfer to insurers. Optional flood and quake coverage, perhaps with sub-limits and higher deductibles, may be available from the municipality's property insurer for an additional premium. Another source of flood coverage, for the municipality and its residents alike, is the National Flood Insurance Program. In order for residents to secure coverage, local governments must adopt floodplain management measures by ordinance in order to permit property owners to be eligible for federally subsidized flood insurance.

Inland Marine. This policy provides coverage for mobile equipment, such as off-the road, unlicensed contractor's equipment. Equipment covered includes items such as street sweepers, graders, portable welders, backhoes and portable radios. (The term "inland marine" emanates from the very broad coverages typically found in marine policies covering goods shipped overseas. Inland marine extends the same coverage to land-based mobile property.)

Boiler and Machinery. This coverage insures against loss to a building and contents due to explosion of boilers or pressure vessels and broad coverage for mechanical failure of machinery, electrical and air conditioning equipment (other than for wear and tear). This type of policy carries an inspection service by the insurer that is both beneficial to the municipality and the insurer. Coverage should be on a repair or replacement basis, not actual cash value.

Time Element Property Coverage. Property losses related to the passage of time may be insured. The coverage not only addresses how much coverage may be required but also for how long. Be sure to review these exposures with your broker or agent. Examples include:

- *Business Interruption* provides coverage, during a pre-determined period of time, for a loss of net income and continuing expenses after a business suffers a covered peril.
- *Extra Expense* coverage pays for added expenses required as a part of a property loss, such as renting temporary office space or storage space, while the municipal facility is being repaired after a covered loss.
- *Electronic Media* provides business interruption coverage caused by the loss of EDP records.
- *Accounts Receivable and Valuable Papers* provides coverage for the added cost of reconstructing important records lost or destroyed as a result of a covered loss.

Builders Risk. This policy is required if the municipality is constructing a new building. The policy may be provided by the contractor as stipulated in the specifications or by the owner's (the municipality's) insurer. Builders risk is a "bridge" policy providing coverage for the loss of a partially constructed building. The contractor should be responsible for insuring the materials stored on-site that he or she owns, which will ultimately be used in the construction. The owner will not begin insuring the building until the owner accepts title to the finished product. Without Builders Risk coverage, a loss of the materials used in the construction may amount to a substantial uninsured exposure as the building nears completion.

Business Auto Policy. If a municipality operates one vehicle or a fleet of vehicles, a business auto insurance policy is a necessity. The policy provides liability coverage (bodily injury and property damage) and first party auto physical damage coverage (collision and comprehensive). The named insureds should include the municipality and its elected and appointed officials and employees. (Act 6 of 1990 that reformed the Motor Vehicle Financial Responsibility Law in Pennsylvania applies only to private passenger vehicles and not to vehicles owned and operated by municipalities.)

Coverage should be extended to include hired and non-owned vehicles thereby protecting the municipality when an employee uses a personal vehicle on official business or leases or rents a vehicle. For non-owned coverage, the employee's personal auto coverage is primary in the event of a loss and the municipality's coverage would be excess of the personal insurance.

If the municipality insures fire, ambulance, and police vehicles, it is advisable to consider an emergency equipment endorsement covering the various types of customized emergency equipment installed on emergency vehicles. Normally, coverage is not extended under the business auto policy for equipment not permanently attached to the vehicle. Consider adding language such as "snow plow, spreader when attached to the vehicle" or make sure the equipment is covered under an inland marine policy.

Liability (Casualty) Insurance

Commercial General Liability (CGL). Generally, this policy protects the municipality, its boards, commissions, officials, employees and volunteers from third party actions alleging bodily injury, property damage and personal injury resulting from the operations of the municipality or the ownership of its premises. Slips or falls by the public visiting a municipal building is a typical premise-type claim covered by a CGL policy. The policy, originally limited to premises when first issued hundreds of years ago, has been expanded to include operations, completed operations, products, incidental medical payments, host liquor liability and fire legal liability. It also extends coverage to personal and advertising injury exposures such as libel and slander. Contractual liability is provided for liability assumed by the municipality under a contract, subject to the terms and conditions of the policy.

Most CGL policies are now written on an Occurrence form rather than a Claims-made form. Most now contain both a per occurrence limit and an aggregate limit. (See Appendix X for the definition of these terms)

The CGL policy will typically exclude police operations, employment practices and wrongful acts by public officials, necessitating municipalities to purchase one, two or three additional liability policies.

Public Officials and Employment Practices Liability (Errors and Omissions). This insurance provides coverage for damages caused by the alleged "wrongful acts" of public officials. Its private sector counterpart is Directors and Officers coverage. It excludes coverage for property damage and bodily injury. Claims usually arise from decisions made by elected or appointed officials that allegedly cause loss of revenue, a loss of a property right, planning and zoning issues, licensing, free speech, privacy and alleged Constitutional violations. If Employment Practices were not excluded from the Public Officials policy, this policy would also provide coverage for actions related to the hiring and firing of employees and discrimination in employment.

Typically, a Public Officials policy is usually written on a Claims-made basis.

Suggested minimum coverage is $1 million with a reasonable, affordable deductible which may range from $1,000 to $10,000 depending upon the size of the municipality and its ability to pay.

Police Professional Liability. Any municipality providing police service needs to purchase this coverage. This insurance provides coverage for alleged violations of civil rights caused directly or indirectly by a police force. Allegations typically include false arrest, false imprisonment, wrongful entry, excessive force, pursuits, property damage, personal injury (verbal abuse), bodily injury (physical), errors and omissions, humiliation, civil rights violations, denial of medical treatment, prisoners' claims and impounded property. A typical minimum limit is $1 million with a deductible of $1,000 or $10,000, depending upon the size of the municipality and its ability to pay.

Umbrella or Excess Insurance. An umbrella or excess liability policy sits atop the underlying policy(ies), extending limits and/or enhancing coverage. Many times, the terms are improperly used interchangeably. The typical excess policy extends limits of the general liability, automobile liability and employers liability (Part B of the workers' compensation policy) policies, usually in blocks of $1 million. An excess policy responds only when the underlying per occurrence or aggregate limits are exhausted. An excess policy that identically matches the terms and conditions of the underlying policies, without additional exclusions or conditions, is said to "follow form." An umbrella policy, in addition to extending limits of coverage, may offer coverage enhancements on a "first dollar" basis. In effect, the umbrella insurer, for these broader coverages only, will "drop down" and act as a primary insurer. Therefore, as a way to illustrate the proper use of the two terms: all umbrella policies are excess policies, but not all excess policies are umbrella policies!

