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**A
Manual on Risk Management
For
The Public Transit Industry**

September, 1986



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Prepared for the American Public Transit Association and its
special task force on insurance by contract with Tillinghast,
Nelson & Warren, Inc.

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TABLE OF CONTENTS

	<u>PAGE #</u>
PREFACE	1
EXECUTIVE SUMMARY	2
CHAPTER I - RISK MANAGEMENT AND THE TRANSIT INDUSTRY	6
Risk Management Decision Tree - Exhibit A	8
Risk Management Process	9
Why Risk Management is Important to Public Transit	10
CHAPTER II - EXPOSURE IDENTIFICATION	12
Property Exposures	12
Exhibit B - Exposure Check List	15
Liability Exposures	16
Exhibit C - Comparative Negligence	18
Exhibit D - Liability Exposures	20
Employee Exposures	21
CHAPTER III - RISK MEASUREMENT AND ASSESSMENT	22
Property	22
Casualty and Liability Risk Assessment	23
Sample of Claim File	25
Sample of Aggregate Data Maintenance	26
CHAPTER IV - RISK CONTROL	27
Bus Operations Liability-Factors Influencing Loss	28
Rail Operations Liability-Factors Influencing Loss	30
Claims Management	31
Analysis of Employee Accident Cause	34
Analysis of Employee Injury	35
Analysis of Vehicle Accident	36
CHAPTER V - RISK RETENTION/TRANSFER	37
CHAPTER VI - RISK FINANCING TECHNIQUES	43
Explanation of Risk Financing Techniques	45
Considerations	52
Group Approaches	54

CHAPTER VII - RISK TRANSFER	56
Property Insurance	57
Boiler and Machinery Coverage	58
Crime Insurance	59
Exposure Index Formula/Index Table	61
General Liability Protection	62
Summary of Liability Forms	64
Automobile Liability Policy Coverage	65
Workers Compensation Coverage	66
Public Officials Liability	67
Umbrella Liability Coverage	68
Rail Operations Liability	68
Claims Made Versus Occurrence Policies	69
Insurance Required of Others	72
Selection of Insurance Companies	75
CHAPTER VIII - RISK MANAGEMENT ADMINISTRATION	76
Functional Responsibilities	76
Organizational Reporting	78
Annual Bidding	79
APPENDIX A - Sample Accident/Incident Reports	
APPENDIX B - Insurance Policies Checklist	
APPENDIX C - Glossary	

PREFACE

APTA is pleased to offer this manual on Risk Management for the Public Transit Industry to its members. This manual was funded by the American Public Transit Association (APTA), and was written to assist the non-insurance transit professional in creating and implementing a program of risk management. It was written by Charles T. Bartholomae, Vice President and Consultant of Tillinghast, Nelson & Warren, Inc.

The primary goal in creating this manual was to provide the transit professional with a basic reference source to use in identifying and responding to public transit perils and hazards. Public transit risk management is a dynamic process involving much more than the process of purchasing insurance. Public transit risk management involves:

- identifying all potential exposures to loss;
- reducing the risks associated with public transportation operations;
- protecting the passengers, employees, and assets of public transit authorities and administrations; and,
- minimizing the costs associated with managing and transferring risk.

In preparing this manual, the approach was to provide as little theory as possible, opting instead, to provide check lists and examples of techniques used by other transit properties as well as private enterprise. The resulting manual is believed to be a pragmatic desk reference.

EXECUTIVE SUMMARY

Risk management is an extremely important and timely issue for the general manager of a public transit system. While operating in an environment of continual budgetary pressure and a federal push towards privatization of the industry, the transit system has also fallen victim to the symptoms of a tightening and ever-scarce insurance market. Buffeted by continually increasing premiums, scarcity or the disappearance of some coverages altogether, ever increasing jury verdicts against the transit system, and lower available limits than historically purchased, the general manager is faced with difficult decisions. Many systems - rail, bus, and ferry - have been forced into or opted for self-insurance.

Self-insurance appeared to be the answer for many systems faced with ever-increasing prices and lower limits. However, many systems did not develop programs of self-insurance but, in reality, chose a program of non-insurance. Self-insurance, if properly implemented in a pragmatic fashion, may be a prudent business response. Self-insurance and/or non-insurance is not the panacea for the implementation of effective and sound risk management and safety programs. It may, however, be a part of a sound overall risk management program as described more fully in Chapter VI. It is in this light that APTA commissioned the creation of this manual on risk management to assist the general manager in his survival of the current and future insurance crises.

Risk management, to be effective, is not performed only during periods of tight insurance pricing and unavailability but, if implemented properly, will permeate every action and reaction which a transit system will have during the course of its daily operations. Therefore, risk management is an ongoing process and we hope that this insurance/risk management manual will also prove to be useful for some time in the future. It is for this reason that we have

referred very little to the tight insurance market throughout the text of this manual and, instead, have developed a document which will hopefully be kept on the credenza for reference throughout both soft and hard cycles. Whether the recipient of this manual is a large or small system or a system with just bus or a combination of bus, rail, and ferry, this manual and the process of risk management is appropriate for all organizations.

This manual has been designed to follow the conceptual process known as risk management. In its creation, we have relied on input and advice from transit system risk managers and safety professionals - a very professional and capable group.

The risk management process, as well as this manual, begins with the process of exposure identification. The primary premise of risk management is that the public, personnel, and assets are exposed to hazards. If they all are clearly identified, appropriate strategies can be developed which can minimize both risk and cost over the long-term. While somewhat more straightforward with respect to property, identifying the operations, contracts, and actions which create liability is much more difficult. *Chapter I* has been designed to assist the general manager in understanding those types of properties, assets, personnel, or operations which create risk. Through the careful analysis of operations, contracts, premises, and financial statements, the general manager can be assured that appropriate risk reduction, avoidance, or transfer strategies can be implemented.

The second major step in the risk management process - *Chapter II* - is that of evaluating or assessing the risk associated with each of the identified exposures. This process is necessary in determining the most appropriate strategies. "How much insurance to purchase?" "How much risk should be retained?" "Are coverage terms broad enough?" These are questions which rely upon input from this phase of the process. This chapter also addresses how to maintain information to assist in this process.

Risk control is the third phase of the risk management process and is presented in *Chapter III*. Risk control begins by asking the question "given the existence of exposures to loss, what hazards and perils exist which impact the risk associated with a given exposure and, if modified, will risk be reduced?". It is the basic premise of the risk management and safety professions that if a hazard or peril can be identified then appropriate strategies can be developed to minimize, mitigate, or altogether eliminate a given risk-creating peril. This chapter identifies many of the risk-creating activities of bus and rail operations and suggests formats by which safety can become the integral part of all operations.

Risk retention - *Chapter IV* - is the next phase of the risk management process. Risk retention is the internal assumption of risk and occurs in a variety of forms, including coinsurance, underinsurance, deductibles, and self-insured retentions. Knowing how much risk to assume internally and what logic dictates during soft and hard markets is imperative to assure that the long-term goal of risk minimization and cost minimization is achieved. That is, if you can make it less expensively than you can buy it, do so, whereas, if you can buy it less expensively than you can make it, do so! A sample is provided to assist the decision maker in addressing the question of how much risk to retain.

Risk transfer - *Chapter V* - is the next step in the risk management process. Understanding which alternatives are available to a transit system both on an individual and collective basis to achieve an optimum balance of risk, cost, cash flow, and administrative burden are all a function of knowing what alternatives exist and the size premium at stake. A number of insurance plans or risk financing techniques are available to insurance buyers. This chapter deciphers all of the plans whether it be an incurred retro, paid retros, a deductible, compensating balance plans, captives, or collective approaches.

Not only is it important to determine what risk financing alternative is the best for a given transit system, but it is also equally important to be assured that the insurance contracts are broad enough to assure management that, in the event of loss, it is covered. *Chapter VI* deciphers a variety of insurance policies, including property, boiler and machinery, crime, workers compensation, general liability, automobile liability, umbrella liability, railroad operations liability, and public officials liability. In addition to the information provided in this chapter, checklists are provided in the appendices for review of your own insurance contracts to assist in identifying key coverage provisions. Lastly, what insurances should you require of others is covered.

Chapter VII explains one of the most important aspects of the risk management process - that of administration. What are the functional responsibilities associated with risk management, the procurement of insurance, the management of insurance certificates, the requiring of insurance of others, and where best does this function lie within the transit organization? A number of key issues are raised in this section, which will assist the transit system general manager in determining whether a professional should be brought on board and what are some of the responsibilities which may be assigned.

This manual is comprehensive and provides, where possible, checklists, examples, and guidelines for the general manager and risk manager to manage risks, as opposed to just buying insurance. In addition to the checklists and text, there is also a glossary of insurance terms which are used throughout the text.

APTA is pleased to submit this manual to all general managers and hopes that it will remain a desk reference for current and future usage through the existing tight market and future market expansions and contractions.

CHAPTER I
RISK MANAGEMENT AND THE TRANSIT INDUSTRY

Individuals, corporations, public entities, and non-profit associations all are exposed to risk of one form or another. There are two types of risk: speculative and pure. Speculative risk includes both the possibility of loss as well as the possibility of profit. Pure risk is that type of risk which does not contemplate any potential profit. It is the latter type of risk - pure risk - which should be the concern of the public transit risk manager and general manager.

It is appropriate to categorize risk in terms of the potential number of claims and the dollar magnitude of the claims themselves. Categories of potential loss include:

- . high frequency/low severity losses;
- . low frequency/high severity losses; and,
- . catastrophic loss.

These terms are relative and are, therefore, a function of the size and type of operation and the experience of the system.

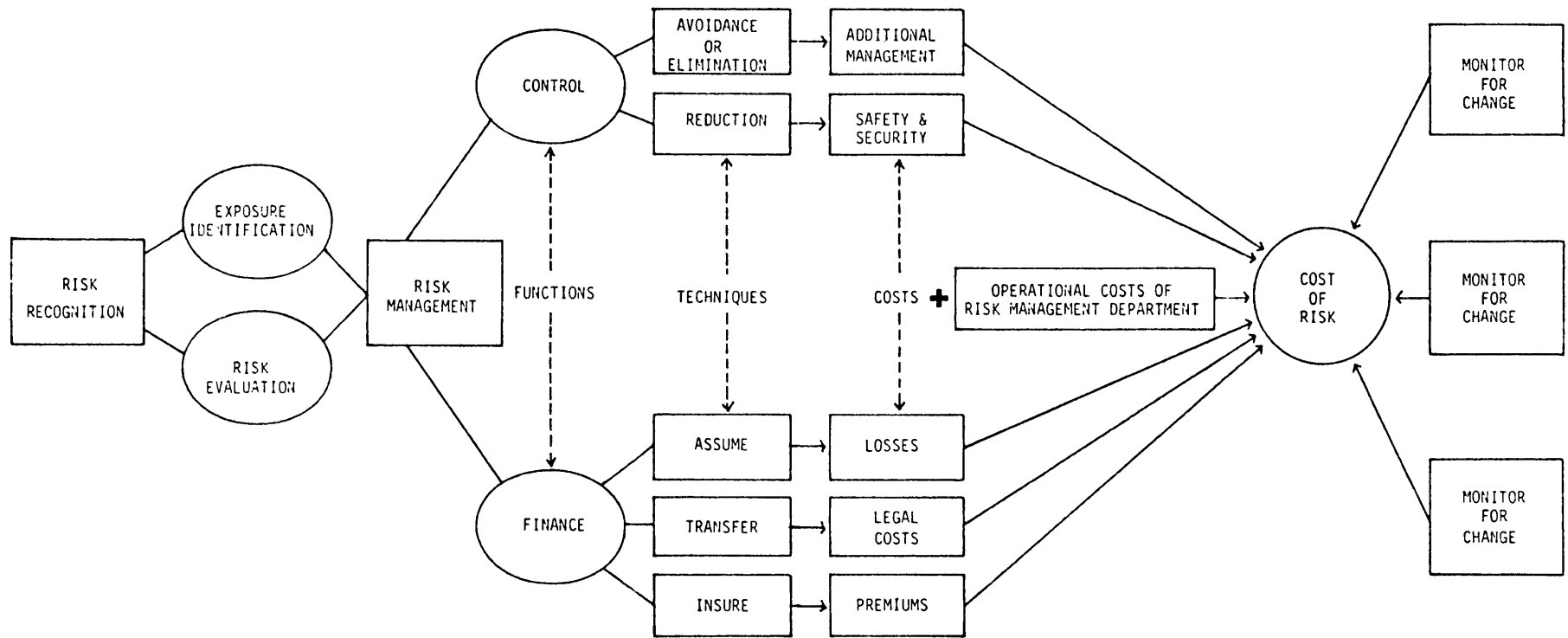
The high frequency/low severity loss are those which are considered predictable and assumable. That is, there is little deviation from year to year in the dollar magnitude of loss attributable to these areas. A prime example is the sheer number of vehicle physical damage losses experienced with buses. Having internal machine shop capabilities and old vehicles to "cannibalize" may justify the self-insurance of physical damage loss arising from collision.

Low frequency/high severity losses are those losses which are unpredictable and can have a destabilizing impact upon the operations of a transit system. An example of this type of loss would include liability claims arising from the operation of fare generating service (slips and falls, passengers caught by doors, etc.).

Lastly, catastrophic losses are those which would arise from one event and could prove fatal to an organization. Examples would include a train wreck or bus collision resulting in multiple injuries.

It is important to understand that the basic risk management premise is that those factors which contribute to loss, if identified, can be eliminated, controlled, or improved so as to minimize the possibility of loss or the financial impact of a loss if one does occur. Through careful identification and proper assessment of risks, the transit system can contractually (insurance or otherwise) transfer those risks which are not eliminated or assumed within a deductible.

The risk management process is a conceptual and systematic approach for identifying potential exposures to loss, assessing the risk associated with the exposure, minimizing, mitigating or avoiding the risk, assuming through self-funding those predictable/assumable losses and transferring those risks which would detrimentally impact the system's financial integrity to an insurance carrier or other third party. The decision tree which is included on the following page summarizes the logical process by which risk management decisions are made. Following the decision tree is an exhibit which summarizes the objectives of each of the major steps involved in the risk management process.



OVERVIEW OF RISK MANAGEMENT PROCESS

MAJOR STEPS IN THE RISK MANAGEMENT PROCESS	STEP OBJECTIVES
EXPOSURE IDENTIFICATION	<ul style="list-style-type: none"> . Know total resources of organization . Gauge exposures to accidental losses which affect resources.
RISK IDENTIFICATION	<ul style="list-style-type: none"> . Assign "values" to the resources . Measure current "risk" . Forecast future "risk" and loss levels
RISK CONTROL	<ul style="list-style-type: none"> . Use maximum incentive to reduce "risk" and potential or actual loss costs . Monitor systematic effectiveness of risk control programs . Coordinate risk control within overall organizational objectives
RISK FINANCING	<ul style="list-style-type: none"> . Take broad approach to risk financing using <u>all</u> reasonably available financial resources . Maintain appropriate catastrophe protection . Allocate risk financing costs among operations on a basis that is understood, equitable, and accepted
ADMINISTRATION	<ul style="list-style-type: none"> . Sustain management commitment to risk control . Adopt a clearly defined risk management structure with clear lines of responsibility and authority . Use clearly targeted annual risk management objectives . Carry on sound communications with all levels of management affected

RISK MANAGEMENT PROCESS

Risk management differs from insurance management in a variety of fashions. Ultimately, insurance management focuses on the purchase of insurance, whereas, risk management focuses on a long-term reduction of both risk and cost. The following exhibit summarizes the differences between the two:

RISK MANAGEMENT VERSUS INSURANCE MANAGEMENT

RISK MANAGEMENT	INSURANCE MANAGEMENT
Pro-Active	Reactive
Dynamic	Passive
Public/Employee and Asset Protection Orientation	Security Orientation
Financial Orientation	Administrative Orientation
Broad Based - Includes Safety, Claims, Analysis, Insurance, Accounting, Law	Narrow in Scope
Creative	Responsive
Involved in All Financial and Operational Activities	May Rely on Others
Long-Term Cost and Risk Reduction	Immediate Risk Reduction

WHY RISK MANAGEMENT IS IMPORTANT TO PUBLIC TRANSIT

Risk management is important to the public transit manager for a variety of reasons including:

- increased managerial awareness;
- possibility for cost and risk reduction; and,
- improved public perception and opinion would result from better coordination of safety activities and risk management.

