



ACCEL

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Insurance Requirements In Contracts Manual

2017 Update



Presented by:
Daniel Howell, Alliant Insurance Services
dhowell@Alliant.com
(415) 403-1426

 **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. 2016 Version 9 Update

- **General Editing, Updates, and Clarifications/Corrections**
 - Revise Contract recommendations to obtain full coverage & higher limits from Contractor's Insurance restricted or excluded by new ISO forms
 - Specify currently realistic & available Insurance requirements
 - Advise risk assessment factors for small jobs & Contractors
 - Include when use of non-admitted carriers may be useful
 - Explain usage of Additional Insured provisions for Auto policies
 - Recommend Indemnity & Insurance specifications be sent with bid packages
 - Revise Manual to comply with new statutory restrictions for Indemnity provisions
 - Recommend requiring policy declarations & endorsements page to verify coverage limitations or exclusions from "Restricted Coverage" policies
- **Insurance Service Office (ISO) Forms – Sample Insurance Requirement Exhibits have been updated with new ISO forms**
 - New versions of ISO forms
 - Additional ISO forms that can achieve contracting goals
- **Declaration & Protection for Self-Insured Retentions**
 - This edition removes references to deductibles since the insurer is responsible for recovering deductibles
 - SIR's remain of interest due to contractor insolvency & case law allowing insurers to avoid coverage

II. New Additions

- **Technology Risks – New Chapter**
 - Alliant engaged Marjorie Segale to edit a new chapter on Technology Risks
 - Discussion/sample requirements for cyber risks including IT consultants, software vendors and cloud providers
- **Aviation Risks – New Chapter**
 - Alliant added a new chapter on Aviation Risks
 - Discussion/sample requirements for operation of airports, aircraft, fixed base operators and UAV/Drones
- **New ISO Forms Added to Exhibits**

II. 2017 Updates – v10.0

- **Additional discussion and clarification of how the additional insured endorsement forms work**
 - Attempt to simplify and clarify how ISO 2010, 2037 and 2038 interact
- **Removal of the reference to “Admitted Insurers” since so much insurance is now placed with surplus lines insurers**
- **Reinforced recommendation requiring policy declarations & endorsements page to verify coverage limitations or exclusions from “Restricted Coverage” policies**
- **Marine Related Risks – New Chapter**

