

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

Title: Insurance Procurement and Administration

Policy #: 4.01

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I. Purpose

In accordance with §2-9-201, MCA, the Risk Management and Tort Defense Division, Department of Administration is responsible for the procurement and administration of a comprehensive plan of insurance protection for state agencies and state universities.

The purpose of this policy is to specify the duties and responsibilities for procurement and administration of insurance by the Risk Management and Tort Defense Division (RMTD) and state agencies/universities and the responsibilities of the Risk Management and Tort Defense Division (RMTD) and state agencies/universities for the payment of deductibles and uninsured losses.

II. Scope

The Department of Administration is authorized to administer commercial insurance and self-insured programs as it deems appropriate on behalf of all state agencies/universities. A summary of major self-insured and commercial insurance coverages and procedures is provided on the division's website at <https://rmtd.mt.gov/insurance/propertycasualtyinsurance>. If you have any questions, please contact the Risk Management and Tort Defense Division, Department of Administration.

III. Definitions

Deductible: An amount paid by a state agency and/or the Risk Management and Tort Defense Division (RMTD) before commercial insurance. For example, state agencies/universities pay the first \$1,000 of a property claim. RMTD satisfies the remainder of the deductible (i.e., \$1,999,000) before commercial insurance applies.

Excess Insurance: That portion of a loss excess of a deductible.

Insurance: Insurance is a contract whereby an indemnitor (i.e., an insurance entity) agrees to pay claims in behalf of an indemnitee (i.e., insured) to an agreed limit, for specified loss exposures, and for a time specific period. For purposes of this policy, insurance includes auto, aviation, crime, liability and other property/casualty insurance that RMTD deems necessary and cost-effective. This policy does not apply to workers' compensation, employee health and benefits, or insurance administered by other state agencies in accordance with state or federal law.

Policy Limit: The total amount of insurance provided under self-insured and/or commercially insured programs in the event of a loss. Limits may vary by insurance policy and by exposure.

Premium Discount: A discount applied to the amount that is budgeted for insurance premium in House Bill 2 each biennium.

Property/Casualty Fund: A fund administered by RMTD that centrally pays for insurance, claims, and associated costs on behalf of state agencies and universities.

Retained Loss (Retention): The dollar amount of a loss assumed by state agencies/universities as deductibles or uninsured losses.

IV. Insurance Procurement

- a) The Risk Management and Tort Defense Division will procure insurance that is deemed necessary, prudent, and cost-effective. The division will purchase insurance or self-insure when:
 - i. Required by law or contract.
 - ii. The amount of the potential loss is too large to be retained.
 - iii. Commercial insurance is available on acceptable terms.
 - iv. Insurance can economically provide ancillary services such as inspection, claims handling, or loss prevention, such as provided by the state's commercial property or self-insurance programs.
- b) The type of coverage, deductible levels, and policy limits for each line of Insurance are based upon cost, availability of coverage, and the potential magnitude of loss.
- c) Coverages are periodically procured on a competitive bid basis and are subject to change. Risk Management and Tort Defense will update the insurance coverages and apprise state participants as various coverages are procured. State agencies / universities should not purchase insurance without contacting the Risk Management and Tort Defense Division first.
- d) Participants will identify loss exposures that they wish to have insured. If participants do not have insurance coverage for a specific exposure as indicated at <http://rmtd.mt.gov/insurance> and have exposures which may necessitate insurance coverage, please contact Risk Management and Tort Defense.
- e) Because some coverage is more difficult to obtain than others, please allow 60 days for procurement. Participants who cancel commercial insurance policies prior

to policy expiration may be assessed a penalty by the commercial insurer in accordance with policy provisions.

- f) Risk Management and Tort Defense either independently, or upon request, may approve insurance policy limits and deductible levels. The division is authorized to allocate costs and establish deductible reserves.
- g) All insurance policies, endorsements, and related documentation are maintained by RMTD.
- h) Participants should appropriately budget for and anticipate projected insurance needs. The Risk Management and Tort Defense Division will typically purchase insurance coverage for participants, and then include the expense in the participant's budget for the subsequent biennium.

V. Establishing Deductible Levels

- a) Deductible levels are established by RMTD with input from state Agencies/universities. Deductibles levels that are too high may result in large losses that adversely affect agency/university budgets. On the other hand, deductible levels that are too low do not promote risk sharing.
- b) RMTD offers various deductible alternatives depending on the type of insurance coverage. Agencies that select higher deductibles receive higher insurance premium discounts as a reward for assuming a higher level of risk. Agencies that select lower deductibles receive lower insurance premium discounts since more risk is assumed by RMTD or commercial insurance carriers.
- c) A summary of insurance coverages, deductibles and policy limits may be found on RMTD's website: <http://rmtd.mt.gov/insurance/propertycasualtyinsurance.asp>.