Through the risk management process, the manager can improve awareness of the risk-creating activities arising from operations, premises, and employees. This would foster improved organizational communications, thus providing a check and balance on all activities. The direct result would be reduced managerial worry resulting from better awareness, the

implementation of safety programs, and greater options at insurance renewal time. Risk management also can reduce the impact of the unexpected loss as well as assure management that heretofore unrecognized exposures have been identified and the risk reduced.

Cost reduction will result over the long term from an improved risk management effort. By using the proper balance between internal risk retention (deductibles, etc.) and transfer, premium expense will be reduced and the transit system will no longer pay \$3 of premium for \$1 of loss. Risk management also will serve to reduce the variable expense (retained loss) by focusing on loss prevention and safety. This will serve to lengthen asset life and reduce labor turnover. In all, improved financial stability over the long-term will occur and the adverse impact of insurance market cyclicalities will be reduced accordingly.

Lastly, risk management will assist the public transit system by improving the public opinion and perception of the organization due to the improved awareness of safety programs. Accidents involving public transit result in front page headlines. The public is quite willing to perceive the public transit agency as guilty at the outset and apply the "deep pocket" concept when declaring judgment. This, in part, has been exacerbated by the transit agency's willingness to settle unwarranted claims and the courts' liberal interpretation of negligence. Developing a risk management program and implementing safety systems and procedures will help improve the public opinion of the transit organization.

CHAPTER II
EXPOSURE IDENTIFICATION

Public transit organizations are exposed to a variety of risks including first party risks, risks to third parties, and risks to employees.

First party exposures include physical damage to a system's fixed property, physical damage to the system's movable property, consequential financial loss resulting from physical damage loss to the system's property and consequential financial damage resulting from physical damage loss to property of others.

Third party loss exposures are created where the operations and activities of the transit system or the mere existence of its premises and property result in it becoming legally liable for injuries to people or their property.

Lastly, employees are exposed to on-the-job injuries and their protection is regulated by a variety of federal and state legislative acts.

PROPERTY EXPOSURES

The types of property for which public transit are exposed to potential loss can be broadly categorized as real property (both existing and under construction), personal property, and miscellaneous property.

Real property includes buildings owned, leased, and under construction, boilers and machinery, garages, terminals, above and below ground tanks, wharves and docks, track, tunnels, and bridges.

Personal property, both on and off premises, includes furniture, fixtures, equipment and tools, machinery, electronic data processing equipment, safety equipment, valuable papers including cash, tickets, and securities, electronic data processing software, tapes, and disks, and lastly, communication and other signaling devices.

Miscellaneous property includes non-revenue vehicles, and revenue vehicles including busses, vans, etc., rolling stock, mobile heavy equipment, watercraft, aircraft, and advertising displays.

Losses can be categorized as either direct or indirect (consequential). Direct loss entails the actual physical destruction of all or part of property. Indirect losses include the consequential loss of revenue as well as the additional expense necessary to generate income as a result or consequence of the loss of a transit system's own physical asset. An example of this type of loss of income or extra expense would be the resulting inability to service and maintain passenger carrying vehicles due to the loss of a central garage and maintenance facility. This not only would result in a loss of income, but also in the additional expense of contracting for a temporary facility. Another type of consequential loss is that which results from the loss of a service provider's facility or product. An example of this type of loss would be the loss of income and additional possible expense resulting from the direct physical loss of property of a contract service provider. The loss of bus and central garage facilities of a private bus company with which a transit system is contracting would necessitate rerouting, additional personnel, etc. to maintain service. Similarly, the loss of rail bed owned by a private freight company may require the rerouting of bus and reassignment of personnel resulting in extra cost to the transit system.

Perils are the causes of loss. Perils to which real, personal, and other property may be exposed to include, but are not limited to, the following:

- . fire, lightning, and removal;
- . windstorm;
- . explosion;
- . collapse;
- . civil commotion and riot;
- . vandalism and malicious mischief;
- . smoke;
- . hail;
- . tornado;
- . water damage;
- . damage caused by automobiles and airplanes;
- . freezing;
- . falling objects;
- . sonic boom;
- . flood;
- . earthquake;
- . mysterious disappearance;
- . burglary and theft;
- . extortion;
- . vermin and pests;
- . collision;
- . sinking; and,
- . pollution.

In essence, the first step in identification of property exposures is to identify all of the potential exposures to possible loss and those perils which could cause a loss. While not completely exhaustive, the following Exhibit B is provided to assist in the identification of exposures to loss of the transit system and those perils which would impact a potential loss.

EXHIBIT B

Fire & Lighting	Windstorm	Collapse	Explosion	Civil Commotion	Vandalism & Malicious Mischief	Smoke	Hail	Tornado	Water Damage	Automobiles	Airplanes	Watercraft	Freezing	Falling Objects	Flood	Earthquake	Mysterious Disappearances	Extortion	Burglary & Theft	Collision	Sinking	
										Damages Caused By												

REAL PROPERTY

- Buildings
- Garages
- Boilers and Machinery
- Above-Ground Tanks
- Below-Ground Tanks
- Wharves & Docks
- Land
- Tunnel & Bridges

PERSONAL PROPERTY

- Furniture & Fixtures
- Equipment & Tools
- EDP Equipment
- Communication/Signaling
- EDP Software, Tapes, Disks
- Valuable Papers
- Cash & Negotiable Securities
- Pre-printed Tickets
- Safety Equipment

OTHER PROPERTY

- Non-Passenger Vehicles
- Passenger Vehicles
- Rolling Stock
- Watercraft
- Aircraft
- Advertising Displays
- Heavy Equipment

LIABILITY EXPOSURES

Liability exposures to loss of transit systems exist because of premises and operations, contractual relations, completed operations and products, and errors and omissions/malpractice.

Losses can be categorized as bodily injury, property damage, economic and personal injury, and include the possibility of economic compensatory as well as punitive damages. These exposures themselves are created by doctrines of negligence. Ordinary negligence, strict negligence, contributory negligence, comparative negligence, all result in different judicial interpretations and awards. In general, transit systems, as with most public agencies, have been held to a higher degree of responsibility for the safety of the public than ordinary individuals or organizations.

An organization may be found negligent by act of omission or commission or both. Examples of ordinary negligence may include the failure to properly dispose of waste oils, failure to provide handrails in stations, and a host of other types of acts which could be deemed negligent by juries.

Doctrines of comparative negligence suggest that parties to an accident are held responsible in proportion to their degree of contribution to the accident itself. Where the doctrine of joint and several liability is in effect, a transit system being judged 5% negligent may be held 100% responsible if the other party which was 95% responsible has neither adequate assets nor insurance.

By contrast, doctrines of contributory negligence suggest that if an injured party did not exercise proper care and in any way contributed to his injury, then his claim may be negated or defeated even though the other party was also negligent. Unfortunately, in many instances,

regardless of the doctrine of negligence adopted, juries may feel that a public transit system has the money to pay and therefore the "deep pocket doctrine" prevails.

The following Exhibit C, *Summary of Selected State Laws and Regulations (reprinted with permission from the American Insurance Association)*) lists those states utilizing doctrines of comparative negligence with respect to automobile liability.

SUMMARY OF SELECTED STATE LAWS AND REGULATIONS RELATING TO AUTOMOBILE INSURANCE

COMPARATIVE NEGLIGENCE

EXHIBIT C

<u>STATE</u>	<u>TYPE</u>	<u>AUTHORITY</u>
Alaska	1	Kaatz V. State, 540 P .2d 1037 (1975)
Arkansas	3	Ark. Stat. Ann. § 27-1764 et. seq.
California	1	Liv. Yellow Cab Co., 532 P .2d 1226 (1975)
Colorado	3	Colo. Rev. Stat. Ann. § 13-21-111
Connecticut	2	Conn. Gen. Stat. Rev. § 52-572h
Florida	1	Hoffman v. Jones, 280 Sw. .2d 431 (1973)
Georgia	3	Ga. Code of 1981 - §51-11-7
Hawaii	2	Hawaii Rev. Stat. § 663-31
Idaho	3	Idaho Code § 6-801 et. seq.
Illinois	1	Alvis v. Ribar, 85 Ill. 2nd 1 (1981)
Iowa	1	[a] Iowa Code S 327D188
Kansas	3	Kan. Stat. Ann. § 60-258a
Louisiana	1	La. Civ. Code Ann. ART.2323
Maine	3	Me. Rev. Stat. Ann. tit. 14 § 156
Massachusetts	2	Mass. Ann Laws ch. 231, § 85
Michigan	1	Placek V. Sterling Lights 275 N.W. 2d 511 (1979)
Minnesota	2	Minn. Stat. § 604-01
Mississippi	1	Miss. Code Ann. § 11-7-15 et. seq.
Missouri	1	
Montana	2	Mo. Rev. Stat. § 27-1-702
Nebraska	1	[b] Neb. Rev. Stat. § 25-1151
Nevada	2	Nev. Rev. Stat. § 41.141
New Hampshire	2	N.H. Rev. Stat. Ann. § 507:7a
New Jersey	2	N.J. Stat. Ann. § 2A:15-5, 1 et. seq.
New Mexico	1	Scott v. Rizzo, 634 P.201 1234 (1981)
New York	1	N.Y. CPLR § 1411 et. seq.
North Dakota	3	N.D. Cent. Code Ann. § 9-10-07
Oklahoma	2	Okla. Stat. tit. 23, § 13,14
Oregon	2	Ore. Rev. Stat. § 18-470
Pennsylvania	2	Act 152, Law of 1976, § 71-7102
Puerto Rico	1	P.R. Laws Ann. tit. 31, § 5141
Rhode Island	1	R.I. Gen. Laws Ann. § 9-20-4
South Carolina		** S. C. Code § 15-1-300
South Dakota		[c] S. D. Comp. Laws Ann. § 20-9-2
Tennessee		[d]
Texas	2	Tex. Civ. Stat. Ann. art. 2212a, § 1
Utah	3	Utah Code Ann. § 78-27-37
Vermont	2	Vt. Stat. Ann. tit. 12, § 1036
Virgin Islands	2	V.I. Code Ann. tit. 5, § 1451
Washington	1	Wash. Rev. Code § 4.22.010
West Virginia	3	Bradley v. Appalachian Power Co., 256 S.E.2d879
(1879)		
Wisconsin	2	Wis. Stat. Ann. § 895-045
Wyoming	3	Wyo. Stat. Ann. § 1-1-109

** Declared unconstitutional as violative of equal protection because law only applied to vehicle accidents. Marley v. Kirby, 245 S.E.2d 604 (1978).

Type 1 - So-called "Mississippi" or "pure-type" permits recovery regardless of the degree of plaintiff's negligence.

Type 2 - "50% Type" permits recovery where plaintiff's negligence was not greater than "slight" defendant's.

Type 3 - "49% Type" permits recovery where plaintiff's negligence was not as great as Contractors defendant's. (1971).

[a] Contributory negligence mitigates damages in actions by employees against a railroad corporation.

[b] Contributory negligence not a bar if it is slight and defendant's negligence is "gross" in comparison.

[c] Contributory negligence not a bar where it was

in comparison to the negligence of the defendant.

[d] Recovery reduced based on plaintiff's "remote" contributory negligence. Garner's Masonry

v. Louis-San Francisco Railway Co., 470 S.W.2d 945

Those exposures of transit systems which create third party risk include premises, operations, contractual arrangements, products, completed operations, advertising, and a variety of errors and omissions. Risk can be direct or contingent whereby the contractual or financial failure of a service provider results in the "inheritance" of risk. The transit system also must consider that not only could the system itself be held negligent but, in addition, employees, directors, and commissioners might also be held negligent.

Premises liability exposures are a result of owning, renting, or controlling real property. If someone is injured, whether an invitee or a trespasser, on property controlled or owned, the system may be held liable. Abandoned rail tressels on a right-of-way are an example of an attractive nuisance which could result in considerable cost.

Operations exposures include existing premises, both owned and leased, vehicle operations, rail operations, watercraft operations, toxic material storage and disposal, serving and selling of liquor, aviation, police liability, advertising, and bailee liability.

Contractual exposures, both verbal and written, are created through lease agreements, purchase agreements, service agreements, and management agreements. They are typified by hold-harmless and indemnification agreements. These also are typical of side-track agreements and easements. The effect of such clauses is that one party to the contract agrees to defend and pay for any judgments rendered against the other party to the contract. Contractual liability exposures already are substantial for transit systems, and will increase as a result of the push towards "privatization" of transit.

Completed operations and product exposures exist with transit properties in a limited fashion. Providing mechanical repairs for fee to other parties, as well as the sale of new and used transit equipment, creates products and completed operations exposures. Also included is the sale of food in stations and on board.

Lastly, negligence can be alleged for medical malpractice, public official errors and omissions, and engineer errors and omissions. In essence, any one performing professional or managerial functions who do not extend the accepted standards of care as defined by the courts can result in alleged negligence.

The following exhibit summarizes these exposures.

EXHIBIT D - LIABILITY EXPOSURES

Premises Exposures

- Buildings - Owned or Leased
- Docks and Piers
- Bus Passenger Terminals
- Subway Terminals
- Rail Terminals
- Marine Terminals
- Garages
- Park & Ride Lots
- Land
- Rights-of-Way and Easements
- Bridges
- Tunnels
- Rail Yards
- Underground/Above-Ground Tanks
- Bus Yards

Operations Exposures

- Bus Liability
- Rail Liability
- Aircraft Liability
- Automobile Liability
- Concessions - Food and Alcohol
- Security/Police
- Pollution

Contractual Exposures

- Leases - Premises
- Waste Oil/Battery Disposal
- Leases - Tires
- Bus Operations Service
- Taxi Handicapped Pick Up
- Rail Operations Service
- Sidetrack
- Concessions

- Completed Operations/Products
 - Bus Maintenance/Repair for Others
 - Fuel Service
 - Used bus, rolling stock, watercraft sales
- Errors and omissions
 - Public Officials
 - Medical
 - Professional Engineers
 - Employee Benefit Program Administration

EMPLOYEE EXPOSURES

The last area of exposure is that of employees, directors, trustees, and volunteers. These exposures are created by the existence of state workers compensation acts, the Federal Employees Liability Acts (FELA) for interstate rail workers, U. S. Longshoremans and Harborworkers Acts, and in addition, the benefit programs established for these employees.

CHAPTER III
RISK MEASUREMENT AND ASSESSMENT

Estimating the maximum possible loss as well as the expected loss is the major focus of this phase of the risk management process. The results of this phase will be used as input in the determination of:

- limits to be insured;
- amount to retain;
- cost effectiveness of retention versus transfer; and,
- risk financing technique.

PROPERTY

Using the exposure identification listing already developed, the risk manager should begin to assign values to the real property, personal property, and other property. This information can be gained from a balance sheets but, in addition, also the risk manager should consider the highest single location as well as the consolidated replacement cost value of all locations. That is, the total value of all vehicles parked at one location should be considered as well as the maximum value of one vehicle. Consideration must also be given as to the type of value ascribed to the property. Depending upon the type of property being discussed, a different method of valuation may be used and, therefore, the insurable value may differ depending upon ones objective. Actual cash value is the replacement cost of the lost or damaged property at the time of the accident less depreciation. Depreciated value is that value at which the property is carried on the books, recognizing the decrease in the value due to use, wear and tear, and possibly obsolescence. Replacement cost value is that value ascribed to property without a reduction for depreciation. Upon comparison of the value ascribed and cost

associated with insurance limits and the current market replacement value, different limits may be insured.

Upon assigning values to each of the categories of exposure, on an individual basis as well as aggregate basis, a determination of the maximum foreseeable loss (MFL) and probable maximum loss (PML) should be developed. The maximum foreseeable loss is the maximum amount which could possibly be lost under the most unfavorable of circumstances, given a loss such as a fire or tornado. The probable maximum loss is the maximum amount which one would expect to lose if safety systems and devices such as sprinklers and fire department respond according to design. These calculations should be performed by an individual with loss prevention qualifications.

Equally important is the historical loss experienced. That difference between expected loss and the MFL or PML can be defined as the risk.

The last important aspect of the risk assessment process for property exposures is that of the identification of loss prevention activities. As previously mentioned, the difference between probable maximum loss and maximum foreseeable loss is the workings of built-in loss prevention devices. In determining the most appropriate and cost effective risk management strategy, consideration for property and asset preservation procedures should be included, as this will reduce the inherent risk.

