



ACCEL
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Insurance Requirements In Contracts Manual

2019 Update



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Alliant

I. IRIC Manual History

- **The basis of this Insurance Requirements in Contracts Manual (IRIC) stems from work by public entity risk managers and consultants since the 1970's**
- **It is relied upon by hundreds of public entities**
- **EIA has partnered with Alliant to maintain and published the manual as a service to EIA members and the public entity community**
- **Annual Updates Planned**

II. 2019 Updates – 2019.0

- **Updates in California Law regarding indemnity of design professionals and Owner Controlled Insurance Programs**
- **Drones coverage updated as regulations evolve**
- **New section on Railroad Protective Liability & Railroad Contractors' Liability**
- **Additional Special Events guidance highlighted from the perspective of the CSU Special Events Resource Guide**

Additional insured endorsements for contractors, in order of preference:

- *Best: CG 20 10 11 85 covers all bases (or CG 20 26 11 85). This edition date is now extremely difficult to obtain in most all except large public works projects.*
- *Very Good: **Both** CG 20 10, or CG 20 26, or CG 20 33, or CG 20 38 04 13 (includes Subs coverage that the 20 33 may not); and CG 20 37; 10 01 Edition date*
- *Good: **Both** CG 20 10, or CG 20 26, or CG 20 33, or CG 20 38 04 13 (includes Subs coverage that the 20 33 may not); and CG 20 37; 07 04 Edition date*
- *OK, but not Preferred: 04 13 Edition dates of **Both** CG 20 10, or CG 20 26, or CG 20 33, or CG 20 38 (includes Subs coverage that the 20 33 may not); and CG 20 37. This is fast becoming the “standard’ date in Additional Insured Endorsements and may be what is available.*

For use of property (owners/lessees exposure), or other contracts where there is no risk of damage from completed construction or operations (such as a training instructor) Form CG 20 10 10 01, for ongoing operations, is sufficient by itself.

What Limits Are Reasonable Today?

Limits – General Liability

- \$1 million per occurrence and \$2 million aggregate is minimum
 - this has been the requirement since 1991 (CPI \$1,750,000)
 - **We now recommend \$2 million/\$4 million**
- \$3 million for construction trades, food service, swimming, etc.
- \$5-10 million for general contractors, welding, crowds, child care, toxics, etc.
- \$10 million or more for tunneling, blasting, large construction projects
- IRIC Manual can help guide through appropriate limit decisions



Design Professional Indemnity

- **California Civil Code §2782.9**
 - Effective January 1, 2018
 - Design professionals shall be indemnified and held harmless from all liabilities/claims that arise out of negligence, recklessness or other misconduct on behalf of the principal
 - Requires special template as this law limits types of Hold Harmless agreements
- **Professional Liability coverage necessary for design/build contracts when contractor provides engineering/architectural services**

Who are Design Professionals?

- **Licensed architect**
- **Landscape architect**
- **Professional engineer**
- **Professional land surveyors**

- **Does NOT include construction management or inspection services**

Major Concern?

- **Proportionate percentage of fault attributed to the design professional**
- **Determined by adjusters, attorneys, insurers and ultimately the courts**
- **Statute is clear on the professional's duty to defend**
 - **Case law is limited, so the professional may be required to pay defense costs initially and then forced to seek reimbursement**

Sample Hold Harmless

- ✓ Pursuant to the full language of California Civil Code §2782, design Professional agrees to indemnify, including the cost to defend, entity and its officers, officials, employees, and volunteers from and against any and all claims, demands, costs, or liability that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of Design Professional and its employees or agents in the performance of services under this contract, but this indemnity does not apply to liability for damages arising from the sole negligence, active negligence, or willful acts of the Public Entity; and does not apply to any passive negligence of the Public Entity unless caused at least in part by the Design Professional. The Public Entity agrees that in no event shall the cost to defend charged to the Design Professional exceed that professional's proportionate percentage of fault. This duty to indemnify shall not be waived or modified by contractual agreement or acts of the parties.

Special Events Resource Guide

- **Special Events through the eyes of the CSU**
 - California State University developed a special events resource guide that may be helpful to municipal event planners
- **See manual at:**
<http://www.csurma.org/Members/RiskManagementResources/IRICManual/Documents/CSURMA%20IRIC%2011.1%20FINAL.pdf>

2019 Initial Release

- **Carnival Rides – p. 110**
- **Food Trucks/Farmers Markets – p. 110**
- **Traffic Safety – p. 109**
- **Political Signs/Protest – p. 109**

Carnival Rides

- **Carnival Rides – p. 110**
 - **Guidelines set by OSHA**
 - **Mandatory inspections:**
 - **Prior to ride being operational**
 - **At least once per year**
 - **Whenever a ride is assembled/disassembled**
 - **Reporting required for any accident resulting in greater treatment than First Aid**
 - **Comprehensive coverage for carnival itself**

Food Trucks/Farmers Markets



- **Food Trucks/Farmers Markets – p. 110**
 - **General Liability & Workers’ Comp**
 - **Auto Liability & APD – Food TRUCKS are driven!**
 - **Vendor & Host Coverage**
 - **Common injuries:**
 - **High frequency, low severity**
 - **Slip & falls, illness from food, equipment theft/damage**

Traffic Safety

- **Traffic Safety – p. 109**
 - **Parades, Fairs, Farmer’s Markets, etc.**
 - **Plan approved by qualified engineer delegated authority by public entity’s governing body**
 - **Will provide design immunity in event of claim alleging unsafe/ineffective traffic safety precautions**

Political Signs/Protest

- **Political Signs/Protest – p. 109**
 - Protests, rallies, signage all subject to permitting/insurance requirements
 - Gov. can't prohibit marches on public sidewalks or rallies in public parks/plazas
 - May not be able to restrict small demonstrations absent serious safety concerns
 - Important to understand legality surrounding public spaces

2020 Pending Update

- **Additional Insured Endorsements** – Updated lease endorsement, general glossary, when to use which endorsement.
- **Indemnity Language** – General & specific language, *Oatmans Construction Co. v. Bayside Interiors*
- **Race Tracks** – Discussion on contractual treatment of horse and auto racing exposures.
- **Homeowners' Additional Insured Contracts** – Commentary on 2038 endorsement re contractor performing work

IRIC Reference Manual



Risk Solutions Employee Benefits Industry Solutions Co-Brokered Solutions



Public Entity

Programs

All Programs

Automobile

Construction

Employee Benefits

Equipment Maintenance

Liability

Property

Workers' Compensation

Business Services

Public Entity Insurance Solutions

Public entities face property risks, liability exposures, and employee benefits needs that are significantly different than those faced by commercial businesses and corporations. Your organization needs an insurance broker that not only specializes in meeting the unique insurance, risk management, and benefits needs of public agencies similar to yours but also one that has earned a reputation for innovation and success in the public sector.

Public Sector Insurance Leader

With more than 30 years of experience in the public sector, Alliant Insurance Services is an industry leader in providing highly successful strategies, services, and products for a complete range of public sector clients. We understand how public agencies are perceived in the insurance marketplace and how the operating environment of these organizations shapes their risk transfer approach and requirements.

What truly sets us apart is our extensive specialized expertise of the public entity insurance business, combined with our focus on developing innovative programs that meet the special needs of public agencies. Our public entity clients benefit from the most effective insurance solutions and comprehensive service in the industry.

Our diverse public sector clients include:

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Insurance Requirements in Contracts (IRIC)

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Questions?
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