VI. Exposure Reporting

- a) In order to assure that agency/university assets are properly insured, they must be accurately reported to RMTD.
- b) Assets are reported between October 1st and January 15th of each fiscal year on-line through the state property/casualty insurance information system (PCIIS) found on RMTD's website: <http://rmtd.mt.gov>.
- c) Each agency must provide a point of contact that can be trained to enter and update agency assets for insurance purposes. A list of current exposure reporting contacts may be found at: <http://rmtd.mt.gov/insurance/insuranceprocurementadministration.asp>

Agency coordinators may contact the insurance staff at RMTD with questions.

VII. Certificates of Insurance

- a) Participants are often requested to furnish proof of insurance for liability or property coverage to satisfy contractors or other parties.
- b) Managers, supervisors, and employees ultimately have responsibility for procuring a **Certificate of Insurance** (<https://rmtd.mt.gov/insurance/certofins1>) when it is required by law or by contract. Most state-owned motor pool vehicles should have an **In Case of Accident Form** in the glove box, which provides proof of insurance. The **In Case of Accident Form** may also be found on the division's website: https://rmtd.mt.gov/Portals/62/insurance/files/in_case_of_accident.pdf, however, this form should only be used to collect information at the scene of the accident for preparation of the Report of Incident Form.
- c) For leased/loaned or non-motor pool vehicles, the employee or supervisor should procure an **In Case of Accident Form** or assure that one is in the vehicle. **In Case of Accident Forms** for vehicles are available from the Risk Management & Tort Defense Division or may be found at: https://rmtd.mt.gov/Portals/62/insurance/files/in_case_of_accident.pdf.
- d) All other **Certificates of Insurance** will be issued by Risk Management and Tort Defense Division staff.
- e) **Certificates of Insurance** are not available for activities or insureds that Risk Management and Tort Defense do not insure. Example: State employees using personal vehicles must carry evidence or proof of their own personal vehicle insurance since this insurance coverage is primary.
- f) Agencies must maintain proof of insurance in each vehicle that they own or operate. A vehicle certificate of insurance is typically provided in each vehicle owned by the motor pool or leased from the motor pool. Vehicle liability certificates may be downloaded from RMTD's website. For all other certificates of insurance, please contact the insurance staff at RMTD.

The process for obtaining **Certificate of Insurance** is as follows:

- 1) **Certificates of Insurance** for those coverages that are commercially insured for the State of Montana may be obtained by completing the electronic Certificate of Insurance Request Form <https://rmtd.mt.gov/insurance/certofins1> at least 30 days prior to when the certificate is needed. The Risk Management and Tort Defense Division will contact the insurance company to arrange for the provision of a certificate.
- 2) **Certificates of Insurance** for all self-insurance coverages insured through the self-insurance fund will be provided upon written request to Risk Management and Tort Defense Department of Administration by completion of the electronic

Certificate of Insurance request form at <https://rmtd.mt.gov/insurance/certofins> and submitting it to the division. Please allow one-week lead-time for the completion of a request.

- 3) Each participant desiring a certificate should be prepared to provide information verbally, electronically, or in writing, as requested on the form. The certificate will be issued, signed, and dated by the risk management staff and returned to the requesting participant within a week.

VIII. Insurance Coverage Specifications

The policies described in this section cover loss subject to the conditions of coverage, covered locations, causes, activities, deductibles, and limits as indicated:

- 1) **Notification**: The affected state participant shall notify Risk Management and Tort Defense, within 5 business days with full information relative to the nature of each accident and claim <https://rmtd.mt.gov/claims>. Any catastrophic property loss or loss involving a fatality or personal injury must be reported to the division within 24 hours. Claims that are not reported within 60 days or thereafter may be denied.
- 2) **Assignment**: The interest of the insured shall not be assignable to and other person or entity.
- 3) **Defense**: The employee and the participant shall cooperate reasonably in the defense of the case.
- 4) **Risk Exposure Data**: The participant must provide annual **Risk Exposure Reporting Forms** as required by Risk Management and Tort Defense and the state's commercial insurers to secure coverage.
- 5) **Remittance**: Premium, co-insurance, and deductible notice information will be sent to each state participant. Each participant shall remit billed liability insurance premiums to Risk Management and Tort Defense by September 1st of each fiscal year.
- 6) **Renewal**: All self-insurance programs are continuous unless notice is otherwise provided to participants. All commercial insurance policies and premiums are subject to renewal or revision annually. Premium notices will be directed to each participant prior to the end of each biennium to assist with budget preparation for the following biennium.
- 7) **Territory**: Generally, coverage is provided for the State of Montana and its employees anywhere in the United States of America, its territories or possessions, or Canada. Various specialty policies that the division administers also provide coverage in foreign countries. Please contact the Risk Management & Tort

Defense Division with questions.

