

**Department of Administration
Risk Management and Tort Defense Division**

Title: Risk Management Program Governance

Policy #: 2.01

Approved: Brett E. Dahl

Effective Date: July 1, 2003

I. Overview

The Risk Management & Tort Defense Division is a division of the Department of Administration organized pursuant to §2-9-101, MCA through §2-9-305, MCA for the purpose of providing insurance protection and legal defense for participating agencies, boards, councils, commissions, and universities.

II. Purpose

The purpose of this policy is to set forth the organization, duties, and responsibilities of the Risk Management & Tort Defense Division, state agencies, and various committees under the state risk management program.

III. Objective

The Department of Administration is charged with administering a comprehensive and cost-insurance plan on behalf of state agencies. The objective of risk management is to prevent and/or mitigate the underlying causal factors and costs associated with insured auto, aviation, general liability, and property losses. Effective risk management plays a vital role in protecting and preserving the state's vital physical, financial, and human resources.

IV. Risk Management & Tort Defense Division

The Risk Management and Tort Defense Division is responsible for establishing and maintaining the state Risk Management Program. To this end, the division shall accomplish the following:

- A. Seek input from the state Risk Management Network.
- B. Provide direction and guidance to member agencies comprising the state Risk Management Committee.
- C. Encourage state agencies to establish loss prevention programs.
- D. Provide consultative services, training, guidelines, and other resources to assist state agencies to mitigate risk.

- E. Coordinate property and liability appraisals and inspections with state agencies to identify potential hazards and to assure the state assets are properly valued.
- F. Compile and maintain a Risk Management Information System that provides relevant, timely, and accurate loss data to assist state agencies to identify loss trends.
- G. Administer a comprehensive and effective insurance program on behalf of state agencies, boards, councils, commissions, and universities.
- H. Collect and maintain accurate risk exposure data for submission to insurance brokers and carriers.
- I. Allocate costs of commercial and self-insurance protection to state participants.
- J. Investigate, evaluate, and resolve claims in a timely and cost-effective manner.

V. Risk Management Network

The state Risk Management Network was established to provide advice to the Risk Management & Tort Defense Division. The network is appointed by the Director of Administration and serves at the pleasure of the Director of Administration and the Governor. The network is advisory in nature and has no voting privileges. The Director of Administration or his/her designee shall serve as the Chairperson. The function, organization, and meeting requirements of the members of the network are as follows:

- A. Provide recommendations to the Department of Administration on the organization and structure of the state's property/casualty insurance program.
- B. Provide recommendations on processes and measures to improve the efficiency of the state's claims administration processes.
- C. Provide recommendations on ways to mitigate claims through loss prevention processes, training, and policies/procedures.
- D. The membership of the Risk Management Network shall be comprised of:
 - The Director of the Department of Administration or his/her designee.
 - Three public self-insureds.
 - Two private self-insured.

-An Insurance Agent.

- E. The full network shall convene at least annually. Subcommittees consisting of uniform or similar risk management issues shall convene from time to time as requested by the Chairperson.

VI. Risk Management Committee

The state Risk Management Committee is established by the Department of Administration to assist state agencies to protect their vital physical, financial, and human resources through comprehensive risk management programs. The membership shall consist of one representative of each state agency appointed by the agency head. The chairperson shall be appointed by the Administrator of the Risk Management & Tort Defense Division. Members shall serve at the pleasure of each agency head. The function, organization, and meeting requirements of the members of the committee are as follows:

- A. Regularly attend and participate in the state Risk Management Committee meetings.
- B. Establish effective loss prevention programs with the support of agency management and employees.
- C. Make recommendations to agency management and committees regarding the adoption of risk management policies or practices and, when necessary, administrative or legal action.
- D. Distribute loss trend data, training notices, and other pertinent information to key personnel to mitigate risk and increase awareness of how losses occur and how they can be prevented.
- E. Assure that risk exposure information is appropriately reported and collected from state agencies in order to maintain and preserve the insurability of the agency's assets.
- F. Assist supervisors in determining what measures are needed to prevent a recurrence of an incident and make appropriate recommendations to include temporary measures to prevent recurrence while more permanent solutions are being considered.
- G. Monitor the effectiveness of the agency's risk management program.
- H. The risk management committee shall convene at least annually.
- I. Subcommittees consisting of uniform or similar risk management issues shall convene from time to time as requested by the Chairperson.