CASUALTY AND LIABILITY RISK ASSESSMENT

Similar to the risk assessment used for property exposures, similar examinations must occur for workers compensation, general liability, automobile liability, rail liability, protection and indemnity (marine), and other liability exposures. However, the process is somewhat more

subjective given the unpredictability of judicial decisions. The first step with respect to these types of exposures is to list all exposures relating to liability. Estimates of expected as well as potential losses should then be derived using the transit system's own loss experience by category. This data should be supplemented with public information available through newspapers and other information sources about major losses within the transit industry. The other method which may be used is to develop worse case scenarios for major exposures. This would entail the identification of those hazards which have a greater exposure due to the number of public exposed and postulating types of events. For instance, many transit properties contract with visiting sports teams to provide transportation between the airport and the stadium. An accident involving collision of a vehicle filled with highly paid athletes could result in significant dollar loss considering the potential loss of income of these athletes.

Obvious from this discussion, it is not only important to develop a complete listing of all exposures, but one also must be aware of the relative ranking of each exposure by potential number of claims and the dollar magnitude of those claims. While developing the worse case scenarios is useful in determining whether to avoid or transfer the risk completely, it is also useful in determining the inherent variability or risk associated with a given exposure. This risk is a function of the expected loss versus the potential loss.

Therefore, it is necessary to develop an in-depth data base of historical loss experience in-house. This should be done by type of potential hazard and is typically provided by insurance carriers. This would include categories such as property damage, crime, business interruption, workers compensation, public liability, automobile liability, rail operations liability, and public officials liability. This data is traditionally compiled and maintained by insurers and brokers representing your system and, as such, this data should be requested for in-house use and maintenance.

The following exhibit shows a useful format by which this information can be collected and maintained annually. This format would allow the maintenance of individual and aggregate claim data which will facilitate the risk analysis by those familiar with actuarial techniques. Given the nature of the liability insurance contract, and the inherent time lags between the occurrence of an event, the notification of a claim, and the ultimate settlement value, this data accumulation should be performed so that claims are tracked by incident date. That is, although a claim may be paid three years after the incident it would still be analyzed vis-a-vis the exposure at the time of occurrence. This would assist in forecasting loss which will be necessary to analyze insurance programs. This information should be maintained for total incurred loss, reserved loss, and paid loss - both the number and the dollar magnitude.

SAMPLE OF CLAIM FILE

Claim File: _____

Coverage: _____

FILE #:	CLAIMANT	DATE OF:			DESCRIPTION
		Accident: _____			
		Claim Notice: _____			
		Payment: _____			
STATUS: Open _____					
Closed _____					
INCURRED LOSS					
<u>TYPE</u>	<u>PROPERTY</u>	<u>MEDICAL</u>	<u>LOSS ADJUSTMENT</u>	<u>TOTAL</u>	
Paid					
Reserved	_____	_____	_____	_____	
Total					

SAMPLE OF AGGREGATE DATA MAINTENANCE
AUTOMOBILE LIABILITY
NUMBER OF MONTHS AFTER POLICY INCEPTION
LOSSES VALUED AS OF:

<u>POLICY YEAR</u>	<u>12</u> <u>MONTHS</u>	<u>24</u> <u>MONTHS</u>	<u>36</u> <u>MONTHS</u>	<u>48</u> <u>MONTHS</u>	<u>60</u> <u>MONTHS</u>	<u>72</u> <u>MONTHS</u>
X/X/80-81	\$ and #	\$ and #	\$ and #	\$ and #	\$ and #	\$ and #
X/X/81-82	\$ and #	\$ and #	\$ and #	\$ and #	\$ and #	
X/X/82-83	\$ and #	\$ and #	\$ and #	\$ and #		
X/X/83-84	\$ and #	\$ and #	\$ and #			
X/X/84-85	\$ and #	\$ and #				
X/X/85-86	\$ and #					

CHAPTER IV
RISK CONTROL

Risk control techniques are both pre-loss and post-loss techniques. Risk control is expected to reduce the long-term cost-of-risk. The object of risk control techniques include:

- removing the hazard creating a loss;
- minimizing the probability of a loss by changing procedures; and,
- minimizing the cost once a claim does occur.

The general techniques of avoidance, mitigation, and claims control rely upon the early identification and understanding of those factors which impact loss.

Risk control is predicated upon a complete understanding of not only those factors which contribute to risk but, in addition, those areas where risk is the greatest. That is, risk control techniques should be prioritized and directed toward those areas where they will have the greatest impact upon reduction of risk and cost. Those factors which contribute to risk are called "hazards." Basically, a hazard is a situation which impacts the occurrence of an incident/accident or amount of a loss. Examples of hazards include stairways in stations as well as at grade crossings. Simple examples of risk control techniques include providing hand railings for the stairs and gates for the grade crossings. Hazards can be either under the control or outside of the control of a given transit system and, as such, may impact the risk control technique used. If, in fact, a hazard is well outside the control of an organization, the transit system may elect to avoid that activity altogether. Those factors impacting risk also differ from a bus property to a rail property.

With respect to bus properties, the following characteristics have been identified as being among those influencing the risk.

*BUS OPERATIONS LIABILITY
FACTORS INFLUENCING LOSS*

Service Realities	<ol style="list-style-type: none">1. Regular Intra-city Route2. High Speed Commuter3. Inter-city4. Scheduling5. Speed Restrictions6. Capacity Utilization7. Park and Ride8. Demand Response9. Type of Climate10. Hours of Service11. Contracted or Self-Operated
Bus Design	<ol style="list-style-type: none">1. Bus Design2. Bus Construction3. Number of Seats4. Injury Producing Fixtures5. Bus Defect Reporting Procedures6. Walking Surfaces7. Number of doors8. Lighting9. Driver Ergonomics10. Communications Capabilities
Terminal/Station Design	<ol style="list-style-type: none">1. Escalators2. Platform Versus Bus Entry Height of Stop3. Lighting4. Security5. Access/Egress Number and Location6. Communications7. Walking Surface8. Stairs9. Concessions
Contracted Service Provider Management Controls	<ol style="list-style-type: none">1. Employee Safety2. Equipment3. Technological Sophistication4. Staff Sophistication5. Internal Audit Function6. Communications7. Speed Restrictions8. Contracted or Self-Operated9. Maximum Work Weeks10. Emergency Response Procedures11. Station Housekeeping

Contracted Service Provider Financial Well Being	<ol style="list-style-type: none"> 1. Labor Union Relations 2. Competitive Cost Pressures
Legal Environment	<ol style="list-style-type: none"> 1. State Legislative Relief 2. Federal 3. Doctrines of Negligence
Internal Management Controls	<ol style="list-style-type: none"> 1. Organization Communications 2. Operational Procedures 3. Management Sophistication 4. Mechanical Safety 5. Emergency Response Procedures 6. Driver Training 7. Internal Audit <ul style="list-style-type: none"> - Road Supervisors - Accident Review - Disciplinary Procedures 8. Driver Physicals <ul style="list-style-type: none"> - New Hires - Existing - Drug/Alcohol 9. Employee Incentive
External Public Opinion	<ol style="list-style-type: none"> 1. Visibility 2. Public Affairs 3. Reliability 4. Safety Awareness 5. "Easy Target"
Customer Services Provided	<ol style="list-style-type: none"> 1. Ticket Purchase 2. Personal Security 3. Disabled Passengers 4. Property Security 5. Park and Ride
Capacity Utilization	<ol style="list-style-type: none"> 1. Crowding
Contractual Assumption/Transfer	<ol style="list-style-type: none"> 1. Waste Management 2. Tire Leasing 3. Security Service 4. Park and Ride Lots 5. Taxi - Handicap Pick Up 6. Airport Service 7. Concessions 8. Other Service Providers

RAIL OPERATIONS LIABILITY
FACTORS INFLUENCING LOSS

Type of Service	<ol style="list-style-type: none">1. Rapid Transit2. Commuter Rail3. Light Rail4. Contracted or Self-Operated
System Design	<ol style="list-style-type: none">1. Number of Track Available for Use2. Methods of Signaling3. Number and Method of Signaling at Grade Crossings4. Track Speed Restrictions5. Communications and Dispatching6. Push Versus Pull Usage7. Capacity Utilization8. Rights of Way9. Easements10. Bridges11. Tunnels12. Service Facilities13. Above Grade, At Grade, or Below Grade
Car/Locomotive Design	<ol style="list-style-type: none">1. Car/Locomotive Design2. Car/Locomotive Construction3. Injury Producing Fixtures4. Handicap Access
Capacity Utilization	<ol style="list-style-type: none">1. Number of Other Trains2. Spacing of Trains
Station Design	<ol style="list-style-type: none">1. Fence Between Tracks2. Platform Versus Train Height3. Lighting4. Security5. Access/Egress Number and Location6. Communications7. Walking Surface8. Stairs9. Housekeeping
Service Provider Management Controls	<ol style="list-style-type: none">1. Employee Safety2. Equipment3. Technological Sophistication4. Staff Sophistication5. Internal Audit Function6. Maximum Work Weeks7. Emergency Response Procedures8. Signal Inspection/Management9. Station Housekeeping

Service Provider Financial Well Being	<ol style="list-style-type: none"> 1. Labor Union Relations 2. Competitive Cost Pressures
Legal Environment	<ol style="list-style-type: none"> 1. State Legislative Relief 2. Federal 3. Doctrines of Negligence
Internal Management Controls	<ol style="list-style-type: none"> 1. Organization Communications 2. Operational Procedures 3. Sophistication 4. Mechanical Safety 5. Emergency Response Procedures
External Public Opinion	<ol style="list-style-type: none"> 1. Visibility 2. Public Affairs 3. Reliability 4. Safety Awareness
Customer Services Provided	<ol style="list-style-type: none"> 1. Alcohol 2. Personal Security 3. Disabled Passenger 4. Property Security 5. Advanced Ticketing
Capacity Utilization	<ol style="list-style-type: none"> 1. Crowding
Contractual Assumption/Transfer	<ol style="list-style-type: none"> 1. Rail bed Owners 2. Rail Operations 3. Security

Upon understanding all of the factors which contribute to loss and the loss magnitude, efforts to reduce the number and sizes of loss through preventive measures should be implemented, as well as the use of non-insurance transfer mechanisms, such as contractual arrangements, including indemnification and hold harmless clauses. Complete contractual transfer of risk may be impossible and, therefore, never solely relied upon.

CLAIMS MANAGEMENT

Claims management is an often overlooked area of risk control which can be extremely important to a public transit agency. The gathering and maintenance of adequate information is extremely important in the eventual defense and settlement of a claim. Similarly, the same

information is extremely important in prioritizing loss prevention activities. The claims management process itself begins with the notification of an event which could give rise to a potential claim and monitors that incident until either a claim is reported or the statute of limitations has run its course. Upon the occurrence of an incident which could give rise to a claim, it is important that the driver and/or employee fill out an accident report form. Different forms would be used depending upon whether the incident involves vehicles, premises, rail, or an employee. A number of different reporting forms are currently in use and vary in content, type of response desired (written or yes/no), and detail. Sample forms are included in the appendix for:

- employee accidents;
- vehicular accidents;
- rail accidents;
- premises slips and falls or crime; and,
- property damage.

The timely reporting of incidents which could give rise to claims or accidents is predicated upon the development of procedures prior to an incident.

Upon notification that an incident has occurred, a supervisor or the person charged with safety should proceed to the scene of the accident immediately. In addition to the activation of internal reporting and safety, local police and rescue should be advised and provide assistance to the injured at the scene of an accident. Thereafter, the supervisor should begin gathering information concerning the accident including:

- environmental information such as weather, lighting, time of day, etc.;
- photographs of the scene of the accident;
- position of vehicles/rolling stock including distances, skid marks, etc.;
- sketches of the relationship of vehicles, rolling stock, objects, etc.;
- interview with the operators;
- an assessment by the investigator of what actually occurred;
- injured parties including what particular factors contributed to their injuries; and,
- witnesses.

In addition to this on-the-scene investigation, maintenance and engineering records should be gathered, such as maintenance logs and operator logs, to determine if the vehicle/rolling stock was at fault. The gathering of proper information and the following of acceptable investigation procedures could make the difference as to whether the claim is settled for substantial amounts or whether there is no claim payment whatsoever.

As data is gathered, aggregate information on the type of accident, type of injury, location, cost, department, and causality should be maintained and monitored. This will enable the astute manager to properly direct and implement pre-emptive strategies. It is often difficult to justify the budgeting and expenditure of funds for loss prevention and safety, however, through the proper accumulation and analysis of data, including not only the number of claims by cause but, in addition, the dollar magnitude, the justification and recognition deserving safety will become apparent.

The following exhibits offer sample summary schedules for monitoring incident/claim causality and summarizes data collected in accident/incident reports.

ANALYSIS OF EMPLOYEE ACCIDENT CAUSE

	FREQUENCY				SEVERITY			
	<u>CURRENT YEAR</u>		<u>LAST YEAR</u>		<u>CURRENT YEAR</u>		<u>LAST YEAR</u>	
	#	<u>TOTAL</u>	#	<u>TOTAL</u>	\$	<u>TOTAL</u>	\$	<u>TOTAL</u>
<u>UNSAFE ACT</u>								
Improper Lifting								
Lack of Skill or Knowledge								
Unsafe Act of Other								
Physical Limitation or Mental Attitude								
Failure to Use Proper Tools or Equipment								
Failure to Wear Personal Protective Equipment								
Unaware of Hazards								
Short Cut to Save Time or Effort								
Unsafe Material Handling								
Vehicle Collision								
Other:								

	FREQUENCY				SEVERITY			
	<u>CURRENT YEAR</u>		<u>LAST YEAR</u>		<u>CURRENT YEAR</u>		<u>LAST YEAR</u>	
	#	<u>TOTAL</u>	#	<u>TOTAL</u>	\$	<u>TOTAL</u>	\$	<u>TOTAL</u>
<u>UNSAFE CONDITION</u>								
Lack of Safe Job Practice								
Improper Material Storage								
Congestion-Lack of Space								
Improper and/or Worn Tools and Equipment								
Unsafe Design and/or Construction								
Unsafe Conditions of Machine								
Improper Guarding								
Improper Job Procedures								
Unsafe Floors, Ramps, Stairways								
Improper Lighting								
Other:								

	FREQUENCY				SEVERITY			
	<u>CURRENT YEAR</u>		<u>LAST YEAR</u>		<u>CURRENT YEAR</u>		<u>LAST YEAR</u>	
	#	<u>TOTAL</u>	#	<u>TOTAL</u>	\$	<u>TOTAL</u>	\$	<u>TOTAL</u>
<u>EMPLOYEE INJURY BY DEPARTMENT</u>								
General Managers								
Maintenance								
Transportation								
Facilities								
Procurement								
Personnel								
Planning and Marketing								
Finance								

ANALYSIS OF EMPLOYEE INJURY

	FREQUENCY				SEVERITY			
	<u>CURRENT YEAR</u>		<u>LAST YEAR</u>		<u>CURRENT YEAR</u>		<u>LAST YEAR</u>	
	% OF		% OF		% OF		% OF	
	<u>#</u>	<u>TOTAL</u>	<u>#</u>	<u>TOTAL</u>	<u>\$</u>	<u>TOTAL</u>	<u>\$</u>	<u>TOTAL</u>
<u>TYPE OF INJURY</u>								
Laceration								
Abrasion								
Puncture								
Burn								
Fracture								
Strain-Sprain								
Amputation								
Foreign Body								
Hernia								
Contusion								
Multiple								
Miscellaneous								

	FREQUENCY				SEVERITY			
	<u>CURRENT YEAR</u>		<u>LAST YEAR</u>		<u>CURRENT YEAR</u>		<u>LAST YEAR</u>	
	% OF		% OF		% OF		% OF	
	<u>#</u>	<u>TOTAL</u>	<u>#</u>	<u>TOTAL</u>	<u>\$</u>	<u>TOTAL</u>	<u>\$</u>	<u>TOTAL</u>
<u>BODY PART INJURED</u>								
Eye								
Head								
Chest								
Back								
Abdomen								
Arm								
Hand-Finger								
Leg								
Foot-Toe								
Respiratory System								

ANALYSIS OF VEHICLE ACCIDENT

ACCIDENT TYPE	FREQUENCY				SEVERITY			
	<u>CURRENT YEAR</u>		<u>LAST YEAR</u>		<u>CURRENT YEAR</u>		<u>LAST YEAR</u>	
	% OF		% OF		% OF		% OF	
	#	<u>TOTAL</u>	#	<u>TOTAL</u>	\$	<u>TOTAL</u>	\$	<u>TOTAL</u>
Collision with Moving Vehicle								
Collision with Stopped Vehicle								
Collision with Pedestrian								
Collision with Object or Animal								
Collision between Authority Vehicles								
Collision Leaving Roadway								
Passenger Injury while Boarding								
Passenger Injury while Alighting								
Passenger Injury while On Board								
Passenger Injury while Caught in Doors								
Passenger Illness								
Passenger Disturbance								

ACCIDENT CAUSE	FREQUENCY				SEVERITY			
	<u>CURRENT YEAR</u>		<u>LAST YEAR</u>		<u>CURRENT YEAR</u>		<u>LAST YEAR</u>	
	% OF		% OF		% OF		% OF	
	#	<u>TOTAL</u>	#	<u>TOTAL</u>	\$	<u>TOTAL</u>	\$	<u>TOTAL</u>
Following too Close - Tail-Gating								
Driving too Fast for Conditions								
Exceeding Speed Limits								
Failure to Obey Stop Signs/Signals								
Failure to Heed Warning Signs								
Improper Turns								
Improperly Parked								
Improper Passing								
Improper Backing								
Failure to Yield Right-of-Way								
Inattention								
Defective or Missing Equipment								

DRIVER INFORMATION	FREQUENCY				SEVERITY			
	<u>CURRENT YEAR</u>		<u>LAST YEAR</u>		<u>CURRENT YEAR</u>		<u>LAST YEAR</u>	
	% OF		% OF		% OF		% OF	
	#	<u>TOTAL</u>	#	<u>TOTAL</u>	\$	<u>TOTAL</u>	\$	<u>TOTAL</u>
At Fault								
Not at Fault								
Avoidable								
Unavoidable								
Struck other Vehicle								
Struck by other Vehicle								

CHAPTER V
RISK RETENTION/TRANSFER

One of the key steps in the process of risk management is that of determining how much risk can be absorbed internally. Generally speaking, it is prudent for any organization to assume the predictable high frequency/low severity losses and to transfer the unpredictable and catastrophic type of loss. Such an assessment is predicated upon the proper identification and assessment of all exposures to loss and the potential risk emanating therefrom. There are a variety of methods by which risk is internally assumed. They include:

- coinsurance;
- non-insurance;
- underinsurance;
- deductibles;
- self-insured retentions;
- the purchase of actual cash value versus replacement cost; and,
- a combination of the above.