Crime Coverage and Public Officials Bond

Public officials bonds guarantee the honesty and the faithful performance of elected and appointed officials. Bonds are not two-party insurance contracts but contracts of suretyships involving three parties. The principal or obligor (the public employee) is required to perform in a certain manner to the satisfaction of the obligee or creditor (the public employer). The surety (bonding company), in exchange for the premium, guarantees that the principal will fulfill the requirements of the obligee. With insurance, the insurer is responsible to the insured, it pays losses on the insured's behalf and typically does not subrogate against its own insured for recovery of any loss. With a surety bond, the surety is responsible only to the obligee, does not expect to pay losses for the obligor and fully expects recovery from the principal. As an analogy, a surety is like a co-signer of a loan.

Some position bonds are required by the municipal codes or statutes, such as tax collectors and treasurers. Other officials responsible for handling money may be required to be bonded by local ordinance, including the municipal secretary, the chief elected official and certain clerical staff. As a guide, the amount of bond should equal the maximum amount of cash, checks and securities under the control of the official at any one time.

A fidelity or honesty bond deals solely with the honesty of the principal. A faithful performance bond generally covers both honesty and faithful performance of duties. A blanket bond is a single bond written to cover numerous officials or employees. This type of bond would pay any loss by any employee covered under the blanket protection.

Public employee bonds are typically wrapped into crime policies that provide coverage for money and securities lost or stolen inside and outside the premises.

Employee Benefits

Workers' Compensation

Although typically considered a benefit, workers' compensation coverage actually had its roots in liability coverage. In the early 1900s, the only recourse for employees injured on the job was to file a lawsuit against his or her employer and prove negligence, a difficult threshold to achieve. Workers' compensation coverage was offered as a litigation reform measure or compromise: employers agreed to provide mandatory no-fault coverage to employees injured within the scope of their employment and employees relinquished their right to sue their employers. Benefits include payment of medical costs and lost wages and the coverage was amended in later years to include work-related diseases.

Furthermore, municipalities are required to provide workers' compensation coverage to the following volunteers if the company or corps is domiciled within their boundaries:

1. Volunteer Fire Fighters
2. Volunteer Ambulance Corps
3. Volunteer Fire Police
4. Volunteer Special School Police
5. Volunteer Rescue and Lifesaving Squad
6. Volunteer HazMat Team

Police involved in undercover drug task force operations sponsored by the state Attorney General's office should be covered for workers' compensation by the Commonwealth for injuries or illnesses resulting from these operations.

Occasionally, volunteer ambulance or fire companies create paid positions. The municipal workers' compensation insurer does not provide coverage for paid employees of volunteer fire or ambulance companies. Under the Act, the employer is responsible for providing workers' compensation coverage and the volunteer company would be required to purchase separate coverage for its employees.

Workers' compensation provides a wage loss benefit of up to 66 2/3% of the injured worker's normal wage, subject to any statutory minimum and maximum weekly wage. In the case of paid police, firefighters and park guards who are temporarily disabled as a result of an on-the-job injury, the municipality is obligated to pay the balance of salary (331/3%) out of their own funds under the Heart and Lung Act (Act 477 of 1935). Municipalities may decide to purchase optional disability insurance to cover this added risk, or they may opt to retain the risk and make the payment out of an appropriate payroll account.

Unemployment Compensation

Unemployment compensation insurance provides coverage when that unemployment compensation is owed to a former employee or employees. State law requires Pennsylvania local governments to fund this financial obligation using one of two methods: contributory insurance or by reimbursement.

Contributory unemployment compensation is the more typical method. Municipalities pay a quarterly fixed charge to the Commonwealth for coverage. The rate is set as a percentage of payroll. The advantage of this method is that the payment is relatively easy to predict. The disadvantage is that it can be an unnecessary expense for an organization with little or no turnover.

Only municipal governments and nonprofit agencies are permitted to choose a second option, to reimburse the unemployment compensation fund for claims paid on its behalf. If a municipality decides to reimburse the fund, it should establish a reserve account or fund as a way to pre-fund the liability in the event of a claim or series of claims. If the municipality is forced to layoff employees for economic reasons, the total reimbursement costs could be substantial and poorly timed. A few state associations have formed unemployment compensation pools providing a more secure method of funding the financial risk common with the reimbursable method.

In all cases, the Commonwealth of Pennsylvania's, Bureau of Employment Security determines who is and who is not eligible for unemployment compensation benefits. The Commonwealth also sets the amount to be paid in benefits. The method chosen (contributory or reimbursement) should be based on solid analysis of past loss experience and informed, conservative projections about future economic circumstances.

Health Insurance

Health insurance is an employee benefit provided by the municipality to its employees and their dependents. Typically, it provides payment for hospitalization, outpatient medical services, ancillary medical services and prescription drug costs. Employees may be expected to share in the costs either with co-pays, deductibles or contributions towards the premium. Several plan types may be offered:

HMO: Typically, the option with the most controls and lowest costs (managed care). Limits access to specialists. Subscribers are required to first seek treatment from a pre-selected primary care physician (PCP). The PCP controls access to specialists through a referral. Specialists used by the PCP for referrals are generally part of a small network offering steep discounts. Employees only pay a very low co-pay for PCP office visits and visits to referred specialists.

Point of Service (POS): Still a managed care environment, but offering some out-of-network coverage for an employee who seeks treatment without a referral from a PCP.

Preferred Provider Organization (PPO): A non-managed care product that is a hybrid between the expensive traditional indemnity coverage and an HMO. Offers lower co-pay incentives to stay within a PPO network of physicians, but provides out-of-network coverage without referrals.

Indemnity Plan: The modern day evolution of the traditional "hospitalization and medical/surgical" product originated by Blue Cross and Blue Shield in the 1930s. It allows the broadest access to hospitals, physicians and specialists, subject to the payment of co-insurance requirements and the satisfaction of annual individual / family deductibles. Generally, this product is being phased out due to high costs caused by high utilization, and to a certain degree, by the popularity of the new low co-pay options.

Short and Long Term Disability / Group Life

Group health, life and disability insurance may be considered personal risk management tools. The financial consequences of an extended illness may be extraordinary. Besides the medical bills for hospitalization and physician services (see Health Insurance above), the loss of income of a family member may adversely affect the family's lifestyle and livelihood.

Short and long term disability coverage provide a percentage of the income loss resulting from a non-occupational injury or illness. Typically, short term provides coverage from a few days after the loss up to six months. Long term picks up at 6 months and continues for several years. The benefit is a percentage of regular pay that may vary from 50 to 75%. Short and long term insurers will medically monitor diagnosis, prognosis and may suggest alternative employment if the disability is more specific to a particular occupation than it is permanently disabling.

