

**Insurance Guidelines for  
Personal/Professional Services Clauses  
Department of Administrative Services**

*Exhibit B of the Personal Services contract form gives agencies the option of requiring or not requiring these insurance coverages: Professional Liability, General Liability, and Automobile Liability. How does an agency decide? The Risk Management Division provides this guideline.*

**An overview**

Insurance is specific. Requirements for insurance cannot be general. Insurers have divided the world of risk into several parts. Each part or type calls for special policy design. Tailoring insurance requirements to fit diverse contract situations is very important. It is as important as clearly stating the work the agency expects the contractor to perform.

**Required Workers' Compensation**

Workers' Comp may be the most important coverage of all. ORS 656.029 of the Workers' Compensation Act states that if the agency awards a contract they are to provide workers' comp coverage to the contractor unless he/she provides proof of his coverage before work starts. Keep in mind coverage is only needed if the contractor has one or more employees. So, be sure to get that "certificate of coverage."

**Professional Liability Insurance**

It is insurance that protects the insured person or firm against claims of damages due to alleged or actual errors or omissions in their professional work. It covers damages and defense. Most claims allege a failure to use due care or to use the degree of skill expected of the profession. Different policies are written for most kinds of professions: architects, engineers, medical and other health/behavioral care providers, law enforcement officers, trustees, residential treatment specialists, accountants, veterinarians, etc. Most of the people that can be covered are certified or licensed to do what they do.

**Agencies don't need this insurance when** the professional's activities or their advice that we rely on holds almost no risk of damaging our property or hurting our employees, visitors, clients, or people we do business with, for example:

1. Training session speakers
2. Document review and comment
3. Program consultation
4. Research and writing

**Agencies need this insurance when** there is a fair chance that the professional work could do harm and people might logically find a way to blame the agency that retained the professional. Examples include:

1. Activities with state clients on or off state property that involve health or behavioral care
2. Architect/Engineering services
3. Environmental remediation

**Okay -- How Much?**

The state's standard is \$1 million in coverage limits. But, agencies need more when the potential loss is more. Agencies can require less; (e.g., \$500,000), when there is still a fair chance of a moderately sized accident. The insurance limits agencies need are many times not related to the size of the contract. What must be judged is the chance of a loss and its maximum potential size.

### More about dollar limits

Liability policies insure against bodily injury, personal injury, and property damage to the general public. The built-in risks of the contracted work, with respect to causing injury or damage, need to be considered. The consequential losses of potential shut down or slow down and increased expenses can also be significant. Almost all sound professionals carry liability insurance with limits of \$1 million or more. Those with less are usually new in business, have little experience, or are doing what they can to reduce the costs of overhead to be more competitive for obtaining contracts. Saving on insurance costs has to balance with sound business decisions on having adequate coverage in case something goes wrong. Also, keep in mind there is no “additional insured” provision under professional liability.

### General Liability Insurance

- General liability insurance is really a wide array of liability insurance policies. It is designed to provide broad protection to most persons or firms providing some sort of service other than professional, licensed services. Contractors need it to protect themselves so they can stay in business. They need it so they can protect agencies if people blame the agencies for something the Contractor is alleged to have done.

**Agencies may not need general liability when** the agency's contractor will not be near people or their property or doing anything that could harm anyone, for example:

1. Graphic art;
2. Performance study; and
3. Training presentations.

**Agencies do need general liability when:**

1. The contractor will be near or working with numbers of people and types of property in which bodily injury or property damage may arise;
2. The activity of the contractor (including any of its employees) could allow negligent or intentionally wrongful acts including, but not limited to:
  - A. Access to confidential information about other persons, or
  - B. Work with publications in any way, or
  - C. Access to the private real property of others;
3. The contractor will likely contract some portion of the work to others;
4. The contractor will conduct activity on state premises with property of the state in the contractor's care, custody, or control;
5. The agency requires professional liability; or
6. The agency wants contractual liability coverage for the indemnification provision of the contract.

These examples all relate to one or more specific types of liability exposure covered in the wide array of coverages in the general liability policy. The standard amount to require is \$1 million. But, agencies may need to require more or less. Read above discussion on limits for professional liability.

### Automobile Liability Insurance

Automobile liability coverage should be required of a contractor when it, its subcontractor, or the employees of either will operate, maintain, load or unload vehicles as part of the contract work. The same \$1 million limit would be required, or more or less depending on the severity of what could go wrong. For instance, a contractor transporting clients of the state (children, families, elderly, etc.) is a much greater risk than a contractor just driving its vehicle from one meeting site to another, without passengers.

### Lastly . . .

If agencies need more detail about requirements or want to discuss a specific situation call a Risk Management Consultant at the Risk Management Division, 373-RISK.