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



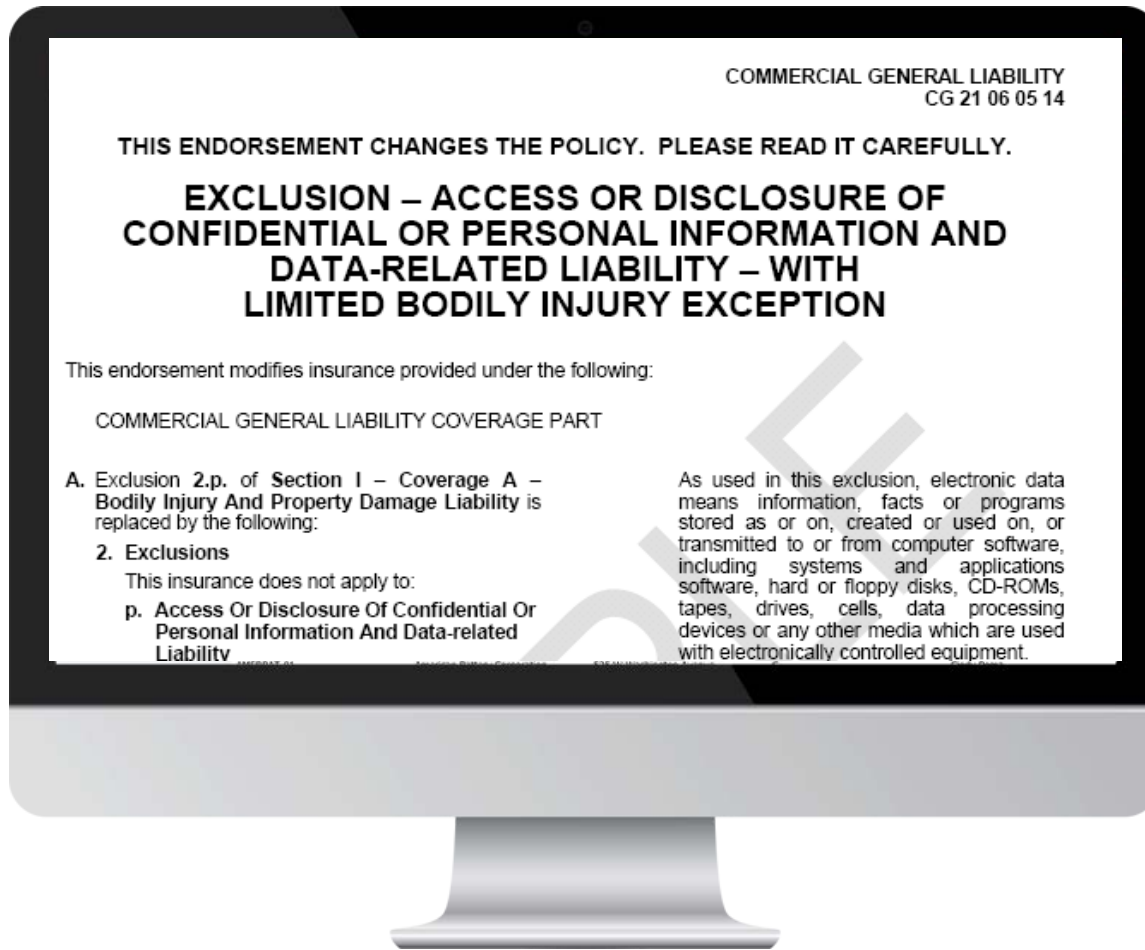
Cyber Risks

- **“Cyber” has become insurance industry shorthand for a variety of information technology risks, including but not limited to:**
 - Hardware
 - Software
 - IT Consulting
 - Cloud Services
 - Data Processing
- **Rapidly Changing Market – no set ISO forms**

Cyber Risk ISO Exclusion

Commercial General Liability

ISO Exclusion for Data Breach – Effective May 1, 2014



- Standard policies moving to specifically exclude coverage that was never intended
- **But**, a specialized and active insurance market exists for those interested...

Cyber Insurance Policy

- ✓ Information Security & Privacy Liability
- ✓ Cyber Extortion Liability
- ✓ First Party Data Asset Liability
- ✓ First Party Network Business Interruption
- ✓ Website Media Liability
- ✓ Regulatory Defense & Penalties

Products Liability

CGL Insurance Policies are designed to provide cover for bodily injury and property damage caused by products

- **CGL can work for hardware products**
 - **But not well for contingent risks from product failure**
- **CGL is not designed for software product failure**
- **Professional Liability designed for software providers and consultants is necessary**

SCADA Systems

Supervisory Control And Data Acquisition (SCADA) Systems are pervasive in public entities:

- **Traffic, Transit and Airport Information sys.**
- **Automated systems for water and wastewater**
- **Electrical generation and distribution**
- **Emergency Response Systems**
- **Building Operation Systems**

Insurance Products have to be tailored to the risks and exposures.

Risk Management Considerations

- **Plan for divorce – no agreement is forever**
 - Who owns the data, how is it delivered at end?
 - Who owns IP for custom developed systems?
- **Require Compliance with Applicable Laws**
- **Require Compliance with Safeguard Standards and an Information Security Plan**
- **Require Timely Notification of Non-compliance or a Suspected/actual Breach**
- **Require Cooperation in Response**

Indemnity Agreement

- **Type 1 (strict) indemnity is preferred and should be the base part of the agreement**
- **Supplemental terms for information technology may include an indemnity clause that specifically supplements not replace the Type 1 with details on indemnified costs such as**
 - **Notifications, call centers, identity restoration, credit monitoring, fines, penalties, judgements, your entity's internal costs to respond, etc.**

Involve your organization's legal counsel!

Insurance Requirements

- **Chapter 4 of IRIC Manual**
 - **Exhibit 7 for IT Agreements involving Professional Services**
 - **Exhibit 8 for IT Agreements involving Vendors**
- **The base insurance requirements are the same**
 - **CGL, CA, WC, AI Status, Waiver of Subro, Primary**
- **Note claims-made cover for professional and cyber policy forms**

Cyber Discussion Conclusion

- So called “Cyber Risks” don’t fit neatly into traditional insurance programs
- If a Standard Agreement is being used, an appendix specific to data and security should be added
- Professional Liability or Cyber Liability should be required *in addition* to traditional covers
- There are no standard forms and change is rapid in these coverages and pricing
- The law and policy interpretation is evolving

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:

For more information, contact:

Daniel Howell

(415) 403-1426

Email

Mary Wells

(949) 660-8125

Email

Insurance Requirements in Contracts (IRIC)

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Questions?
Dan Howell

dhowell@alliant.com

(415) 403-1246