- J. Committee members shall receive regular training on their duties and other important matters including participation in public meetings.

VII. Staff

The Director of the Department of Administration and the Montana Legislature shall approve staffing levels at a level sufficient for the Risk Management & Tort Defense Division to provide required services to state agencies. Requests for additional employees that are not authorized in the division's current level budget must be approved by the Office of Budget & Program Planning (OBPP) and the legislature in a current or subsequent legislative session.

VIII. Contracts, Loans, Disbursements, and Investments

- A. The Risk Management & Tort Defense Division may enter into any contract or agreement in accordance with the provisions of the Montana Procurement Act. Contracts shall contain specific provisions regarding the scope of service provided, responsibilities of contractors, compensation, periodic reporting, asset ownership, confidentiality of records, assignability, cancellation, compliance with state and federal laws, and billing.
- B. The division may obtain general fund loans with approval of the Director of the Department of Administration and the Office of Budget and Program Planning in accordance with state law.
- C. All checks or warrants for the payment of money shall be issued in the name of the Risk Management & Tort Defense Division with the signature of the State Treasurer's Office.
- D. All funds not otherwise utilized by the division shall be invested by the Board of Investments in accordance with policies established and set by the board.

IX. Accounts and Records

- A. The Risk Management & Tort Defense Division will adopt an annual operating budget for each program developed or adopted by the division.
- B. The division will establish and maintain separate funds and accounts as may be required by good accounting practices. Books and records shall be open to inspection at all reasonable times.
- C. The division participates in annual financial and periodic performance audits conducted by the Legislative Audit Division.

X. Actuarial Evaluations and Rate Development

- A. An annual actuarial evaluation of the state property/casualty insurance fund will be conducted by a fellow of the American Casualty Actuarial Society who is appropriately qualified to render a credible actuarial opinion.
- B. Reserves on claims will be periodically updated to reflect the division's best estimates of claims liabilities. Estimated liabilities will be posted in the state's Comprehensive Annual Financial Report and on SABHRS (Statewide Accounting, Budgeting, and Human Resources System) in accordance with GASB, FASB, and state and federal law.
- C. The division establishes insurance rates for each agency during the biennial budget preparation process. Rates are based on each agency's reported assets and historical losses with provisions for catastrophe reserves.
- D. The division allocates the cost of insurance fairly among state agencies that participate in the state property/casualty insurance program. A fair allocation means that an agency pays its fair share of premium commensurate with loss experience and potential exposure.

XI. Responsibilities for Funds and Assets

- A. The Administrator of the Risk Management & Tort Defense Division is responsible to approve disbursements.
- B. The division's fiscal officer may disburse funds only after administrative approval.
- C. The Administrator, Chief Defense Counsel, and other such persons as designated by either may have charge of, handle, or have access to the property of the division.

XII. Indemnification

Any person who at any time shall serve, or shall have served, as a state employee, director, or officer shall be indemnified, held harmless, and defended by the Risk Management & Tort Defense Division against related costs and expenses including, but not limited to, attorney fees, amounts of judgments, and reasonable settlements incurred in connection with the defense of any claim, action, suit or proceeding, in which he, she, or they may be involved by virtue of being or having been an employee, Director, or Officer. Such indemnity shall be invalid with respect to claims or incidents arising from: (1) personal gain, profit, or advantage. 2) dishonest acts, and (3) criminal or intentional acts in violation of a statute or

ordinance (2-9-305, MCA).

XIII. Governing Statutes

§2-9-201, MCA

XIV. Administrative Use

History Log	
Approved Date:	June 20, 2003
Effective Date:	July 1, 2003
Change and Review Contact:	<u>Brett Dahl</u>
Review:	Event Review: Any event affecting this policy may initiate a review. Such events may include a change in statute, key staff changes or a request for review or change.
Scheduled Review Date:	Five years from Effective Date
Last Review/Revision:	February 15, 2012
Changes:	Various