Many municipalities self-fund short term coverage by allowing employees to accrue full or partially paid sick leave. Many municipalities allow unlimited accrual of sick leave, which limits the need for short and long-term disability insurance to the first few years of employment, until such time that an employee accrues enough sick leave to fully cover most short and long-term disabilities. Too often employees overlook the importance of maintaining a good sick leave balance, choosing instead to use sick leave as if it were additional paid days off.

Most municipalities provide life insurance in a specific dollar amount or as a percentage of salary. The amount typically offered through a group life policy is not enough to fully provide for the needs of one's dependents. It is advisable to consult a financial planner in regards to adequacy of coverage.

III. Public Risk Management

Risk Management is defined as the process of protecting assets from loss. Risk management works best when it is a fundamental, integral part of ongoing operations, ingrained in what municipal officials do day-in and day-out. Risk management has been called “structured common sense,” implying correctly that it is not a complicated process. It does require municipal officials to be cognizant of possible loss exposures as they perform their duties and to be trained on how to address those exposures. Risk management is an in-depth process and purchasing insurance is just one step in the process of selecting a risk financing technique.

By following the risk management process and applying certain techniques, the frequency and severity of accidents can be reduced. The risk management process applies the scientific problem-solving model to protecting assets:

1. Identifying assets subject to potential loss.
2. Analyzing risk exposures.
3. Examining alternative techniques for dealing with the exposure.
4. Selecting the most promising technique.
5. Implementing the selected technique.
6. Monitoring the results to see if the exposure has been dealt with effectively.

1. Identifying Assets and Loss Exposures
Public risk managers use many tools to identify assets and how those assets are exposed to potential loss. Examples of these identification tools include:

- General observations
- Personal inspections and site visits
- Claim forms and accident reports
- Checklists
- Inventory
- Surveys and questionnaires
- Financial records and budget information
- Records, files and archives
- Complaint forms from citizens (see Appendix VIII)
- Minutes of board meetings
- Interviews
- Experts

There are five main categories of risk exposures for public entities:

- Physical Property
- Loss of Income
- Contingent Expenses
- Human Resources
- Legal Liability

All of these assets can be exposed to perils that may result in a total or partial loss. The art of risk management is to make sure all assets have been identified and then to find ways to counteract identifiable perils. Perils include: acts of nature, human acts, property losses, indirect exposures and third party liabilities.

2. Analyzing risk exposures
After identifying assets and how these assets are exposed to loss, it is now appropriate to begin to analyze the risks. Notice that that the Perils and Exposures Survey form found in Appendix VI has a series of columns for you to evaluate the degree of expected loss *frequency* and expected loss *severity.* This is a worthwhile exercise to help you identify appropriate risk control and risk financing techniques. Appendix VI also contains loss analysis grid, which may be a helpful tool to identify patterns in your municipality's five-year loss history.

Examples of high frequency/low severity risk are minor auto accidents or medical-only workers' compensation claims. Financially, these types of claims are both affordable and fairly predictable. Low frequency/high severity claims however are intermittent and costly.

3. Examining Alternative Techniques
The next step in the risk management process is to examine alternative techniques to address the exposures. There are two main methods of managing risk: risk control and risk financing techniques.

The primary risk control measures are:

- Avoidance
- Prevention
- Reduction
- Separation
- Duplication
- Contractual Risk Transfer

Avoidance is the most effective risk control measure. If the elected officials decide not to offer municipal police services, they have avoided the risks associated with operating a police department. Deciding whether or not to set-up a water utility or to offer refuse collection services or to build a skateboard park are also examples.

The next most effective technique is *prevention.* If the policy makers decide to offer a municipal refuse collection service, avoidance is no longer a viable risk control option. The focus now shifts to preventing a loss from occurring. Public works employees can be trained how to lift properly and how to stay in good physical condition in order to avoid back injuries. Training programs on how to safely operate the vehicle in and out of traffic, how to travel on the back of the packer, and even how to deal with irate citizens to prevent a liability claim all may help prevent losses.

If it is impossible to avoid the exposure and if the preventive measures fail, the next approach focuses on containing the effect of a loss. *Reduction* addresses the severity of the loss. Seat belts are a loss reduction device. Seat belts do nothing to prevent the accident itself, but once the accident occurs, they are very effective in lessening the injuries to the driver and passengers. A sprinkler system or fireproof filing cabinets are other examples of risk reduction measures.

Risk control does not stop with an accident. Training on how to conduct oneself at the scene of a vehicle accident, how to report an accident and how to care for those who are injured can help keep a small accident from becoming a large loss. A sample Accident Investigation Form and Driving Record Form are provided in Appendix III. Consider taking photographs after the accident to record how the scene looked at the time. Post accident work is an essential loss reduction technique. Planning for post-loss by video taping or taking analog or digital photos of buildings and contents *before* the loss can help provide proof of assets to insurance adjusters.

Another risk control device that may have applications in selected circumstances is *separation.* Divided highways and keeping flammable materials away from sources of ignition are two very different examples of applying separation to control risk. Similarly, duplication may help prevent a loss or reduce its impact. A tape backup of computer files is a good example of duplication. An example of using both duplication and separation is to take the tape backup offsite. The files were duplicated with the backup and, as a further protection, the files were separated from the computer site in case the building housing the computer suffered a loss.

Finally, *contractual risk transfer* is a technique that is fairly involved and requires expert legal help. The intent is to transfer your operations to another organization and to specify that the other organization is to manage the operation as if they were the owner.

Risk Financing: Besides risk control, the risk manager must also apply a risk financing technique. Risk managers apply at least one risk control technique and one risk financing technique to an exposure—usually more. The primary risk financing measures are:

- Transfer
  - Insurance
  - Financial Risk Transfer
- Retention
- Risk Sharing

As outlined above, insurance is the most widely used risk financing technique for small to medium-sized public entities.

Financial risk transfer requires another party in a contract to assume and finance the municipality's risk under the contract. This is handled by adding a hold harmless clause to the contract (see Appendix IX), by specifying what type and how much *insurance* the other party needs and by requiring your public entity to be *named as an additional insured* to their policy. When the municipality hires a contractor to repave a street, the public officials do not want to be in a position of defending and paying liability claims emanating from the repaving work simply because the municipality owns the street. The contractor should agree to insulate the municipality from claims resulting from their work by agreeing to defend and indemnify the municipality in the event of a claim. But agreeing to assume this risk is not enough. The contractor must show proof of financial responsibility to support the hold harmless clause. The contractor's agent will issue a *certificate of insurance* showing proof of coverage. The certificate should show the public entity named as an additional insured to fully protect your interests.