What is important is that the technique used is based upon a cognizant decision of management. That is, underinsurance may be acceptable if management is aware that the available limits are inadequate but, either due to cost or market conditions, are the only limits available. Non-insurance is unacceptable and can only result from the breakdown in the risk management process.

Most organizations retain far less risk than they can afford. In doing so, they are paying more for insurance than they need to and, over the long-term, premium will far outweigh loss recoveries and services received. There are a variety of factors which impact the desirable level of risk retention for a transit organization. They include:

- exposure characteristics;
- management's appetite for or aversion to risk;
- loss history;
- premium savings for increasing risk retention; and,
- the operating revenues of the organization itself.

Depending upon the exposure, the risk characteristic is considerably different. Collision damage on buses, for example, is predictable and less risky than that of liability associated with bus operations. Similarly, self-insuring the bus shelters for property damage is less risky than self-insuring the operations center or central garage. The characteristics of both of these examples are such that there is built-in spread of risks since buses are, for the majority of the time, on the road in different locations. Therefore, internal spread of risk is a consideration.

Management's appetite/aversion for risk is something which each general manager is testing in today's tight market. Many general managers faced with substantial increases in premium cost for lower limits of coverage are self-insuring. That is, an internal decision or assessment of the risk based upon the historical interpretation of losses versus premium is fostering management's decision to increase retentions.

The historical loss analysis is integral to determine the appropriate retention. Examples of those categories which create high frequency losses include workers compensation, general liability, bus liability, and rail operations liability. In each of these categories of loss, it would be expected for a public transit system to experience a high number of claims with a low severity and a few claims at a high severity. Some assessment of the predictability of these high frequency losses should be made so that the transit system, when determining the reasonableness of the premium credit for increasing the risk retention, has information on which to base a decision.

When requesting quotes from the insurance market, it is acceptable and standard practice to seek quotes for various deductibles/retentions. This will enable the manager who has performed his homework to make a decision as to the prudence of a higher retention level. In general, if a premium credit offered from the market for taking a higher deductible is greater than the expected increase in the retained loss, the organization should accept the higher deductible. Of course, this is again tempered by management's risk aversion.

Insurance considerations in determining loss retention include:

- current premium for particular insurance coverage;
- current deductible/retention;
- current five-year average of total losses retained under current deductible;
- quoted premium for particular insurance coverage at higher deductible;
- possible new deductible/retention;
- difference in expected retained loss under new deductible versus old;
- difference in potential "worse case" retained loss; and,
- premium credit offered.

If the premium credit is greater than the increase in expected retained loss, the manager should begin considering the new plan. If the premium credit is not only greater than the incremental retained loss, but in addition, the "up-side" loss potential, then the risk associated with the decision diminishes.

The transit system's ability to assume a loss internally also is a function of the source of revenues and budgetary constraints. A per occurrence retention of 1% of operating budget and an aggregate all lines retention of 10% of operating budget does not seem unreasonable. For example, it would not be unreasonable for a system with an operating budget equal to \$25,000,000 to retain \$250,000 per loss with an annual aggregate retention of \$2,500,000. This, of course, is predicated on an economic incentive to retain loss internally.

Financial considerations in determining loss retention include:

- A. Annual operating budget - The operating budget measures the financial ability to assume loss internally.
- B. Source of revenue - A system which has the authority to float debentures or is supported by dedicated tax revenue has a greater ability to assume risk.
- C. Budgetary philosophy - Conservatism reflected in establishing budgets will impact the systems budgeting and cost recovery of forecasted expected and up-side retained loss.

Other considerations:

- A. State tort claims act provisions limiting liability.
- B. State sovereign immunity statutes.
- C. Management's risk aversion.
- D. Management's willingness to pre-fund.

To fully understand the logic behind choosing a retention/deductible level, the following simplified *hypothetical* example has been prepared. Assume that a system with 300 buses and an operating budget equal to \$25,000,000, in advance of renewal, asks its existing insurance broker to secure quotations for various retention levels subject to a maximum of \$250,000 per occurrence.

THE AREA TRANSPORT ADMINISTRATION

Number of Vehicles:	300
Operating Budget:	\$25,000,000
Coverage:	Vehicle Liability
Limits:	\$1,000,000

The broker submits the following options for review of the systems management.

OPTIONS

	<u>PREMIUM</u>
Guaranteed Costs \$0 Deductible	\$ 1,850,000
\$ 25,000 Costs Deductible	\$ 1,400,000
\$ 50,000 Costs Deductible	\$ 1,250,000
\$100,000 Costs Deductible	\$ 1,050,000
\$250,000 Costs Deductible	\$ 910,000

To assist in the decision process, a forecast is made of expected and potential retained loss by individuals with actuarial expertise. Since management is risk averse, they elect to review not only the expected loss level but, in addition, that level which is not expected to be exceeded 90% of the time.

FORCASTED RETAINED LOSS

<u>PER OCCURRENCE RETENTION</u>	<u>EXPECTED</u>	<u>90% PROBABILITY LOSS WILL NOT EXCEED</u>
\$ 25,000	\$350,000	\$ 550,000
\$ 50,000	\$575,000	\$ 736,000
\$ 100,000	\$700,000	\$ 950,000
\$ 240,000	\$850,000	\$1,200,000

From the preceding information (premium and loss) the following exhibit was developed to assist management in their decision:

<u>OPTIONS</u>	<u>EXPECTED TOTAL COST*</u>	<u>UP SIDE TOTAL COST**</u>
Guaranteed Cost	\$1,850,000	\$1,850,000
\$ 25,000 deductible	\$1,750,000	\$1,950,000
\$ 50,000 deductible	\$1,825,000	\$1,986,000
\$ 100,000 deductible	\$1,750,000	\$2,000,000
\$ 250,000 deductible	\$1,760,000	\$2,110,000

**Premium + Expected Retained Loss*

***Premium + 90% confidence boundary*

Based upon the information presented in the above exhibit, tempered by management's risk aversion, it chooses the plan with a \$25,000 deductible. Management made this decision since of the two alternatives with the lowest expected cost (\$25,000 deductible and \$100,000 deductible) the plan with a \$25,000 deductible was less risky.

CHAPTER VI
RISK FINANCING TECHNIQUES

Once the transit system general manager recognizes that the least costly method of transferring risk is to achieve a balance between risk retention and insurance purchase, the general manager or risk manager must determine the optimum method of financing both retained loss and premium.

Generally speaking, there are a variety of techniques and plans offered by the insurance industry for those organizations wishing to take substantial retention levels which can further reduce the cost. In order to fully understand the repercussions in analyzing and choosing any of these alternative techniques, one must begin by "unbundling" the services provided by an insurance carrier.

As a transit system increases its risk retention and moves from guaranteed cost policies towards greater reliance on self-insurance, there is greater choice in determining what services are needed and how they should be acquired. Typically, services rendered by an insurance carrier in the scope of a standard guaranteed cost policy include:

- policy issuance;
- policy administration;
- claims handling and settlement;
- defense;
- payment of taxes, boards, bureaus, residual market loadings, and other state charges;
- state filings; and,
- loss control engineering.

In addition to charging the insured for these services, the insurer charges for:

- a standard margin of profit;
- a premium for risk; and,
- a premium for expected loss.

All options which are typically used entail some trade-off between risk and cost. The following exhibit demonstrates that administrative burden, certainty, and cash flow as well as risk and cost are involved in the decision. The following options are available to public transit agencies depending upon the premium volume. These are explained further in the following pages.

<u>RISK FINANCING TECHNIQUE</u>	<u>RISK</u>	<u>CERTAINTY</u>	<u>COST</u>	<u>ADMINISTRATOR BURDEN</u>	<u>CASH FLOW</u>
	Least	Greatest	Greatest	Least	Least
Guaranteed Cost		/ \	/ \		
Deductible Plan					
Incurred Loss Retro					
Paid Loss Retro					
Compensating Balance					
Stabilization Plan					
Captive					
Self-Insurance	\ /			\ /	\ /
	Greatest	Least	Least	Greatest	Greatest

Prior to explaining each of the techniques, it is important to note the difference between a deductible and a self-insured retention. A deductible program differs from a self-insured retention in that within the deductible program, the insurance carrier is responsible for claims handling, settlement strategy, and the management of all claims falling within, as well as above,

the deductible level. In a program using a self-insured retention, this responsibility for loss within the deductible is delegated to the insured. This is further complicated in that certain coverages, in particular workers compensation, are not written using deductibles, although it is common to see self-insured retentions.

EXPLANATION OF RISK FINANCING TECHNIQUES

Guaranteed Cost: A guaranteed cost insurance policy is one in which premium is paid up-front or during the course of the policy year in monthly or quarterly installments. There may be a small deductible mandated, however, regardless of loss volume, either frequency or severity, the insurance carrier is responsible contractually for all claims incurred during the course of the policy year. Typically, deductibles are very small.

High Deductible Plans: The difference between high deductible plan programs and guaranteed cost policies is the size of the deductible. This plan allows an organization to gain some of the cash flow of self-insurance without the loss of services and excess coverage associated with an insured plan. The carrier provides claims handling and may require the establishment of an escrow fund or letter of credit for losses within the deductible. It is common with policies insuring property damage and physical damage on buildings, vessels, and business interruption coverages to use substantial deductibles in which the ultimate settlement value or recovery of the client is a negotiated settlement between the insured and the insurer.

Incurred Loss Retrospectively-Rated Policies: An incurred loss retro is a policy whereby the insured takes a self-insured retention (SIR) but the SIR is funded on an incurred basis and managed by the insurer. Policy premiums are developed through typical methods of rating exposures and taking into account the experience of the insured. From that point on, similarities cease. The formula which defines an incurred retrospectively rated program follows:

$$[(\text{Basic} + ((\text{Incurred Loss}) \times \text{Loss Conversion Factor})) \times \text{Tax Multiplier}] + \text{Excess} = \text{Premium Billed}$$

The basic charge includes policy issuance administration and a profit loading. Incurred loss is the sum of both paid claims plus the known case reserves. The loss conversion factor is a factor which is applied to losses for claims management and handling. The tax multiplier is the tax charged by various states which includes taxes, boards and bureaus, residual market loadings, etc. which are depend upon the type of coverage. Excess insurance, which is the last unbundled charge, is that fee charged by the insurance carrier for pure risk transfer excess of the loss sensitive region. The excess charge is the premium for the layer between the self-insured retention and \$1,000,000 where true umbrella or excess insurance would come into play.

Incurred loss retros typically are offered to those clients with casualty/liability premium volume in excess of \$400,000. Typically, substantial retentions are taken within the retro formula such that the first \$100,000 per occurrence, \$250,000 per occurrence, or \$500,000 per occurrence is the responsibility of the insured although the retention is funded as losses are incurred.

To protect the insured there is a maximum premium factor which is applied to the calculated standard premium. Similarly, there is a minimum premium factor which is applied to standard premium to protect the insurer so that they receive a minimum premium. Typically, minimum premium is equal to basic plus taxes plus excess and maximum can be 150% to 200% of standard.

It is estimated from published financial data that the insurance industry in recent years has experienced the reporting of ultimate loss severity as follows:

INCURRED LOSS
REPORTING PATTERNS - % OF ULTIMATE EXPECTED
MONTHS FROM INCEPTION

	<u>12</u>	<u>24</u>	<u>36</u>	<u>48</u>	<u>60</u>	<u>72</u>
Workers Compensation	24%	94%	97%	98%	99%	99%
General Liability	37%	59%	74%	84%	90%	92%
Automobile Liability	80%	96%	98%	99%	99%	99%

Implied from this exhibit is the cash flow savings which would accrue to the insureds benefit by paying the carrier on an incurred basis versus upfront.

Paid Loss Retro: The paid loss retro operates similar to the previously described incurred loss retro, however, the insurance carrier is reimbursed for claims only upon the payment of losses. This serves to stagger the premium flows considerably since the payout of loss is much greater than the reporting of losses. The formula for a paid loss retro is as follows:

$$[(\text{Basic} + ((\text{Paid Loss}) \times \text{Loss Conversion Factor})) \times \text{Tax Multiplier}] + \text{Excess} = \text{Premium Paid}$$

Similar to the incurred loss retro, a minimum and maximum factor is attached to the calculated standard premium.

The estimated payout of the American insurance industry follows:

PAYOUT PATTERNS - % OF ULTIMATE EXPECTED
MONTHS FROM INCEPTION

	<u>12</u>	<u>24</u>	<u>36</u>	<u>48</u>	<u>60</u>	<u>72</u>
Workers Compensation	25%	49%	62%	71%	76%	80%
General Liability	7%	18%	30%	43%	57%	67%
Automobile Liability	33%	63%	78%	87%	92%	95%

Evident when comparing this exhibit with the incurred loss reporting patterns summarized above, there is even greater cash flow savings realized in this type of plan.

Compensating Balance Plans: These are designed for organizations which are required to maintain compensating balances with a bank. The program involves negotiation with an insurance company and the bank which requires the compensating balance. Basically, the insured pays the full premium to the insurance company at policy inception. After deduction for expenses and possibly an escrow fund for several months paid loss, the remaining balance is deposited with the bank. This account is maintained in the insurer's name but by agreement fulfills compensating balance requirements. Losses, as they are paid, are drawn upon the account.

Stabilization Plan: The stabilization plan is designed to stabilize costs over the long term. The premium charge is based upon estimated losses in a given period as well as insurance company loadings. A fund is maintained by the insurer. If losses are less than that the expected amount, which are the funds held by the carrier, the interest accrues to the insured. If losses are greater than the expected fund, then interest is charged to the insured.

Captive Insurance Company: The captive insurance company is a formalized program of self-insurance in which a separate corporate entity is formed in either off-shore or domestic domiciles. The captive plan is run similar to an insurance company. Typically, coverage is "fronted" whereby an admitted insurance carrier issues policies, handles losses, and reinsures the self-insured retention and allocated premium to the captive insurance company. The captive is responsible for investing funds, accounting, etc. and may purchase reinsurance protection. Given the long payout pattern of liability and casualty losses, considerable interest income can be generated with this type of approach. However, it does necessitate the capitalization of a company according to local requirements.

The benefits of a captive insurance company are perceived to include:

- recapturing of excess premium;
- earning of investment income;
- operation as a profit center; and,
- creates better access to reinsurers.