IX. Insurance Premium Discounts

The benefits of risk management are many! First and foremost, an effective program of risk management will assure that damages resultant from tort liability, property, business income, and enterprise risks are minimized and that your vital assets, resources, and continuity are protected.

Each participant may reduce its risks and lower its insurance premiums through participation in the Risk Management & Tort Defense Division's insurance premium discount programs (please visit the division's website at <https://rmtd.mt.gov/insurance/noticeelectionforms>)

X. Risk Retention

Risk retention is the dollar amount of a loss assumed either by participants or paid out of the self-insurance fund that is not covered by commercial insurance. Loss exposures that are ideally retained are those that are limited in individual size to an amount clearly within the participant's or self-insurance fund's retention capacity; and are unlikely to occur in larger numbers during a short period of time. State/university participants and/or the self-insurance fund will retain loss exposures which do not meet the criteria as described in the previous section. The following guidelines shall apply:

- a) Participants retain loss exposures when the potential exposure is small enough to be absorbed.
 - i. Example: Comprehensive and collision insurance for state/university owned automobiles.
- b) Participants retain the deductibles on commercial or self-insurance coverages unless Risk Management and Tort Defense specifically participate in the deductible and a prior written agreement are in existence.
 - i. Example: Participants retain the first \$1,000 of each property loss and the division satisfies the rest of the deductible before commercial insurance.
- c) Participants retain uninsurable loss exposures such as damage due to wear and tear, latent defect, inherent vice, rust, rotting, mechanical breakdown, settling, cracking, animals, vermin or rodents, and pollutants.
 - i. Example: Water impact damage and wear and tear to a seawall at Flathead Lake. The purpose of the self-insurance fund is to finance incidental property and loss exposures. It is not meant to remove

each participant's duty to prevent and reduce losses, replace equipment, or properly maintain state/university owned property.

- d) The self-insurance fund **MAY** pay in whole or in part, uninsured or retained losses on behalf of state participants. Consideration shall be given to the following:
 - i. an agreement existed with the agency/university prior to the loss;
 - ii. the loss was not foreseeable or expected;
 - iii. the participant cannot provide or fulfill a vital service in the absence of indemnification from loss; and
 - iv. the loss retention is within the self-insurance fund's capacity.

XI. Contractual Risk Transfer

- a) In its contractual relationships with independent contractors, state agencies and universities will contractually transfer liability for services performed under contract.
- b) The state property/casualty insurance plan is intended to provide insurance for the State of Montana, the university system, and their employees and not independent contractors, vendors, or other third parties (i.e. independent contractors, vendors, and third parties shall procure their own insurance).
- c) Participants entering into contracts with third parties shall require the contractor to "hold the state harmless" and to **DEFEND** and **INDEMNIFY** the state.
- d) Participants shall require independent contractors to carry comprehensive general liability insurance coverage.

XII. 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/university during the biennial budget preparation process. Rates are based on each agency's/university's reported assets, historical losses, and any interim requests for insurance.
- d) RMTD is required by law to allocate the cost of insurance fairly among state agencies/universities that participate in the state property/casualty insurance program. A fair allocation means that an agency/university pays its fair share of premium commensurate with loss experience and potential exposure (i.e., #vehicles, #FTEs, etc.).
- e) The division submits insurance rates to the Office of Budget and Program Planning (OBPP) during the biennial budget preparation process. OBPP includes insurance costs in each agency's budget.
- f) During the budgeting process, each agency/university is responsible to verify that budgeted insurance costs are included in account 62104 (Insurance and Bonds).
- g) RMTD will promptly bill for agency/university budgeted insurance premiums at the beginning of each fiscal year. Agencies must remit allocated insurance payments to RMTD by September 1st.

XIII. 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).

XIV. References

[§2-9-201, MCA](#)

XV. Forms

[Certificate of Insurance for Auto Liability](#)