Insurance is not the only way to finance risk. A municipality may choose to *retain* risk. The term *self-insurance* is commonly used interchangeably with *risk retention* even though the term is somewhat of a misnomer. It is always the public entity's risk, unless it chooses to transfer the risk to another party like an insurer. Since insurance refers to a method of transferring risk, self-insurance improperly implies a transfer of risk to oneself.

The term *self-insurance* does help to distinguish a pro-active risk management approach from *non-insurance or uninsured.* The term *non-* or *un-*insured infers that a risk was overlooked and unbudgeted requiring the municipality to pay for a loss out of fund balances without the opportunity to plan for the expense. *Risk retention, self-funding* and *self-insurance* all imply a concerted effort to pre-fund losses using a dedicated risk management fund or account. Choosing the reimbursable method of paying unemployment insurance is a decision to self-fund the risk.

Deductibles are a type of self-funding, although technically the risk has been transferred to the insurer. Since it is expensive for insurers to process and pay small claims, they will offer premium discounts to insureds who are willing to assume smaller losses. For some coverage lines, insurers insist on deductibles because of the uncertain nature of the risk. The special municipal lines of Police Professional and Public Officials Liability usually are written with deductibles of a few thousand dollars.

Under current Pennsylvania law, you must apply for permission from the Pennsylvania Bureau of Workers' Compensation before self-funding workers' compensation. Also, the Department of Transportation's Bureau of Motor Vehicles will require notification of your self-funded status if you decide to self-fund auto liability and / or auto physical damage.

Finally, to complete the discussion on risk financing, there are now hybrids, that bridge the gap between self-funding and risk transfer. Some municipalities have united to form risk-sharing pools through state associations and intergovernmental agreements. Pools offer the advantages of risk retention to small and medium-sized public entities. The municipal member transfers the risk to the pool and simultaneously becomes a part owner and trustee of the pool and its operations. There are a number of municipal liability and workers' compensation pools operating in Pennsylvania today. Pooling is authorized by the Pennsylvania Workers' Compensation Act as amended, the Political Subdivision Tort Claims (Governmental Immunity) Act and Act 180 of 1972, the Intergovernmental Cooperation Act. Liability pools in Pennsylvania are not regulated by the Department of Insurance, thereby requiring the applicant to perform their own financial and due diligence review.

The next steps in the risk management process require little in the way of explanation. An example will suffice. Just to recap, the remaining steps are:

4. Selecting the most promising technique.
5. Complementing the selected technique.
6. Monitoring the results to see if the exposure has been dealt with efficiently.

It is a good idea to establish performance standards. *Results standards* are measurable end results, such as a certain number of fewer vehicle accidents after initiating new safety measures. *Activity standards* measure the activities to reaching a desired goal such as the number of inspections conducted at the playground by parks maintenance staff. As loss exposures change, methods need to change.

Organizing a Risk Management Program

After completing the process, you can begin to address how best to organize a risk management program within a municipality. A good first step is to *appoint a coordinator.* Perhaps an administrative support person within the municipality can be assigned the duties of monitoring claims, speaking with loss control and insurance experts about applying loss control measures and coordinating with the insurance policy administration requirements.

A *policy statement* is another step to consider. A policy statement establishes guidelines for the municipality's risk management program and addresses the municipality's risk management objectives, the authority of the coordinator, what to do in the event of an accident, and how and what records need to be maintained.

A *loss control committee* can help implement safety policy and safety rules. It can be given specific assignments like developing a regular inspection program, establishing an orientation program for new employees or setting up a schedule of ongoing training programs. The committee could include line supervisors, key staff members and administrators.

IV. Purchasing Insurance Coverage

The Municipal Codes in Pennsylvania allow officials full discretion in deciding how best to obtain insurance coverage. Purchasing insurance is expressly exempted from all competitive bidding requirements. The municipality has the choice of buying insurance through a negotiation or in a more competitive environment. As mentioned above, municipalities may also choose to participate in a risk-sharing pool, or when and if appropriate, retain risk (self-fund).

It has been said that purchasing insurance may be one of the most important and simultaneously one of the most complex tasks that must be performed by public officials. What makes it difficult, to a certain extent, is the very nature of the insurance market and how coverage is bought and sold.

Agent / Broker Selection

For the most part, independent insurance agents are authorized to provide quotes for a number of insurance companies. The agents are in effect the “out-sourced” sales and marketing staff of insurers.

Those close to the insurance industry contend that long-term relationships among insureds, agents and insurers are beneficial, especially during “hard” or “tight” markets. Insurance pricing and availability typically fluctuate along a five to ten year business cycle. At the trough in the market, prices are low, insurance availability is high, competition for premium dollars is heightened and coverages are broad. These are some of the characteristics of a “soft” market. At the peak of the cycle, premiums are high, coverage is narrowed and availability is greatly constricted. Many times, stability in a market-driven environment may be more of an important issue than cost. Finally, overshopping or bidding insurance too often may have a less than desired effect. If insurance underwriters prepare quotes too often without being awarded the business, they may be more reluctant to prepare quotes in the future and decline to quote.

Perhaps your municipality is content with its current program. Perhaps your agent or broker has represented your municipality’s interest well in the marketplace, shopping your program only when necessary and at the right time. Furthermore, perhaps you have a longstanding relationship with one insurance company, weathering one or more major market shifts. Even if satisfied, make it a habit to meet with your insurance agent at least once a year to review coverages and assets (fleet inventory, building locations), answer any questions, discuss market trends and review loss history.

For some municipalities, the opposite may be true. What steps should you follow to shop your entire insurance program?

Because most insurers rely upon independent marketing agents to produce new business, it is not possible to simply get a quote from a number of insurers. You have to “select” the agents and brokers first before you can reach the underwriters’ desks. An “Agent/Broker Selection Questionnaire” (see Appendix VII) can help you select insurance agencies in your area using qualitative standards. Less formally, request an agency biography to help in the analysis and selection process. The goal of the biography and questionnaire is to find the agency or agencies who will professionally represent your interests in the insurance marketplace, who represent a number of insurers interested in municipal business and who are themselves familiar with municipal risks. Agency selection should not begin less than nine months in advance of the renewal date.