Self-Insurance: Self-insurance is perhaps the least costly of all types of insurance programs, however, it should not be entered into blindly. The following exhibit summarizes advantages and disadvantages of self-insurance.

ADVANTAGES AND DISADVANTAGES OF SELF-INSURANCE

Advantages:

1. More control over claims including:
 - Prompter payments,
 - Defense strategy formulation,
 - Better coordination of benefits, and
 - Reserving.
2. Better loss control resulting from greater motivation.
3. Lower expense.

Disadvantages:

1. Annual bidding of service providers is not prudent.
2. Inexperienced service providers may be utilized.
3. Higher insurance cost could result from the adverse selection process.
4. It is difficult for management to audit and evaluate the job being done by staff personnel and outside services.
5. Tendency to understate ultimate liability.
6. There could be over utilization of internal personnel and systems.

7. Difficult to return to insured program.
8. Problems can arise under contracts requiring certificates of insurance.
9. Operations spread over a large geographical area can cause service problems.
10. Higher cost of reinsurance.
11. Separate filings to be made with each state.

Many transit properties in light of phenomenal premium increases and deduction in coverage have seen self-insurance as the panacea to the problems created by the insurance market. This is not the case. Within a self-insurance program, losses are unlimited unless financial protection is provided through the purchase of excess reinsurance limiting the per occurrence event or aggregate "stop-loss" reinsurance which limits the accumulation of per occurrence of losses. For a self-insurance program to be successful, there are a variety of ingredients which are needed. The following ingredients for success have been identified:

- **Prudent and Adequate Pre-Funding** - At a minimum, actuarially determined expected losses should be pre-funded but preferably a cushion should be included in the fund.
- **Clear Definition of Risks Covered by the Fund** - The fund should pay for losses of the type contemplated, not for unexpected, uninsured, or underinsured coverages.
- **Irrevocable Segregation of Funds** - Losses take considerable time to be incurred and eventually paid and, as such, the temptation to tap the fund will exist and should therefore be minimized.
- **A Claims Philosophy** - The claims philosophy should be consistent with that of the insurance industry as opposed to political motivations.
- **Local Claims Handling Expertise** - A local firm with expertise in handling, managing, developing strategies, and reporting of claims should be contracted with.
- **Strong Risk Management and Safety Presence** - Self-insurance is not a panacea for effective risk control or loss prevention. As the degree of self-insurance increases, so should the attention to risk management and safety.

Department Accounting for Claims - For risk management and self-insurance to be effective, claims should be accounted by department by type of activity so as to effectively prioritize loss prevention activities. Additionally, objectives should be established with performance evaluations based on effectiveness.

The following exhibit summarizes the key components of all risk financing techniques available.

	CASH FLOW		ADMINISTRATIVE BURDEN	OTHER ISSUES	PURPORTED ADVANTAGES
	<u>LOSSES</u>	<u>EXPENSES</u>			
GUARANTEED COST	Pre-funded Reserves held by insurer.	Pre-paid	None	Program not loss sensitive but annual premiums may vary significantly as a result of cyclical- ity of market.	Predictable most stable.
INCURRED LOSS RETRO	Pre-funded Reserves held by insurer.	Pre-paid	Annual retro adjustment and audit.	- - -	Simplest loss sensitive program.
DISCOUNTED INCURRED	Pre-funded Reserves held by insurer.	Pre-paid	None	Program is sensitive to a degree.	Loss sensitive and administratively easy.
COMPENSATING BALANCE PROGRAM	Funded when paid. Reserves effectively held by corporation.	Pre-paid	Retro adjustments and monitoring of compensating balance account.	Requires available compensating balances. Year-to-year changes in C.B. and pyramiding of reserves may strain C.B. line which generally must be limited to one bank.	Cash flow retention with minimal change in insurance responsibility.
PAID LOSS (NO NOTE)	Funded when paid. Reserves held by corporation.	Some pre-paid. Some paid as incurred.	Dual retro ad- justments, one on incurred losses, one on paid, can make reconciliations more complex. May also present intra- corporate charge back problems.	Requires letter of credit and escrow account.	Same as above.

CASH FLOW

	<u>LOSSES</u>	<u>EXPENSES</u>	<u>ADMINISTRATIVE BURDEN</u>	<u>OTHER ISSUES</u>	<u>PURPORTED ADVANTAGES</u>
PAID LOSS RETRO (WITH PROMISSORY NOTE)	Funded when paid. Reserves held by corporation.	Some pre-paid. Some paid as incurred.	Same as above.	Requires letter of credit, promissory note, and escrow account.	Same as above.
CAPTIVE (REVENUE RULING 77-316)	Pre-funded by parent to subsidiary. Reserves held by captive.	Pre-paid	Directing and monitoring a corporate sub- sidiary where activity varies according to the degree to which the captive takes an active risk (including meeting).	Requires incor- porating of sub- sidiary, provision for management, capital contribution and administrative time. Also may require periodic justification for existence.	Same as above.
SELF-INSURANCE	Funded when paid. Reserves held by corporation.	Paid as incurred.	Directing, monitoring	Requires filing for each by state, required to replace traditional insurer functions. In extreme, corporation will handle all claims and safety.	Flexibility, control and posting of bonds, securities and payments of assessments to variety of state funds. May also require escrow fund for claims handling.

GROUP APPROACHES

In addition to the aforementioned singular risk financing techniques, more and more industries are using group solutions to solve availability and pricing problems. These potential solutions include:

Association Captives: Group captives operate similar to individual captives in that an insurance company is formed (stock or mutual), where permitted by enabling legislation, which reinsures an admitted United States carrier. Typically, a deductible is used at the insured level to provide a buffer for nuisance claims. The association captive reinsures the primary carrier for a substantial level (\$100,000 to \$500,000 per occurrence) and receives premium attributable to this layer. Similar to a “single parent captive,” the captive operates as an insurance company and is responsible for accounting, investments, purchasing reinsurance protection and paying loss. Association/Group Captives can be extremely flexible and are not limited to writing primary layer insurance; most recently, high excess layers have been filled by these approaches.

Group Safety Plans: A group safety plan is an insurance program which is designed for a target group by an insurance carrier. If a minimum premium level is achieved, and losses are below a desired level, dividends will be paid to participants. This program, although endorsed by an association is controlled by the insurance carrier.

Risk Retention Group: A risk retention group can take the form of either an intra-state or interstate pool of similar industry risks. In some states, they are known as pools or joint powers authorities and are permitted as a result of enabling legislation. More recently, federal legislation is being considered which allows for the interstate pooling of similar risks. This is known as the Risk Retention Act Amendments and would facilitate the pooling of commercial liability coverage (excluding workers compensation and employers liability) for organizations which are related or common to each other. While in the formative stages, this could open new avenues for interstate pooling.

There are a number of real and theoretical benefits for using group approaches. These are summarized in the following exhibit.

THEORETICAL BENEFITS OF GROUP APPROACH

- Economics of Purchasing
 - a. Upfront discounts
 - b. Cash flow
 - c. Reduced expenses
 - d. Back-end dividends
- Capacity Generating
 - a. Directly approach new sources
 - b. Frees up insurance market working layer by funding said layer
- Greater Certainty in Funding Exposures
 - a. Greater credibility in projecting expected loss
 - b. Greater credibility in projecting up-side potential
 - c. Reduction of per occurrence risk
 - d. Ability to spread catastrophic exposures
- Market Negotiations
 - a. Greater negotiating power
 - b. Greater long-term stability
 - c. Broader coverage at reduced cost

CHAPTER VII
RISK TRANSFER

Given that a loss cannot be avoided or eliminated completely and it is too great to assume or retain internally, a transit system can eliminate risk by contractually transferring the risk to a service provider or to an insurance carrier. Designing the proper program includes all of the following factors:

- determination of what risks to contractually transfer;
- determination of what exposures to insure;
- identifying those terms and conditions which should be required;
- identification of potential insurance carriers which are financially secure and willing to write public transit;
- identification of insurance brokers capable of placing said insurance;
- review of policies and terms so as to assure compliance with specifications; and,
- the determination of the most appropriate risk financing technique.

From the exposure identification and risk assessment process discussed earlier, the general manager/risk manager should, at this point, have a reasonable estimate of the exposures to loss and the potential dollar magnitude of loss. Those policies typically purchased by transit systems include:

- property insurance;
- crime insurance;
- workers compensation insurance;
- general liability insurance;
- automobile liability insurance;

- rail operations liability insurance;
- rolling stock physical damage;
- umbrella liability insurance; and,
- public officials errors and omissions.

Based upon the exposures as assessed previously, a number of options exist with respect to determining what policies to buy and what terms and conditions should be included. These options are summarized in the coverage checklist in Appendix B. The significance of these can be determined through further reading and/or the advice of an insurance broker, agent, or consultant.

PROPERTY INSURANCE

Basic coverages which should be considered by transit systems are that of fire and extended coverage. The basic fire policy covers fire, lightning, and debris removal, as well as the resultant damage of smoke and water. The extended coverage endorsement adds windstorm, civil commotion, smoke, hail, aircraft, vehicle damage, explosion, and riot. Additional coverage such as flood and earthquake may be important depending upon the proximity to earthquake zones, flood zones, and the level of property above the water table. According to most fire policies, the building must be insured for a stated percentage of value (coinsurance) or loss recovery will be lessened.

Coverage also can be purchased on an actual cash value or replacement cost basis. Actual cash value is that amount net of depreciation whereas replacement cost value is the actual cost to replace the property and like kind. Consideration of cost differentials and potential underinsured exposures is important.

Coverage can be purchased on a specific location, scheduled location, or blanket all locations. In the specific and scheduled examples, limits are specified per building/location whereas blanket coverage covers two or more locations with one limit of insurance. Purchasing property insurance on a blanket basis is a prudent way to proceed if more than two locations are insured. This also reduces the chance of underinsurance due to an oversight in assessing the true value of locations and personal property.

Other extensions of coverage which may be considered important include:

- ICC (**I**ncreased Cost of Construction);
- extra expense;
- expediting expense;
- goods in transit;
- vandalism and malicious mischief;
- rental values; and,
- business interruption.

BOILER AND MACHINERY COVERAGE

Boiler and machinery policy covers damage caused directly and indirectly by the the explosion of steam boilers, hot water boilers, hot water heaters, air compressors, pressure vessels, air conditioning units, etc. Coverage is written on an actual cash value basis and for an up-charge can be covered on a replacement cost basis.

CRIME INSURANCE

The public transit system is exposed to loss from both employees and non-employees. A variety of policies are available to the public transit system to insure crime exposures including:

- separate fidelity bond for employees and separate crime coverage for non-employees;
- purchase a "3-D" policy which combines employee dishonesty and other coverage on an optional basis; or,
- purchase a "blanket crime" package crime policy which also covers acts of employees and non-employees.

While many public entities in the past have purchased separate fidelity and crime coverage, a preferred approach would be to purchase blanket crime coverage. The purchase of a fidelity bond for the acts of employees and officials while protecting the transit system itself does not protect the employee or individual. The surety company has the right under a bond to recover its loss from the employee or official and attach their personal assets. It is possible for a manager to be held responsible for his employees and the lack of effectiveness of controls and internal systems.

A preferable approach to purchasing a fidelity policy coupled with a non-employee crime policy would be to purchase a package policy. Several package policies are in existence including the "3-D" policy and the blanket crime policy. The "3-D" policy allows for the optional selection of five coverage areas including:

- employee dishonesty;
- loss of money and securities - inside premises;
- loss of money and securities - outside premises;
- money orders and counterfeit paper currency; and,
- depositors forgery.

The blanket crime policy is a package where all of the aforementioned coverages are mandatory. The blanket crime policy has a single limit applying to all five coverages whereas the 3-D policy has a separate limit for each coverage. With respect to employee dishonesty coverage, a choice exists as to whether the limits cover each loss regardless of the number of employees (commercial blanket form A) or whether the limit is per employee (blanket position basis form B).

When securing coverage it is important to include all employees including past and former employees and officials in the definition of employees and that adequate limits are purchased. The following exhibit can be used to determine the minimum amount of insured limits with respect to employee dishonesty coverage.

*EXPOSURE INDEX FORMULA RECOMMENDED BY
AMERICAN INSTITUTE OF ACCOUNTANTS*

Name of Firm

1. Total Current Assets - as of _____
(cash, securities, receivables, inventory) - _____
A. Goods on Hand (inventory) - _____
B. 5% of A - _____
C. Current Assets Less Goods on Hand
Different Between 1 and 1A - _____
D. 20% of C - _____
2. Gross Annual Sales or Income - _____
A. 10% of 2 - _____
- This is the Firm's Dishonesty Exposures Index - _____
Suggested Minimum Amount of Honesty Insurance - _____

INDEX TABLE

<u>DISHONESTY EXPOSURE INDEX (\$-000-)</u>		<u>BRACKET NO.</u>	<u>SUGGESTED AMOUNT OF BOND (\$-000-)</u>	
Up to	\$ 25	1	15	\$ 25
25	125	2	25	50
125	250	3	50	75
250	500	4	75	100
500	750	5	100	125
750	1,000	6	125	150
1,000	1,375	7	150	175
1,375	1,750	8	175	200
1,750	2,125	9	200	225
2,125	2,500	10	225	250
2,500	3,325	11	250	300
3,325	4,175	12	300	350
4,175	5,000	13	350	400
5,000	6,075	14	400	450
6,075	7,150	15	450	500
7,150	9,275	16	500	600
9,275	11,425	17	600	700
11,425	15,000	18	700	800
15,000	20,000	19	800	900
20,000	25,000	20	900	1,000
25,000	50,000	21	1,000	1,250
50,000	87,500	22	1,250	1,500
87,500	125,000	23	1,500	1,750
125,000	187,500	24	1,750	2,000
187,500	250,000	25	2,000	2,250
250,000	333,325	26	2,250	2,500
333,325	500,000	27	2,500	3,000

The suggested amounts are minimum amounts. They should be adjusted upward as may be necessary in the light of the individual exposure. Higher limits should also be considered in recognition of the possibility of a "catastrophe" loss potential.

GENERAL LIABILITY PROTECTION

General liability insurance covers the insured for its legal liability for bodily injury and property damage arising from the ownership, maintenance and use of premises, and the performance of operations and, if desired, contractual (verbal and/or written) liabilities as well as completed operations and products liability. General liability insurance is written under a variety of forms and, therefore, requires considerable scrutiny to determine whether the policy offered covers all terms and conditions as desired.

Premises and operations liability covers liability arising from the ownership, maintenance or use of premises owned, leased, rented or occupied as well as the operations on or away from premises. However, coverage excludes liability arising from use of automobiles, aircraft, watercraft, and rail.

Contractual liability, which is extremely important for public transit systems, covers incidental contracts (limited to those in writing) including:

- leases;
- easements;
- side track agreements; and,
- elevators.

Broad form contractual coverage can be obtained which would cover all written and oral agreements.

Despite the requirement of hold-harmless agreements and indemnification by subcontractors, independent contractors coverage is available under the general liability policy form. Given the sheer number of operations of a public transit system involving subcontractors, this coverage is very important even if a hold-harmless is secured from the contractor along with evidence of insurance prior to the start of work. Not only does such coverage provide back up if the contractor's insurance was inadequate, but also it provides coverage if the hold-harmless clause is deemed unenforceable.

Products and completed operations coverage covers the transit system for bodily injury and/or property damage arising out of goods or services sold or from the performance of faulty work.

General liability covers bodily injury and property damage arising under the terms of the policy. Additionally, personal injury coverage can be purchased covering against slander, false arrest, malicious prosecution, wrongful detention, libel, and invasion of privacy. The general liability policy comes under a number of forms, including the owners, landlords and tenants form (OL&T), the business owners policy (BOP), the manufacturers and contractors form (M&C), and the new ISO commercial general liability policy (CGL) and the old CGL with a broad form endorsement. The following exhibit summarizes the coverages afforded under each of these policies.