After completing the agent selection process if you decide one agency meets your needs, the next steps in shopping coverage are relatively straightforward. You begin the work with the agency of preparing specifications about your municipality for insurance underwriters to use in preparing a quote. Some Pennsylvania municipalities have hired risk consultants or brokers to help with the technical aspects of marketing the insurance program. The municipality directly pays the consultant or broker a negotiated fee to recommend agencies, assign insurance markets (see below) and to review proposals submitted by insurers.

If your municipality has historically placed coverage through two or more agencies, you may want to consider using two or more agents to more broadly represent your interests in the market. This may complicate the process by requiring one more step--assigning markets. Both agents may represent the same insurance company or companies and both agents will want to approach these insurers to secure a quote for coverage. Unfortunately, underwriters will respond only to one submission—only one agent can represent your interest. The insurer will ask you to issue a "broker of record letter," indicating which agency the municipality wants to receive the underwriter's quote. You assign insurers to agencies. It is always preferable to address this conflict up-front, rather than delay the underwriting process after the underwriter receives two sets of specs.

Specifications

Your municipality now must prepare a description of your risk for underwriters to review. After a brief cover letter generally describing the intent of the process, you may want to consider a four-part format:

Part I. General Requirements
Part II. Insurance Specifications
Part III. Municipal Profile
Part IV. Appendices

Part I. General Requirements.

In this section, consider:

- The municipality reserves the right to accept or reject any or all proposals or portions thereof.
- The information contained is to be considered reasonably accurate and up to date, but it is not to be considered as a warranty.
- How to set up appointments to inspect municipal facilities.
- Who to contact with requests for additional information or clarification of the specs.
- A timetable for the process and a deadline for responding to the specs.
- Qualifications of insurers (minimum Best rating for size and financial stability) and risk sharing pools.
- Number of signed responses and copies requested.
- Requiring a submission of specimen policies.

Part II. Insurance Specifications.

Named Insureds. A complete description of all requested Named Insureds including the municipality, all appointed boards and commissions, all appointed and elected officials, all employees and all volunteers acting on behalf of the municipality. The municipality reserves the right to request additional named insureds during the policy term.

Cancellation and Non-renewal. Minimum notification each party will provide to the other.
Effective Date and Term of Coverage
Rating Plans: Whether or not the municipality wants to consider retrospective or loss sensitive rating plans.
Specific Requirements by Coverage Line
Optional Coverage Quotes

Part III. Municipal Profile

The more information you can provide about your municipality, the more accurate the underwriting. This description should include:

- Location within the Commonwealth and any Unique Characteristics.
- Services Provided.
- Elected Officials.
- Financial Data.
- Descriptions of Facilities, Miles of Streets/Roads, Acres of Park.
- Values for Owned Buildings and Contents, with Listing and Description (age, type of construction and any information on fire detection and suppression).
- Detailed Vehicle and Equipment List, including a Breakdown of Emergency Vehicles.
- Number Employees (full and part-time).
- Number of Uniformed Employees (full and part-time).
- Description of any Enterprise Operations such as Water, Sewer and Electric Utilities.
- Services such as Recreation Programs, Health Services and Code Enforcement.
- List of Boards, Commissions and Authorities.

Part IV. Appendices

- Loss data, including number and type of insurance claims filed within the past three to five years.
- Copies of operating budget and / or independent audits.

Appendix I. General Safety Checklist

	OK	Location if not OK	Recommendations
General Policies and Practices			
Each department has safety rules.	☐		
Injuries must be reported immediately to the supervisor.	☐		
Hazards must be reported to a supervisor immediately after they are discovered.	☐		
Supervisors are required to investigate all accidents in a timely matter and to route reports to management.	☐		
Smoking is permitted only in designated areas.	☐		
Employees reporting for work under the influence of alcohol or drugs are subject to disciplinary action.	☐		
Only public employees are permitted to operate publicly owned vehicles and equipment.	☐		
All employees who operate a vehicle must have a valid driver's license.	☐		
Horseplay and practical jokes are prohibited.	☐		
Employees must notify supervisors when taking prescription medication that causes reactions such as fatigue, dizziness or impaired vision or judgement.	☐		
Accident and injury reports are reviewed by supervisors and discussed with employees.	☐		
Grounds and Building Entrances			
Grounds are free of unusual hazards such as holes, protrusions and other obstacles.	☐		
Trees are free of loose branches or protruding roots.	☐		
Fences are structurally sound and free of holes.	☐		
Sidewalks, entrances steps and lawns are properly maintained.	☐		
Walkways and paved areas are free of cracks and loose pavement.	☐		
All doors and windows are in working condition.	☐		
Outside lighting is sufficient around pedestrian traffic areas.	☐		

	OK	Location if not OK	Recommendations
Buildings and Structures			
Ceilings are free of cracks.	☐		
Rest rooms are free of water hazards.	☐		
Handrails and treads in stairways are in good condition.	☐		
Stairway risers are of proper height.	☐		
Lighting in stairways is adequate.	☐		
Floors are free of holes, splinters, protruding nails, slippery areas and loose boards.	☐		
All openings in floors are covered and marked.	☐		
Aisles and passageways have adequate width and are unobstructed.	☐		
Aisles and passageways are well-defined, marked or painted.	☐		
Work areas have adequate lighting.	☐		
Work areas are well-ventilated and free of fumes.	☐		
Fire Safety			
All emergency exits are properly marked.	☐		
Each building has an evacuation and emergency preparedness plan.	☐		
Employees are trained in fire fighting or are familiar with evacuation plans.	☐		
Fire extinguishers and other fire fighting equipment is checked regularly.	☐		
Sprinkler system is in good working condition.	☐		
Fire alarms and smoke detectors are checked regularly.	☐		
Rubbish and used chemicals are disposed of properly.	☐		
Explosive or flammable materials are properly stored and ventilated.	☐		
Machinery, Tools and Equipment			
All machinery and equipment is maintained properly.	☐		
Belts, gears, chains, clutches and shafting are properly guarded.	☐		
Effective point-of-operation guards are in place.	☐		

	OK	Location if not OK	Recommendations
Equipment and facilities are free of oil or grease spills.	☐	____________	________________________
Gas cylinders are in working condition.	☐	____________	________________________
Tampering or unauthorized use of any machinery or equipment is prohibited.	☐	____________	________________________
Tools and machines are free of split or loose handles.	☐	____________	________________________
All cutting edges are sharp.	☐	____________	________________________
All tools are maintained in a good state of repair.	☐	____________	________________________
Ladders, scaffolds and horses are of standard construction and are in good condition.	☐	____________	________________________
Ladders or self-locking step stools are of an approved design.	☐	____________	________________________
Electrical tools, switch boxes and fixtures are properly grounded.	☐	____________	________________________
Wiring, fixtures, connections and extension or portable cords are safely insulated and installed properly.	☐	____________	________________________
Extension cords are free of frays and breaks.	☐	____________	________________________
All electrical wall outlets and switches are in working order.	☐	____________	________________________
Housekeeping			
Materials are properly stacked and stored according to established guidelines.	☐	____________	________________________
Overhead clearance is ample.	☐	____________	________________________
Work areas are neat and clean.	☐	____________	________________________
Work areas are free of hazardous materials.	☐	____________	________________________
Desks, cabinets and file drawers and/or doors are maintained properly.	☐	____________	________________________
Aisles and walkways are kept clear at all times.	☐	____________	________________________
Access to all emergency equipment such as fire extinguishers, emergency eye wash and showers are kept clear of obstacles.	☐	____________	________________________
Employee Practices			
All equipment and machinery is used properly.	☐	____________	________________________
Materials are loaded and unloaded safely.	☐	____________	________________________
Lifting is done in a proper manner.	☐	____________	________________________

	OK	Location if not OK	Recommendations
Assistance is available to lift or move heavy objects.	☐	________	______________
Safety devices are used.	☐	________	______________
Safety glasses, goggles, hard hats, vests, safety shoes and other protective equipment is worn when required.	☐	________	______________
Workers refrain from engaging in horseplay.	☐	________	______________
Workers are prohibited from wearing jewelry while working on or around machinery or electrical circuits.	☐	________	______________
Vehicles are operated in a safe manner at all times.	☐	________	______________
Traffic cones, warning flags and barriers are used in accordance with construction traffic control standards.	☐	________	______________
First-Aid			
Employees are trained in first-aid procedures.	☐	________	______________
First-aid supplies are available and easily accessible at each work site.	☐	________	______________
First-aid supplies are checked and replaced periodically to ensure freshness.	☐	________	______________
Emergency procedures and telephone numbers are posted.	☐	________	______________

Appendix II. Governmental Loss Analysis

Governmental Loss Analysis
Frequency and Severity

Fiscal Year		Losses Classified According to Size								
		- 500	501 1,000	1,001 5,000	5,001 10,000	10,001 25,000	25,001 50,000	50,001 100,000	Over 100,000	Total
20____	Number									
	Dollars									
20____	Number									
	Dollars									
20____	Number									
	Dollars									
20____	Number									
	Dollars									
20____	Number									
	Dollars									
Total	Number									
	Dollars									
Average	Number									
	Dollars									

Appendix III. Accident Injury Investigation Form

Accident/Injury Investigation Form		
Department:		Date and time accident occurred:
Supervisor:		Date and time accident was reported:
Location of accident:		
Name of injured person:		Title: *(Address & phone number if not an employee)*
Names of witnesses:		Titles: *(Addresses & phone numbers if not employees)*
Injured person's supervisor at the time of injury: *(if different from above)*		
Description of injury:	Person received medical attention? ☐ Yes ☐ No	
Cause of Injury:		
Type of equipment the person was using?		
Injured person's description of accident: *(including circumstances leading up to the accident)*		
Costs of medical care:	Number days of lost work:	Costs of hiring/training replacement:

Supervisor's Evaluation:

	Yes	No
Has a similar accident or injury happened before? If yes, when? _____________________________	☐	☐
Did you know that the employee was doing this job when the injury or accident occurred?	☐	☐
Should the employee be doing this job?	☐	☐
Was the employee trained to do this job?	☐	☐
Was the employee doing the job correctly when the accident occurred?	☐	☐
Were conditions and/or equipment efficient and safe?	☐	☐
Has the employee done the job correctly in the past?	☐	☐
Has the employee ever been corrected or retrained because he or she did the job incorrectly?	☐	☐
Did any obstacles keep the employee from doing the job safely:	☐	☐
Conflicting procedures	☐	☐
Conflicting orders	☐	☐
Lack of equipment	☐	☐
Rush to finish the job	☐	☐
Has the employee been under any stress?	☐	☐
Are there any morale problems among employees?	☐	☐
Was the job procedure awkward or unsafe?	☐	☐
Was personal protective equipment required for performing this job?	☐	☐
Was it used?	☐	☐
Was it used correctly?	☐	☐
Is the job boring?	☐	☐
Was the accident preventable?	☐	☐

Recommendations for preventing this accident from recurring in the future:

Appendix IV. Employee Driving Records

Employee Driving Records				
Designated drivers	**License number**	**Years of driving experience**	**Driver's training (Date)**	**Number of traffic violations (or points)**
Regular drivers *(operate vehicles regularly as part of job)*				
Occasional drivers *(operate vehicles infrequently)*				
Non-drivers *(do not operate vehicles as part of job but authorized to drive in an emergency)*				

Appendix V. Indemnification

The following contractual language related to indemnification and the assumption of risk should be submitted to a review by the governmental jurisdiction's chief legal counsel prior to incorporation into any final agreement.

Indemnification

To the extent permitted by law, CONTRACTOR covenants to save, defend, keep harmless and indemnify the Township/Borough/City/Authority of and all of its elected or appointed officials, consultants, agents, authorized volunteers and employees (collectively the "Township/Borough/City/Authority") from and against any and all claims, loss, damage, injury, cost (including court costs and attorney's fees), charges, liability or exposure, however caused, resulting from or arising out of or in any way connected with the *(use or occupancy of the Township/Borough/City/Authority's premises)* or *(Contractor's performance of the work or Contractor's obligations under the contract)*.

Appendix VI. Perils and Exposures Survey

	Expected Frequency			Expected Severity		
	Low	Moderate	High	Low	Moderate	High
Acts of Nature						
Land movement						
Earthquake or volcano	☐	☐	☐	☐	☐	☐
Landslide, avalanche	☐	☐	☐	☐	☐	☐
Collapse	☐	☐	☐	☐	☐	☐
Erosion	☐	☐	☐	☐	☐	☐
Water damage						
Flood	☐	☐	☐	☐	☐	☐
Sewer/pipes backup	☐	☐	☐	☐	☐	☐
Sprinkler system	☐	☐	☐	☐	☐	☐
Blizzard, icestorm, hail	☐	☐	☐	☐	☐	☐
Windstorm						
Tornado	☐	☐	☐	☐	☐	☐
Hurricane	☐	☐	☐	☐	☐	☐
Falling objects	☐	☐	☐	☐	☐	☐
Lightning	☐	☐	☐	☐	☐	☐
Human Acts						
Crime						
Employee dishonesty	☐	☐	☐	☐	☐	☐
Embezzlement	☐	☐	☐	☐	☐	☐
Robbery	☐	☐	☐	☐	☐	☐
Burglary	☐	☐	☐	☐	☐	☐
Larceny	☐	☐	☐	☐	☐	☐
Grand theft	☐	☐	☐	☐	☐	☐
Fraud	☐	☐	☐	☐	☐	☐
Forgery	☐	☐	☐	☐	☐	☐
Counterfeiting	☐	☐	☐	☐	☐	☐
Arson	☐	☐	☐	☐	☐	☐
Vandalism/malicious mischief	☐	☐	☐	☐	☐	☐
Riots/civil disorder	☐	☐	☐	☐	☐	☐
Unintentional employee errors	☐	☐	☐	☐	☐	☐
Accidents	☐	☐	☐	☐	☐	☐
Employee injuries	☐	☐	☐	☐	☐	☐
Illness						
Occupational disease	☐	☐	☐	☐	☐	☐
Drug/alcohol addiction	☐	☐	☐	☐	☐	☐
Mental Illness	☐	☐	☐	☐	☐	☐
Death	☐	☐	☐	☐	☐	☐