SUMMARY OF LIABILITY FORMS

<u>COVERAGE EXPOSURES</u>	<u>M&C/OL&T</u>	<u>NEW CGL*</u>	<u>OLD CGL WITH BROAD FORM</u>	<u>BUSINESS OWNERS</u>
Bodily Injury & Property Damage	Yes	Yes	Yes	Yes
Locations Coverage	Designated	Any Location	Any Location	Any Location
	Premises Only			
Premises/Operations	Yes	Yes	Yes	Yes
Independent Contractors	No	Yes	Yes	Yes
Products	No	Yes	Yes	Yes
Completed Operations	No	Yes	Yes	Yes
Personal Injury	No	Yes	Yes	Yes
Contractual Liability				
(Written and Oral)	Incidental	Yes	Yes	Written Only
Premises Medical Payments	No	Yes	Yes	Yes
Host Liquor Liability	No	Yes	Yes	Yes
Fire Legal Liability	No	Yes	Yes	Yes
Broad Form Property Damage	No	Yes	Yes	Yes
Incidental Medical Malpractice	No	Yes	Yes	No
Non-Owned Watercraft	No	Yes	Yes	No
Limited Worldwide	No	Yes	Yes	No
Employee as Additional Insured	No	Yes	Yes	Yes
Extended Bodily Injury	No	Yes	Yes	No
Automatic Coverage Newly				
Acquired Organizations (90 days)	No	Yes	Yes	No

* Commercial General Liability policy available as occurrence or claims made.

REVIEW POLICY TERMS CAREFULLY

AUTOMOBILE LIABILITY POLICY COVERAGE

Coverage, if desired, can be purchased for owned, non-owned*, and hired vehicles. While this policy is the most important policy for transit systems, it is straightforward in that it includes liability arising out of the operations of the bus and automobile. Typical exclusions include:

- liability assumed under contract;
- injuries otherwise compensable under workers compensation disability benefits, etc.;
- third party over-actions;
- injuries caused by fellow employees;
- property in the care, custody, and control;
- claims arising from the loading of unloading of vehicles; and,
- contamination or pollution.

Public transit agencies should take considerable retentions for bodily injury and property damage and may consider self-insuring bus physical damage completely. Additionally, many transit systems do not purchase uninsured motorist coverage since this will tend to contribute to the number of claims and dollars of loss covered by the policy which otherwise would not have done so. This depends upon the state legislation in which the transit system operates.

* *This provides coverage for employees using their own vehicles on business for the system.*

WORKERS COMPENSATION COVERAGE

Employees are one of the key assets of a public transit system. It is required by all states that workers compensation coverage for on-the-job injuries be provided. Benefits are statutorily mandated and schedules are readily available from the state workers compensation board. In those states which allow self-insurance of workers compensation, this coverage is a good candidate for taking substantial retentions, since the inherent risk is limited by statute as opposed to awarded by jury. A further rationale for taking a substantial self-insured retention under the workers compensation is that benefits are usually paid in small increments over a long period of time. This does not mean that the property should self-insure completely. It is recommended that some form of excess policy be purchased either in the form of specific excess limiting each loss to a specific dollar per loss or purchasing some form of aggregate stop loss insurance which would limit losses to an aggregate dollar amount in a given period. This decision relates back to the decision framework explained in Chapter V.

The other coverage provided under workers compensation policy (Section B) is that of employers liability. Employers liability coverage is important in that it protects the property for suits filed by the employee and family. If coverage A, statutory workers compensation coverage, is self-insured, the property still should purchase an employers liability policy.

Depending upon the type of employee and the operations of transit system, other coverages may be mandated including:

- Federal Employers Liability Act (FELA);
- United States Longshoremen and Harborworkers Act (USL&H); and,
- Jones Act.

FELA is the act under which employees of interstate railways are allowed to file claims. Benefit levels typically are much higher than those mandated by the state and, therefore, there is an inducement to file claims under this act. If any operations of a public transit system include interstate rail, this coverage is extremely important. If in doubt, this coverage should be purchased on an "if any" basis which would allow for coverage if a suit is filed and the courts determined that FELA is the applicable act.

USL&H benefits are also higher than statutory workers compensation coverage. Again, if it is thought that employees may be involved or may be subject to this act to their work on piers, docks, and other near water activities, coverage should be purchased or added on an "if any" basis.

The Jones Act coverage applies to sea men. This coverage is important for ferry and other port operations.

PUBLIC OFFICIALS LIABILITY

Public officials liability covers the public servant for alleged wrongful acts, error, omission, mis-statement, neglect, or breach of duty resulting in claims in suits.

This policy has two sections. Section A provides defense cost and settlement for the public officials whereas Section B indemnifies the public entity.

UMBRELLA LIABILITY COVERAGE

The umbrella liability policy is a policy which extends excess coverage on terms similar to the underlying coverage. The policy typically covers excess over the workers compensation coverage B (employers liability), general liability, and automobile liability policies. Depending upon the insurance agreement, coverage is either as broad-as-underlying or broader. These are typically \$1,000,000 for general liability and automobile. Care should be taken that underlying limits equal the minimum underlying limits required by the umbrella policy. Care should also be taken to assure that anniversary dates are concurrent. That is, primary policies - workers compensation, general liability, automobile - expiration dates should be the same as umbrella expiration dates.

RAIL OPERATIONS LIABILITY

For those public transit properties with rail operations, coverage as provided by your general liability policy will often include an exclusion for liability arising out of the operations of rail.

It is necessary, therefore, to purchase a rail operations liability policy which will cover the insured for bodily injury and property damage arising out of the rail operations. This type of policy is most cost effective when purchased excess of a self-insured retention basis. Typical self-insured retentions for major rail systems approximate \$2,000,000 per occurrence and higher.

Coverage typically indemnifies the insured as opposed to "pays on behalf" which results in the insured paying all sums it is legally obligated to and then getting reimbursed by the carrier.

Typical exclusions include:

- personal injury or property damage assumed under contract;
- claims, lawsuits or judgments arising from exercise of eminent domain or condemnation;
- obligations of the insured under workers compensation or similar laws;
- discrimination;
- property damage to property in the care, custody, and control; and,
- absolute pollution.

Other terms include:

- notice of occurrence to the insured if potential aggregate claims is greater than 50% of SIR.

CLAIMS MADE VERSUS OCCURRENCE POLICIES

As a result of a variety of financial problems experienced by the insurance industry which have been attributed to the long discovery and reporting patterns associated with certain forms of liability, the United States commercial property and casualty insurance industry as well as the London reinsurance market are changing the general terms and conditions associated with liability policies. Although not in agreement as to the specific form to be taken for many insureds, the insurance industry is changing the policy term from that of the "occurrence" policy to that of a "claims-made" policy.

The occurrence policy provides coverage for bodily injury and/or property damage which takes place during the policy period regardless of when the claim or suit is actually filed and reported to the insurance carrier. The claims-made policy is different in that the bodily injury

and property damage claim must not only occur during the policy period but must be reported to the underwriter during the specific term covered by the policy. As a result of this change in coverage terms, it is important to understand four basic features of the policy including:

- . the reporting period;
- . the retro-active date;
- . reporting requirements; and,
- . the integration of aggregates.

Reporting Period

As previously mentioned, with a claims-made policy, for a claim to be covered by the insurance policy, it must be reported during the policy period. This is referred to as the "discovery period" and the policy must be scrutinized closely. Depending upon which of the many forms which are currently utilized, there are different provisions for extending the existing discovery period. Depending upon whether the insured cancels or the insurer cancels (or elects not to renew) the discovery/reporting period can be extended for a specific time period and for a specific premium. With the proposed Insurance Services Office (ISO) form, the insured can elect to extend the reporting/discovery period for an unlimited time period for a premium of 200% of the last annual premium.

Retro-Active Date

Not only is there an option to extend the reporting period for claims reported after the policy period but, in addition, there are provisions if acceptable to the underwriter, to extend coverage for an occurrence that happened prior to the policy period but reported during it. This is known as "retro-active" date. Typically, the retro-active date on a claims-made

policy is the date of policy inception and covers claims which occurred and were reported during the reporting period. In insurance jargon, this retro-active date is referred to as "nose coverage" as opposed to the extended reporting period which is known as "tail coverage." If possible, the insured should try to negotiate a retro-active date the same as the date of the original claims-made policy. This would negate the need for extending the discovery period for a claims made policy which the insured elects not to renew.

Reporting Requirements

Reporting requirements are a function of the policy form being examined and as such requires close scrutinization. Under some policy forms, the insurer must be notified of any occurrence which may result in a claim whereas in other policy forms, the policy is not triggered until written notice of a claim is received. It is apparent that claims reporting procedures differ by policy form and are extremely complicated. Therefore, it is prudent to notify the insurer of every circumstance or incident which could give rise to a claim and the insured must make every effort to obtain a written notice of the claim in as short a time period as possible.

Integration of Aggregates

The insured must also be concerned about the use of aggregates in claims-made policies and the ability of one excess policy to "drop-down" in the event of a underlying claims-made aggregate being exhausted. Extreme care must be taken in reviewing these policies as a unknown self-insured/uninsured retention may result if policies are not consistent.

INSURANCE REQUIRED OF OTHERS

Given the sheer complexity of public transit operations and the tendency to use subcontractors for both maintenance as well as day-to-day operations, the transit system should develop insurance requirements. Review of contracts goes hand-in-hand with the identification of and requirement for evidence of insurance.

In addition to requirements for liability insurance, public transit properties typically require bid bonds and performance/payment bonds. Bid bonds are bonds are written surety which guarantees that if a contractor is awarded a competitive bid he will enter into a contract and furnish a performance bond. If the contractor does not do so, the bid bond is payable to the transit system to cover cost of advertising, accepting, screening bids, etc. Typically, this is in the amount of 10% of the amount of bid.

Performance and payments bonds are bonds required of contractors which guarantee the timely completion according to contractual terms of a specific job.

In addition to bonds, evidence of workers compensation and liability insurance is necessary. Typical insurance requirements include:

- workers compensation;
- general liability - premises and operations;
- products and completed operations;
- contractual liability;
- owners and contractors protective (with the transit system as named insured);
- automobile liability;
- railroad protective; and,
- builders risk.

The following list summarizes both the contractual as well as insurance considerations for public transit properties:

1. Hold-harmless and indemnification agreements;

- Negligence - Contractors acts only
- Negligence - Owners acts jointly
- Negligence - Owners acts only
- Agreement includes:
 - Owners
 - Employees
 - Contractors
 - Subcontractors
 - Suppliers
 - Vendors
 - Others
- Waivers of Subrogation

2. Insurance Requirements

	LIMITS	
	PER	
	<u>REQUIRED</u>	<u>OCCURRENCE</u>
	<u>AGGREGATE</u>	

- Workers compensation-coverage A
- Employers liability-coverage B
- USL&H endorsement
- FELA endorsement
- Jones Act endorsement
- General liability
 - Bodily injury
 - Property damage
 - Personal injury
 - Self-Insured Retention
 - Required Endorsements
- Broad form property damage
- Products and completed operations
- Rail road protective
- Owners protective
- Contractual
- XCU (Exclusion, Collapse, Underground)

4. Automobile Liability
 - Bodily injury - each person
 - each occurrence
 - Property damage - each occurrence

5. Builders Risk
 - Named peril
 - All risk
 - Furnished by owner
 - furnished by contractor

6. Rail Operations Liability
 - Self-insured retention

Care should be taken in defining requirements and reviewing both contracts and the evidence of insurance substantiating coverage. The importance of information gathered on certificates as well as the proper maintenance of certificates and expiration dates must be considered. In all instances where insurance is required, certificates should also be required. Certificates should provide, at a minimum, following information:

- the transit authority as an additional or named insured;
- notice of cancellation to the transit authority not less than 60 days;
- required coverage and limits;
- written notice of material reduction in available limits; and,
- deductibles or self-insured retentions.

It is imperative that all of the aforementioned information, including both insurance certificates as well as contractual agreements, be maintained such that the transit system does not rely on its own insurance as primary form of coverage. In determining the adequacy of limits required, care should be taken such that limits required are both available and adequate.

SELECTION OF INSURANCE COMPANIES

Selection of an insurance company should be based on a variety of factors. Most importantly, the security of the insurance company is of primary importance. This is important since obviously the carrier should exist when a claim has to be paid. The A. M. Best Company, Inc. of Oldwick, New Jersey publishes "Best's Insurance Reports: Property-Liability" and "Best's Key Rating Guide: Property-Liability." These guides qualify the various insurance companies according to several factors including skill and experience of management, adequacy of reserves, adequacy of resources to absorb unusual shock losses, and the soundness of investment policies. These ratings range from A+ (excellent) to C (fair). In addition, they publish financial ratings which look at the financial resources of the company and ranks them from class I to class XV (\$100,000,000 or more).

In addition to utilizing this resource, the risk manager or general manager should take into account the sound advice of insurance brokers and advisors. Typically, if a carrier is not acceptable to an insurance broker, they will require a waiver releasing them from liability. This would serve as a good contra-indication and would advise not using that carrier. Prudence would suggest not using carriers with less than a B+ (very good) policyholders rating and those with financial resources not less than Class XII with \$25,000,000 to \$50,000,000 in surplus.

In addition to the solvency or security of an insurance carrier, one should also review available services including claims services, loss control services, and other consulting services available. Lastly, price should be a consideration. This is mentioned lastly in that the company must be competent, secure and capable of delivering all of the services needed prior to determining whether it is price competitive.

CHAPTER VIII
RISK MANAGEMENT ADMINISTRATION

FUNCTIONAL RESPONSIBILITIES

Risk management administration is the functional process by which all of the aforementioned steps of risk identification, exposure evaluation, risk transfer, control, claims administration, brokerage services, market negotiation, risk financing, etc. occur. In order to fully understand whether the organization needs an individual charged with the functional title of Risk Manager and where that person should report, or whether the function can be handled by another individual internally or rely upon outside service providers, it is important to understand what the true functional responsibilities of a risk manager are and, in some fashion, allocate necessary time to the function. Without defining the major functions, it is difficult determining whose responsibilities those functions should be and what the best organizational structure would be to facilitate the development and management of a superior risk management program.

Listed below are the major functions and sub-functions which should be performed in the administration of a risk management program.

MAJOR FUNCTION

SUB-FUNCTION

1. Exposure Identification/Risk Assessment
 - a. Analysis of Trends and Loss Experience
 - b. Review of ALL Purchase or Service Contracts
 - c. Monitoring of State and Federal Legal Trends
 - d. Review of Planned Purchases including new properties
 - e. Periodic review of Existing Properties and Operations

2. Property Loss Control
 - a. Periodic On-Site Inspection of Existing Facilities
 - b. Fire Loss Control
 - c. Boiler and Machinery Loss Control
 - d. General Property Protection
 - e. Development of House-Keeping Standards
 - f. Development of Loss Prevention Standards
 - g. Prioritization of Loss Prevention Activities

3. Public Loss Prevention
 - a. Review of all Contracts to include Indemnification/Hold-Harmless
 - b. Establishment of Public Safety Procedures, Manuals and Policy
 - c. Develop incentive programs
 - d. Development of standard operating procedures
 - e. Ongoing hazard resolution
 - f. Audit function
 - g. Develop training procedures

4. Workers Compensation Loss Control
 - a. Job Classification Review
 - b. State and Federal Regulations Compliance
 - c. Statistical Analysis of Worker Losses
 - d. Development of Safety Standards in the Work Place
 - e. Development of Incentive Programs

5. Claims Management
 - a. Accident Review Procedures
 - b. Development of Incident Reporting Procedures
 - c. Accident Investigation Procedures
 - d. Accident Review Boards
 - e. Establishment and Management of Claims Adjusting Process
 - f. Management of Reserving Practice
 - g. Involvement in Case Settlement Practices
 - h. Development of Claims Strategy and Philosophy

MAJOR FUNCTION

SUB-FUNCTION

- | | |
|---|--|
| 6. Management of Insurance Service Provider | a. Primary Contact with Brokers
b. Primary Contact with Underwriters
c. Negotiation of Premium and Coverage Conditions |
| 7. Insurance Administration | a. Develop and Recommend Insurance/Risk Financing Program
b. File Maintenance - Policies, Certificates, Loss, etc.
c. Establish Insurance Requirement of Provider
d. Insurance Accounting
e. Maintenance of Insurance Certificates
f. Policy Development
g. Maintain Communications/Awareness of Upper Management and Line Management
h. Develop Awareness Programs for Employees
i. Develop Awareness for Public
j. Develop Field Communications Procedures
k. Develop Accident and Safety Procedures
l. Annual Budgeting for Insurance and Risk Financing |

Recognizing that the functions become more detailed and time consuming the larger and more diversified the transportation system, the general manager can determine whether this function should be filled by an individual with the sole responsibility of risk management or rely on outside service providers. As the size of the transit system grows and the operations become more complex, the necessity of having a single individual charged with this responsibility becomes more apparent and cost effective.