	Expected Frequency			Expected Severity		
	Low	Moderate	High	Low	Moderate	High
Property Perils						
Glass breakage	☐	☐	☐	☐	☐	☐
Breakdown of machinery	☐	☐	☐	☐	☐	☐
Collision						
Auto	☐	☐	☐	☐	☐	☐
Non-auto	☐	☐	☐	☐	☐	☐
Structural collapse	☐	☐	☐	☐	☐	☐
Contamination	☐	☐	☐	☐	☐	☐
Corrosion, wear, abuse	☐	☐	☐	☐	☐	☐
Explosion	☐	☐	☐	☐	☐	☐
Utility loss or failure	☐	☐	☐	☐	☐	☐
Failure of environmental controls						
Heat	☐	☐	☐	☐	☐	☐
Air conditioning	☐	☐	☐	☐	☐	☐
Fire/smoke	☐	☐	☐	☐	☐	☐
Equipment obsolescence	☐	☐	☐	☐	☐	☐
Computer failure	☐	☐	☐	☐	☐	☐
Indirect Exposures						
Business interruption	☐	☐	☐	☐	☐	☐
Extra expense	☐	☐	☐	☐	☐	☐
Loss of rental income	☐	☐	☐	☐	☐	☐
Loss of earnings	☐	☐	☐	☐	☐	☐
Third-party Liabilities						
Advertisers	☐	☐	☐	☐	☐	☐
Festival sponsorship	☐	☐	☐	☐	☐	☐
Automobiles						
Owned	☐	☐	☐	☐	☐	☐
Non-owned	☐	☐	☐	☐	☐	☐
Leased	☐	☐	☐	☐	☐	☐
Property of others in public care/custody	☐	☐	☐	☐	☐	☐
Contracts						
Mutual-aid agreements	☐	☐	☐	☐	☐	☐
Lease agreements	☐	☐	☐	☐	☐	☐
Contracts of easement	☐	☐	☐	☐	☐	☐
Grants	☐	☐	☐	☐	☐	☐
Sales or purchase orders	☐	☐	☐	☐	☐	☐
Notes, mortgages, loans	☐	☐	☐	☐	☐	☐
Construction contracts	☐	☐	☐	☐	☐	☐
Joint facilities usage	☐	☐	☐	☐	☐	☐
Insurance	☐	☐	☐	☐	☐	☐
Pollution liability	☐	☐	☐	☐	☐	☐

	Expected Frequency			Expected Severity		
	Low	Moderate	High	Low	Moderate	High
Personal injury						
Trespass	☐	☐	☐	☐	☐	☐
Libel	☐	☐	☐	☐	☐	☐
Slander	☐	☐	☐	☐	☐	☐
Mental injury	☐	☐	☐	☐	☐	☐
Defamation of character	☐	☐	☐	☐	☐	☐
Invasion of privacy	☐	☐	☐	☐	☐	☐
Improper detention or eviction	☐	☐	☐	☐	☐	☐
Malicious prosecution	☐	☐	☐	☐	☐	☐
Discrimination	☐	☐	☐	☐	☐	☐
Products liability	☐	☐	☐	☐	☐	☐
Negligence						
Elected officials	☐	☐	☐	☐	☐	☐
Employees	☐	☐	☐	☐	☐	☐
Volunteers	☐	☐	☐	☐	☐	☐
Contractors	☐	☐	☐	☐	☐	☐

Appendix VII. Sample Insurance Agent / Broker Selection Questionnaire Form

Insurance Agent / Broker Selection Questionnaire

The Borough / Township of ____________________, Pennsylvania

Month, Date, Year

Street Address
City, State, Zip Code
Phone Number
Fax Number
E-mail Address

Section I. General Information

A. Name of Firm: ______________________________

B. Address: ______________________________

C. City: ____________________ State: ______________ Zip: ____________

D. Phone: ____________________ Fax: ____________________

E. Name Principals, Years of Experience and Professional Qualifications / Designations (Attach resumes if available; add additional sheets if necessary)

1. ______________________________

2. ______________________________

3. ______________________________

4. ______________________________

Section II. Firm Composition

A. Number of Licensed Agents / Brokers: ____________________

B. Premium Volume (excluding personal lines): $____________________

C. Number of PA Municipal Clients: ____________________

D. PA Municipal Percentage of Total Premium Volume: ____________________%

E. Approximate Percentage of Insurance Business by Class ____________________

Liability – General & Auto ____________________%

Liability – Speciality Forms
Including Police Professional and Public Officials ____________________%

Property / Inland Marine & Boiler ____________________%

Crime ____________________%

Workers' Compensation ____________________%

F. The Borough / Township will be assigning insurers to agencies. List your firm's principal insurers by coverage line in *Priority Order:* most preferred market to least preferred. Please indicate each insurer's percentage of your firm's overall agency premium volume:

General and Automobile Liability: ____________________

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Excess & Surplus: ____________________

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Public Officials: ____________________

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Police Professional: ____

Crime: ____

Workers' Compensation: ____

Property and Inland Marine: ____

Boiler & Machinery: ____

Section III. Addressing Borough / Township Needs & Interests

A. Describe any special characteristics which may distinguish your firm from others: ________________

B. If selected to handle all or part of the Borough's / Township's Insurance Program, indicate the principals and support staff who will be assigned to the Borough's / Township's account: __________

C. Please provide the names, addresses, phone numbers and contact persons of three current clients as references. Pennsylvania municipalities would be preferred: ________________

D. Please describe your agency's experience with the PA Political Tort Claims (Government Immunity) Act of 1980: ________________