ORGANIZATION REPORTING

Organizationally, the risk management/safety management function should be able to cross departmental lines. Typically, within private industry the risk manager reports to either the general counsel or the finance department. The finance department is more typical since the majority of information is of a financial nature on which the risk manager can base decisions upon. In either case, the goal is to position the risk management function so as to assure timely

information and to allow for mobility across department lines. Using the same argument for determining the best organizational position within the transit agency, the risk manager should report to the general manager. This direct relationship with the general manager's department gives the risk manager credibility and authority amongst managers and, hopefully, when recommendations are made, they will be implemented with greater ease. Private organizations have found that a policy statement signed by the CEO, assigning functional responsibility to the risk manager for implementation of a risk management and safety plan as laid out in in-house manuals, is an effective means of establishing authority and facilitating communications. This would be advisable for transit systems also.

ANNUAL BIDDING

Most transit systems rely on the annual bidding of coverage to assure that price is most cost effective. While this practice may be acceptable when purchasing a product, it is believed by many and has been stated by some insurance executives that this practice has actually hurt the public transit industry. An insurance carrier, when quoting on a risk, is looking for some continuity and stability over the long term. The process of smoothing risk and creating financial stability, which is the goal of insurance, is also desired by the insurance carrier. As such, they are willing to allocate their funds to those organizations which have a longer term outlook than a one year annual bidding period. Annual bidding should be avoided, and coverage should be bid no more frequently than once every three years. This is not to say that the market should not be tested. Associating your transit system with an insurance broker with considerable experience in public transit insurance will provide the necessary feedback as to which markets offer the best price and a system of negotiation of more favorable terms with the existing carriers. Similar to the annual bidding of insurance coverage, the annual bidding of agent/broker services should also be avoided. The better an insurance broker or agent understands the transit system's management and operations, the better the services will be

rendered. If and when coverage is put to bid, a system should not neglect the mutual carriers which deal directly and do not use the brokerage system.

This process of annual bidding of insurance coverage also will backfire if the insurance industry is successful in standardizing the claims-made type of policy, as opposed to the occurrence form which is in use today.

Another area of administration which is adopted by many private organizations, but has not yet been adopted by public entities, is that of premium/cost allocation. Generally, it is accepted that the allocation of claim cost and premium cost among departments based upon their contribution to exposure, actual and historical losses, and financial capability to pay, creates an incentive to implement and accept safety/loss prevention procedures. This is especially true if the performance review of the departmental manager considers safety and loss experience. When one views the typical transit system, it is clear one could allocate costs and premium according to the following lines:

- administration;
- shop and maintenance facilities;
- rail operations; and,
- bus operations.

However, without the consideration of cost in management performance review, the benefits of allocation are unknown.

APPENDIX A

SAMPLE INCIDENT/ACCIDENT REPORTS:

- Employee
- Station "Slip, Trip, Fall"/Crime
- Property Damage Report
- Vehicular
- Railroad

EMPLOYEE INJURY REPORT AND INVESTIGATION FORM

SECTION I

Date: _____	Plant Name: _____	Clock No. _____
Employee's Name: _____	Age: _____	Sex: M _____ F _____
Address: _____		Phone: _____
Date of Injury: _____	Time: _____	Date Injury Reported: _____
Department Assigned: _____		Supervisor's Name: _____
Date Hired: _____	Length of Time on Present Job: _____	

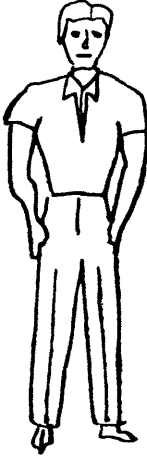
SECTION II

Did you have an accident at the garage: YES: _____ NO: _____	Date: _____	Time: _____
Did you have an accident on the road: YES: _____ NO: _____	Date: _____	Time: _____
Describe how accident occurred: _____		

Employee's Signature: _____		

SECTION III

DISPOSITION	BODY PART INJURED	TYPE OF INJURY
Yes No		
Disabling Injury _____	___ Eye	___ Laceration
Sent to Hospital _____	___ Head	___ Abrasion
Sent to Company Doctor _____	___ Chest	___ Puncture
Return to Regular Job _____	___ Back	___ Burn
Return to Light Duty Job _____	___ Abdomen	___ Fracture
Sent Home - Released _____	___ Arm	___ Strain-Sprain
_____	___ Hand-Finger	___ Amputation
Duration of Disability _____	___ Leg	___ Foreign Body
Date to Return of Work _____	___ Foot-Toe	___ Hernia
Initial Medical Diagnosis _____	___ Respiratory System	___ Contusion
_____	_____	_____
Condition likely to change _____		

Signature of Medical Att. or Attending Physician _____		

SECTION IV

Supervisor's description of accident: _____

Supervisor's Signature: _____

ALL ACCIDENTS ARE THE RESULT OF UNSAFE ACTS AND/OR UNSAFE CONDITIONS.

INVESTIGATE THOROUGHLY AND CHECK THE APPROPRIATE CAUSED BELOW

SECTION V

YES	NO	UNSAFE ACT	UNSAFE CONDITION	YES	NO
<input type="checkbox"/>	<input type="checkbox"/>	Lack of Skill or Knowledge	Lack of Job Safe Practice	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	Unsafe Act of Other	Improper Material Storage	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	Physical Limitation or Mental Attitude	Congestion-Lack of Space	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	Failure to Use Proper Tools or Equip.	Improper and/or Worn Tools and Equipment	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	Failure to Wear Personal Protective Equip.	Unsafe Design and/or Construction	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	Unaware of Hazards	Unsafe Condition of Machine	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	Short Cut to Save Time or Effort	Improper Guarding	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	Unsafe Material Handling	Improper Job Procedure	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	Vehicle Collision	Unsafe Floors, Ramps, Stairways	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	Other: _____	Improper Lighting	<input type="checkbox"/>	<input type="checkbox"/>
			Other: _____	<input type="checkbox"/>	<input type="checkbox"/>

SECTION VI

What was done unsafely?	What unsafe conditions existed?
Why was it done that way?	Why did these conditions exist?
How will we control the above?	How will we correct these conditions?
Estimated Completion Date: _____	Estimated Completion Date: _____

SECTION VII

Who will assume responsibility for control? Be specific: _____	Who will assume responsibility for correction? _____
---	---

SECTION VIII

_____ Safety Department	_____ Department Manager's Signature
----------------------------	---

SAMPLE

STATION/TERMINAL PEDESTRIAN INCIDENT REPORT

"Slip, Trip, Fall"/Crime

All of this information must be completed. Do not permit the customer to complete this form.

A. General Information: This information should be *asked* of the customer.

Date of Accident: _____

Time of Accident: _____ AM _____ PM

Date Reported to Office: _____

Name: _____

Address: _____

Home Phone: _____ Work Phone: _____

Describe What Happened: _____

Employee Filing this Report: _____

Signature of Employee Completing Form: _____

Business Number: _____

Date Completed: _____

B. "Slip, Trip, Fall": (complete immediately after customer has gone). Please answer all questions.

- 1. a. Photo(s) taken of scene YES NO
- b. Photo(s) signed by employee who took the picture..... YES NO
- c. Photo(s) sent to Safety Department..... YES NO
- d. Floor wet/damp YES NO
- e. "Wet Floor" warning sign in place before accident happened ... YES NO
- f. Floor dry YES NO
- g. Snow or ice present (outside) YES NO
- h. Attitude of individual:

Belligerent Passive Embarrassed
 Evasive Threatened Lawsuit

2. Describe shoes worn by customer:

_____ High heels _____ Boots _____ Open toe sandals
_____ Sneakers _____ Other (describe) _____

3. Condition of shoes including heels and soles:

_____ Like new _____ Worn _____ Worn out

C. Crime:

1. a. Did transit authority police respond? _____ YES _____ NO

Name: _____ Badge #: _____

b. Did local police respond? _____ YES _____ NO

Name: _____ Badge #: _____

c. Do security cameras cover scene? _____ YES _____ NO

Have tapes been sequestered? _____ YES _____ NO

d. Was pedestrian:

Robbed? _____ YES _____ NO How Much Was Stolen? \$ _____

Beaten? _____ YES _____ NO

Threatened? _____ YES _____ NO

Wounded? _____ YES _____ NO

e. Are physical signs of injury evident? _____ YES _____ NO

f. Was hospital treatment required? _____ YES _____ NO

D. Other:

1. a. How did individual leave?

_____ Walked _____ Own Car _____ Bus _____ Transit Authority Police

_____ With help _____ Ambulance _____ Train _____ Local Police

b. Was hospital treatment required? _____ YES _____ NO

c. Was medical treatment offered? _____ YES _____ NO

2. Location of accident:

Inside:

Stairs: _____

Platform: _____

Escalators: _____

Other: _____

Outside:

Stairs: _____

Street: _____

Sidewalk: _____

Other: _____

3. First Aid given? _____ YES _____ NO

If yes, by whom (name/title): _____

Does individual plan to go to a doctor? _____ YES _____ NO

4. Approximate age of injured (estimate, do not ask): _____

5. Did injured party appear intoxicated? _____ YES _____ NO

6. Witnesses that actually saw accident happen:

Full Name: _____
Address: _____
Phone: _____

Full Name: _____
Address: _____
Phone: _____

E. Station Activity at time of accident:

_____ Slow _____ Normal _____ Very busy

F. Additional Comments (if any):

PROPERTY DAMAGE REPORT

Location (Name, Street Address, City and State)			
Type of Accident			
Date of Accident	Hour of Accident	Building & Floor No.'s	Activity No. & Name
Cause of Accident			
Description of Damage			
Original Cost	Date of Purchase	Original Useful Life	
	New or Used		
Estimated Amount of Direct Damage	Prepared by	Date	Approved By
			Date

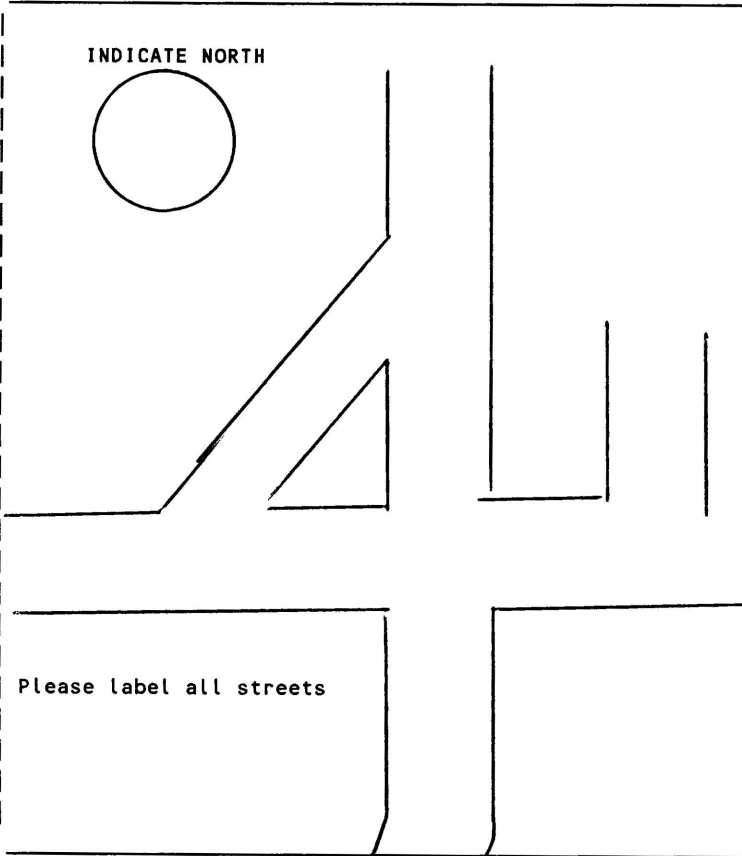
VEHICULAR ACCIDENT REPORT

Operator's Name: _____ Badge No.: _____
Route Name: _____ Block No.: _____ Bus No.: _____
Date of Occurrence: _____ Time of Occurrence: _____
Street Travelled: _____ Nearest Cross Street: _____
Other Vehicle Speed: _____ Speed of Coach at Time of Occurrence: _____
Location of Last Stop Prior to Occurrence: _____

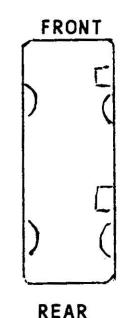
Describe the accident/incident completely (print clearly): _____

Date: _____ Operator's Signature: _____
Date: _____ Supervisor's Signature: _____
Title: _____

INDICATE NORTH



Damage to other vehicle: _____
Damage to other property: _____
No. of Passengers: _____
No. of Witnesses: _____
No. Injured: _____



FRONT

REAR

Please label all streets

Show point of impact/incident on Vehicle

Damage to Transit Authority Coach: _____

TYPE OF OCCURRENCE (CHECK ALL THAT OCCUR)

COLLISION	PASSENGER INCIDENT	POSITION OF BUS
<input type="checkbox"/> With Moving Vehicle	<input type="checkbox"/> Boarding	<input type="checkbox"/> Bus at Stop
<input type="checkbox"/> With Stopped Vehicle	<input type="checkbox"/> Alighting	<input type="checkbox"/> Between Stops
<input type="checkbox"/> With Object or Animal	<input type="checkbox"/> Caught by Doors	<input type="checkbox"/> Standing Still
<input type="checkbox"/> Between Authority Vehicles	<input type="checkbox"/> Accident on Board	<input type="checkbox"/> Bus in Motion
<input type="checkbox"/> Leaving the Roadway	<input type="checkbox"/> Seizure/illness	<input type="checkbox"/> Close to Curb
<input type="checkbox"/> With Pedestrian	<input type="checkbox"/> Disturbance	<input type="checkbox"/> Away from Curb
<input type="checkbox"/> Miscellaneous		<input type="checkbox"/> Intersection

ACCIDENT CAUSE	
<input type="checkbox"/> Following Too Close - Tailgating	<input type="checkbox"/> Driving Too Fast for Conditions
<input type="checkbox"/> Exceeding Speed Limits	<input type="checkbox"/> Failure to Obey Stop Signal
<input type="checkbox"/> Failure to Heed Warning	<input type="checkbox"/> Improper Turns
<input type="checkbox"/> Improper Parking	<input type="checkbox"/> Improper Passing
<input type="checkbox"/> Improper Backing	<input type="checkbox"/> Failure to Yield Right-of-Way
<input type="checkbox"/> Inattention	<input type="checkbox"/> Defective or Missing Equipment

DIRECTION	TRAFFIC CONTROL	WEATHER	LIGHT CONDITIONS	STREET
<input type="checkbox"/> North	<input type="checkbox"/> None	<input type="checkbox"/> Clear	<input type="checkbox"/> Daylight	<input type="checkbox"/> Dry
<input type="checkbox"/> South	<input type="checkbox"/> Signal	<input type="checkbox"/> Cloudy	<input type="checkbox"/> Dawn	<input type="checkbox"/> Wet
<input type="checkbox"/> East	<input type="checkbox"/> Stop Sign	<input type="checkbox"/> Rain	<input type="checkbox"/> Dusk	<input type="checkbox"/> Mud
<input type="checkbox"/> West	<input type="checkbox"/> Police Off.	<input type="checkbox"/> Fog	<input type="checkbox"/> Dark	<input type="checkbox"/> Oily
	<input type="checkbox"/> Other	<input type="checkbox"/> Snow	<input type="checkbox"/> Street Lights	<input type="checkbox"/> Slush
GRADE		<input type="checkbox"/> Sleet		<input type="checkbox"/> Snow
<input type="checkbox"/> Uphill	IN FAVOR OF		CONDITION OF:	<input type="checkbox"/> Ice
<input type="checkbox"/> Downhill	<input type="checkbox"/> Coach		Front Coach Steps: _____	
<input type="checkbox"/> Straight	<input type="checkbox"/> Other Veh		Rear Coach Steps: _____	
<input type="checkbox"/> Curve			Coach Aisle Floor: _____	

VEHICLE LIGHTS
 Coach: On Off
 Other Vehicle: On Off

SECOND PARTY	INJURIES
Name: _____	(1) Name: _____
Address: _____	Address: _____
City: _____ Phone: _____	Phone: _____
	Located On: <input type="checkbox"/> Bus <input type="checkbox"/> Auto <input type="checkbox"/> Street
RELATION TO ACCIDENT:	Age: _____ Sex: _____ Weight: _____
<input type="checkbox"/> Auto Driver <input type="checkbox"/> Passenger on other Veh	Visible Injuries: _____
<input type="checkbox"/> TA Passenger <input type="checkbox"/> Pedestrian	_____
Year, Make, Model: _____	(2) Name: _____
Drivers License: _____	Address: _____
License Plate # and State: _____	Phone: _____
Other vehicle owner: _____	Located On: <input type="checkbox"/> Bus <input type="checkbox"/> Auto <input type="checkbox"/> Street
Owner's Address: _____	Age: _____ Sex: _____ Weight: _____
City: _____ Phone: _____	Visible Injuries: _____
Insurance: _____	_____
Policy No.: _____	
Number of Passengers in Vehicle: _____	