E. Would your agency consider servicing the Borough's / Township's account on a fee basis? _________

F. Who from your agency would be available to assist the Borough / Township in the event of a large property or liability loss? What claims experience do they have? ________________________________

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G. Describe your firm's marketing and risk management philosophy: ______________________________

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H. Who from your agency would be available to assist the Borough / Township in loss prevention and control? ____

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I. Would you be available for an interview or an oral presentation? ________________________________

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Submitted by: ____

Signature: ____

Date: ____

We appreciate your interest in the Borough / Township of ________________________________, Pennsylvania

Appendix VIII. Complaint Form

Complaint: ______________________________ Number: ______________

Complaint's Name: ______________________________ Date: ______________

Address: ____

____

Phone: ______________ Location: ______________________________

Nature: ____

Time Received: ____________________ Time Completed: ____________________

Received By: ____________________ Total Time Spent: ____________________

Details of Complaint: ____

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Disposition: ____

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Complaint's Signature ____

Township/Borough Employee ____

Appendix IX. Hold Harmless Form

Hold Harmless Clause

(Request a review by Municipal Solicitor prior to use)

Township of ____, County ________________________________

Borough of ____, County ________________________________

____________*(Name of contractor)*_____________ agrees to indemnify and hold harmless the ________*(Township/Borough)*________ of __________*(Name)*______________, its agents, employees or any other person against loss or expense including attorneys fees, by reason of the liability imposed by law upon the ________*(Township/Borough)*________, except in cases of the ___________*(Township/Borough)'s*___________ sole negligence, for damage because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons, or on account of damage to property arising out of or in consequence of this agreement, whether such injuries to persons or damage to property are due or claim to be due to any passive negligence of the ________*(Township/Borough)*________, its employees or agents or any other person. It is further understood and agreed that the contractor shall (at the option of the ________*(Township/Borough)*________ defend the _________*(Township/Borough)*_________ of ___________*(Name)*_____________ with appropriate counsel and shall further bear all costs and expenses, including the expense of counsel, in the defense of any suit arising hereunder.

X. Glossary

Actual Cash Value. The value of a property loss equal to replacement cost less depreciation for previous use and age.

Agent. A legal representative of an insurer with the authority to bind the insurance carrier to a contract or policy.

Aggregate Limit. The maximum amount an insurer will pay annually during the policy term.

All Risk Property Insurance. Covers all perils except those specifically excluded in the policy.

Attractive Nuisance Doctrine. Any potentially hazardous item or place that by its very nature allure the public, especially children (example: private swimming pools).

Blanket. Covers more than one item or person on the same policy.

Bond. A form of money guarantee or protection against financial loss caused by dishonest acts or nonfaithful performance of duties.

Broker. A representative of an insurance buyer authorized to negotiate insurance coverage for the insured.

Claims-made Form. Provides coverage only for "claims made" during the policy period regardless of when the injury or damage took place. Once the policy expires, no claim will be honored unless "tail" or "nose" coverage is purchased. The policy form typically further limits coverage with the use of a retroactive date. This form is typically limited in its use to specialty coverage forms such as Public Officials Errors and Omissions.

Coinsurance. A policy provision reducing the amount recoverable for a property loss due to the understatement of the property values by the property owner.

Commission. A percentage of the premium paid to an agent for the successful sale of an insurance policy.

Deductible. Amount of each claim or occurrence paid by the insured.

Depreciation. Decrease in the value of property over a period of time due to ordinary wear and tear and/or age.

Direct Writers. Insurers that employ their own sales force.

Endorsement. An amendment to a policy which revises the original terms or conditions of the policy.

Errors and Omissions Insurance. Insures against loss due to an unintentional mistake or omission in performance of official duties.

Exclusion. A peril or situation not covered by an insurance policy.

First Dollar Coverage. A policy with no deductible and no retention.

Frequency. The number of times a loss occurs in a certain period of time.

Hazard. A situation or condition that increases the probability of a loss occurring from a certain peril.

Hold Harmless Clause / Agreement. A provision within a contract under which one party agrees to assume legal liability for the other party for specified losses as respects the contract.

Indemnification. One party pledges financial assets to another as security or protection against loss or damage.

Liability. A requirement to pay a damage award due to a failure to fulfill an obligation or duty.

Limit of Liability. The maximum amount an insurer agrees to pay in the event of a covered loss.

Manuscript Form. A non-standard policy form drafted specifically to address an insured's specific requirements.

Occurrence Form Policy. A policy form that provides coverage for a loss event that occurred during the time the policy was in effect, regardless of when the claim is presented. Coverage would still apply even if the policy had expired, as long as the loss event took place during the policy period.

Package. A compilation of a number of different policy forms, combined together by one insurer, using similar policy terms and conditions.

Pennsylvania Workers' Compensation Rating Bureau. An independent organization created by law to set rates for the insurance industry using different payroll classifications.

Peril. Possible causes of a loss to an asset such as windstorm, fire, collision or theft.

Personal Injury. An alleged injury resulting from false arrest, malicious prosecution, wrongful entry, libel, slander, false arrest or a violation of a right of privacy. A broad injury classification that typically excludes bodily injury and property damage losses.

Personal Property. Anything subject to ownership other than real property. Examples include: furniture, equipment, supplies, inventory, machinery, vehicles, copyrights, patents, trademarks, licenses, money, securities

Premium. Money paid to an insurer by the insured to transfer risk under a contract of insurance.

Real Property. Land, buildings, other structures and permanent improvements

Replacement Cost Coverage. Coverage that will fully repair or replace lost or damaged property with a like item. (Depreciation costs do not reduce the value of the insured property).

Retained Limit. The amount of each loss assumed by a self-funded program, below any excess or umbrella coverage. Under a fully insured program (one in which the risk has been transferred under contract to an insurer), the amount of each loss that the insured is responsible for is referred to as a deductible.

Retroactive Date. A method insurers use to limit coverage in claims-made policies, by excluding coverage for any claim with an occurrence date prior to this date. The retro date can be eliminated or extended at times in exchange for additional premium.

Retrospective Rating Plans. A type of policy where the final premium is based upon the insured's loss experience during the policy period, subject to a minimum and maximum.

Severity. The degree of impact of a loss.

Subrogation. Acquiring rights of the insured by the insurance company for action against responsible third parties.

Surety. An individual or company which guarantees faithful or honest performance under a bond.

Pennsylvania Department of Community & Economic Development
Governor's Center for Local Government Services
Commonwealth Keystone Building
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DEPARTMENT OF COMMUNITY
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