**NOTE: IF THREE OR MORE PARTIES OR INJURIES INVOLVED
USE ADDITIONAL FORMS**

ASSISTANCE SUPPLIED:			
Police at Scene?	___ YES ___ NO	Road Supervisor?	___ YES ___ NO
Who was ticketed?	_____	Charges:	_____
Ticket No.	_____	Case Report No.	_____
		Operator Subpoenaed?	_____
Court Date:	_____	Time:	_____
		Courtroom:	_____

RAIL ROAD ACCIDENT INVESTIGATION CHECKLIST

Investigating Supervisor	Time Arrived	Operators Name
Operating Cab		

CONDITIONS AT TIME OF ACCIDENT/INJURY

<input type="checkbox"/> Tunnel	<input type="checkbox"/> Wet	<input type="checkbox"/> Daylight	<input type="checkbox"/> Clear	<input type="checkbox"/> Well Lighted	<input type="checkbox"/> Dawn
<input type="checkbox"/> Raining	<input type="checkbox"/> Dry	<input type="checkbox"/> Aerial	<input type="checkbox"/> Dark	<input type="checkbox"/> Poorly Lighted	<input type="checkbox"/> Sunshine
Other: _____					

1. CAB INVESTIGATION

a. Position of controls, lights, switches, etc. _____

b. Irregularities or defects, cab controls or displays _____

c. Broken Seals _____

d. Tripped or cut out circuit breakers _____

e. Other _____

2. EMERGENCY BRAKING

a. Estimated speed at brake application _____

b. Estimated speed at impact _____

c. Length of skid marks _____

d. Cab control in emergency braking _____

e. Brakes cut out _____ How many _____ Car No. _____

3. COLLISION WITH OTHER EQUIPMENT *or* IMPACT WITH PERSON

a. Impact point on exterior of train _____

b. Distance train or equipment traveled after impact _____

c. Final stopping point of train or equipment _____

d. Final resting point of person in relation to train or equipment _____

4. TRACK SWITCH RUN THROUGH

a. Switch No. _____

b. How many wheels or trucks _____

c. Car No. _____

d. Entering signal indication if known _____

5. DERAILMENT

a. How many wheels _____, trucks _____, cars _____, Car. No.'s _____

6. LIST ALL DAMAGE

7. INJURED PERSONS						
Name	Address	Date of Birth	M/F	Race	Injuries	Hospitalized
Ambulance <input type="checkbox"/> YES <input type="checkbox"/> NO		Ambulance No. <input type="checkbox"/>		Hospital		
Transit Authority Police Present <input type="checkbox"/> YES <input type="checkbox"/> NO		Name		Badge Number		
Civil Police Present <input type="checkbox"/> YES <input type="checkbox"/> NO		Name		Badge Number		
Fire Department Present <input type="checkbox"/> YES <input type="checkbox"/> NO		Eng. Co. No.	Person in Charge	Badge Number		
8. WITNESSES						
Name	Address	Telephone				
9. SKETCH (Make a sketch of the incident)						
10. WERE PHOTOGRAPHS TAKEN <input type="checkbox"/> YES <input type="checkbox"/> NO How Many _____ Name _____						
11. OPERATORS INTERVIEW (Give full account as related by Operator)						
12. INVESTIGATOR'S SUMMATION						

ACCIDENT/INCIDENT FACT REPORT

OCCURRENCE:

CASUALTIES

PROPERTY DAMAGE

DELAYS

DESCRIPTION OF THE ACCIDENT/INCIDENT

MTA SAFETY DIRECTOR

DATE

ACCIDENT CHECKLIST DOCUMENT NUMBER

ACCIDENT/INCIDENT INVESTIGATION FUNCTIONS

Accident/Incident _____
Date _____ Time _____
Location _____
Accident/Incident Report Number _____
Accident Investigation Team Leader _____
Team Members _____

ASSIGNMENTS

1. Review recorded communications
2. Obtain reports from witnesses
3. Review accident/incident reports
4. Request and review reports from:
 - a. Engineering
 - b. Maintenance
 - c. Operations
 - d. _____
 - e. _____
5. Review OCC Logs
6. Review yard logs
7. Obtain physical evidence from scene
8. Request and review outside laboratory findings
9. Obtain photographic evidence
10. Review photographs
11. Review reports of experts retained by the Authority
12. Review reports of outside agencies involved
13. Send reports to Federal and State agencies
14. Prepare final report

APPENDIX B

GENERAL LIABILITY INSURANCE CHECKLIST

	<u>COVERAGE FEATURES</u>	<u>CURRENT COVERAGES</u>		
		<u>YES</u>	<u>NO</u>	<u>AMOUNT</u>
1.	Broad Form Named Insured			
2.	Employees as Additional Insured			
3.	Form - Comprehensive			
	- Owners, Landlords & Tenants			
	- Manufacturers & Contractors			
4.	Completed Operations and Products			
5.	Broad Form CGL			
6.	Specific Contractual - All Written Contracts			
	- All Oral Contracts			
7.	Blanket Contractual - All Written Contracts			
	- All Oral Contracts			
8.	Independent Contractors			
9.	Premises Medical Payments			
10.	Personal Injury - Exclusion A Deleted			
	- Exclusion C Deleted			
11.	Coverage for Fellow Employee Suits			
12.	Liquor - Host			
	- Legal			
13.	Fire Legal - Blanket All Locations			
	- Specific			
14.	Broad Form Property Damage			
15.	Care, Custody & Control Exclusion Deleted			
16.	Incidental Malpractice			
17.	Watercraft			
18.	XCU - Blasting Coverage "X"			
	- Collapse Coverage "C"			
	- Underground Coverage "U"			
19.	Definition of Bodily Injury - Assault			
20.	New Organizations Covered - 90 Days			
21.	Punitive Damages			
22.	Notice of Occurrence			
23.	Named Insureds - When Required by Contract			
24.	Cross Liability			
25.	Severability of Interest			
26.	Property Damage - Limit			
	- Deductibles			
27.	Bodily Injury - Limit			
	- Deductibles			
28.	Mobile Equipment			
29.	Railroad Protective			
30.	Owners & Contractors Protective			
31.	Employee Benefit Liability			
32.	Notice of Cancellation/Non-Renewal			
	Minimum of 60 Days			

AUTOMOBILE INSURANCE CHECKLIST

	<u>COVERAGE FEATURES</u>	<u>CURRENT COVERAGES</u>		
		<u>YES</u>	<u>NO</u>	<u>AMOUNT</u>
1.	Comprehensive Automobile Liability			
	Physical Damage - Named Perils			
	- Comprehensive			
	- Collision			
2.	Physical Damage (Fleet Automatic)			
3.	Valuation - Stated Value			
	- Actual Cash Value			
4.	Comprehensive Deductible			
5.	Collision Deductible			
6.	Medical Payments			
7.	Uninsured Motorists			
8.	Hired Automobile			
9.	Non-Owned Automobile			
10.	Bodily Injury - Limit			
11.	Property Damage - Limit			
	- Deductibles			
12.	Punitive Damages			
13.	Notice of Accident			
14.	Broad Form Named Insured			
15.	Employees as Additional Insureds			
16.	Employees' Vehicles on TA Business			
17.	Medical Payments			
18.	Garage Liability			
19.	Accidental Death Benefits			
20.	Exclusion for Fellow Employees Deleted			
21.	Contractual Liability			
22.	Notice of Cancellation/Non-Renewal Minimum of 60 Days			

MISCELLANEOUS LIABILITY INSURANCE CHECKLIST

	<u>COVERAGE FEATURES</u>	<u>CURRENT COVERAGES</u>		
		<u>YES</u>	<u>NO</u>	<u>AMOUNT</u>
1.	Advertisers Liability			
2.	Railroad Protective			
3.	Employee Benefit Liability			
4.	ERISA Liability			
5.	Other Fiduciary Liability			
6.	Special Care, Custody and Control			
7.	Foreign Risks			
8.	Professional Liability			
9.	Liquor Liability			
10.	Others: _____			

FIRST LAYER UMBRELLA INSURANCE CHECKLIST

	<u>COVERAGE FEATURES</u>	<u>CURRENT COVERAGES</u>		
		<u>YES</u>	<u>NO</u>	<u>AMOUNT</u>
1.	Policy in Force - Limit Per Occurrence - Aggregate Limits			
2.	Form - Umbrella - Excess			
3.	As Broad as Underlying			
4.	Aircraft - Owned			
5.	Aircraft - Non-Owned			
6.	Watercraft - Owned			
7.	Watercraft - Non-Owned			
8.	Self - Insured Retention			
9.	Limit of Defense			
10.	First Dollar Defense			
11.	Defense - Provided - Included in Ultimate Net Loss			
12.	Notice of Occurrence (Risk Manager)			
13.	Concurrent with Primary Policies			
14.	Waiver of Subrogation Warranty			
15.	Definition of Occurrence			
16.	Following Form - Personal Injury - Contractual - Products/Completed Operations - Liquor Liability - Professional Liability - "XCU"			
17.	Severability of Interest			
18.	New Acquisitions			
19.	Maintenance of Underlying Insurance			
20.	Care, Custody, and Control			
21.	Employers Liability			
22.	Punitive Damages			
23.	Underlying Limits Required - Workers Comp-Coverage B - General Liability - Automobile Liability			
24.	Notice of Cancellation/Non-Renewal Minimum 30 Days			
25.	Other: _____			

WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE CHECKLIST

<u>COVERAGE FEATURES</u>	<u>CURRENT COVERAGES</u>		
	<u>YES</u>	<u>NO</u>	<u>AMOUNT</u>
1. Workers Compensation			
2. Occupational Disease			
3. Additional Medical			
4. Voluntary Compensation for Employees, Executives, etc. Ordinarily Excluded			
5. Employers Liability			
6. USL&H			
7. Jones Act			
8. Defense Base Act			
9. Broad Form All States Endorsement			
10. Voluntary Coverage, Including Disease and Repatriation for Foreign Travel			
11. "Stop Gap" Endorsement			
12. "Fund" States Coverage			
13. "In Rem" Endorsement			
14. Maintenance, Cure and Wages			
15. Rating Plan			
16. Divided Timing			
17. Divided Frequency			
18. Loss Limitations for Retro and Retention Plans			

GENERAL PROPERTY INSURANCE CHECKLIST

<u>COVERAGE FEATURES</u>	<u>CURRENT COVERAGES</u>
1. Building Limits	
2. Contents Limits	
3. Other Direct Damage Limits	
4. Deductibles	
5. Buildings - Coinsurance	
6. Contents - Coinsurance	
7. Buildings - Replacement	
8. Contents - Replacement	
9. Other Property - Valuation	
10. All Risk?	
11. Theft	
12. Collapse	
13. Earthquake	
14. Flood	
15. Transit	
16. Unnamed Locations	
17. Property Others	
18. Fire Legal Liability-Equiv.	
19. Improvements, Trees, Shrubs and Plants	
20. Contingent Liability from Building Laws	
21. Demolition	
22. Increased Cost of Construction	
23. Cost of Proving a Loss	
24. Debris Removal	
25. Architects Fees	
26. Vacancy and Unoccupancy Permits	
27. Underground Property	
28. Signs	
29. Outdoor Property	
30. Radio Towers	
31. Rebuild on Same Site	
32. Increase of Hazard	
33. Protective Safeguards Warranty	
34. Permission for Errors in Reporting	
35. Joint Loss Agreement	
36. Subrogation Waiver	
37. Automatic Reinstatement	
38. Brands and Labels	
39. Boiler Exclusion Limited to Boiler Itself	
40. Glass Limitations	
41. Off Premises Power	
42. Locations/Property Covered	
43. Perils Different?	
44. Rent and Rental Value	
45. Business Interruption Form	
46. Business Interruption Limit	
47. Ordinary Payroll	
48. Contingent Business Interruption	
49. Extra Expense	
50. Valuable Papers	
51. Accounts Receivable	
52. Leasehold Interest	
53. Other Consequential Loss or Damage	
54. Valuation of Loss	
55. Extended Period of Indemnity	
56. Extended Time to Rebuild	
57. Coinsurance	
58. Other Important Features: _____	

MISCELLANEOUS PROPERTY INSURANCE CHECKLIST

<u>COVERAGE FEATURES</u>	<u>CURRENT COVERAGES</u>		
	<u>YES</u>	<u>NO</u>	<u>AMOUNT</u>
1. Bridges Tunnels			
2. Data Processing Hardware			
3. Media Reconstruction			
4. EDP Extra Expense			
5. Nuclear			
6. Gold, Precious Metals			
7. Fine Arts			
8. Livestock			
9. Rolling Stock			
8. Other: _____			

BOILER AND MACHINERY INSURANCE CHECKLIST

<u>COVERAGE FEATURES</u>	<u>CURRENT COVERAGES</u>		
	<u>YES</u>	<u>NO</u>	<u>AMOUNT</u>
1. Comprehensive			
2. Direct Damage			
3. Objects Covered			
4. Locations Covered			
5. Repair or Replacement			
6. Joint Loss Agreement			
7. Broad Form Definition of Accident			
8. Direct Damage Deductible			
9. Business Interruption (Use & Occupancy)			
10. Ordinary Payroll Added			
11. Business Interruption Deductible			
12. Expediting Expense			
13. Demolition, etc.			
14. Off Premises Power			
15. Water Damage			
16. Other: _____			

CRIME INSURANCE CHECKLIST

	<u>COVERAGE FEATURES</u>	<u>CURRENT COVERAGES</u>		
		<u>YES</u>	<u>NO</u>	<u>AMOUNT</u>
1.	Comprehensive 3-D Policy			
2.	Blanket Crime Policy			
3.	Blanket Position Bond			
4.	Blanket Commercial Bond			
5.	Fidelity Scheduled Bond			
6.	Employee Dishonesty			
7.	Loss Inside Premises			
8.	Loss Outside Premises			
9.	Money Order & Counterfeit Currency			
10.	Depositors FOrgerY			
11.	Robbery and Safe Burglary			
12.	Open Stock Burglary			
13.	Money & Securities Broad Form			
14.	Credit Card Forgery			
15.	Welfare & Pension Plan Bond			
16.	Deductible			
17.	Kidnap, Ransom, Extortion, Threats to Property			
18.	Safeguarding of Checks			

BUILDERS RISK INSURANCE CHECKLIST

	<u>COVERAGE FEATURES</u>	<u>CURRENT COVERAGES</u>		
		<u>YES</u>	<u>NO</u>	<u>AMOUNT</u>
1.	Named Perils			
2.	All Risk			
3.	Earthquake			
4.	Flood			
5.	Collapse			
6.	Transit			
7.	Coinsurance			
8.	ACV or Replacement Cost			
9.	Faulty Work/Material			
10.	Design Error			
11.	Unnamed Locations			
12.	Consequential Loss			
13.	Deductibles			
14.	Occupancy Clause			
15.	Other: _____			

APPENDIX C

GLOSSARY

ADDITIONAL PERSONS INSURED. By addition of the Broad Form endorsement, the Persons Insured provision of the CGL policy is extended to include, as insureds, (1) any spouse of a partner concerning business matters of the partnership, and (2) any employee of the named insured, while acting within his or her scope of duties.

But, any such employee is not protected, as an insured, in the following loss situations:

- (1) to bodily injury or personal injury sustained by a fellow-employee during the course of his or her employment,
- (2) to personal injury or advertising injury to the named insured or, if the named insured is a partnership or a joint venture, to any partner, member, or spouse of either, or
- (3) to damage to property owned by, occupied or used by, rented to, in the care, custody or control of, or over which physical control is being exercised by (a) an employee of the named insured, (b) the named insured, or (c) any partner, member, spouse of either - if the named insured is a partnership or joint venture.

Including employees as additional insureds reduces, if not eliminates, the possibility of subrogation against them.

ADVERSE SELECTION. [General]. The tendency of poorer risks to buy and maintain insurance. Adverse selection can occur in a pooled program when only these risks which lack alternatives because of poor loss experience, remain in a pool.

AGGREGATE EXCESS OF LOSS REINSURANCE. [Reinsurance]. A form of Excess of Loss Reinsurance that indemnifies the ceding company against the amount by which its losses incurred during a specific period, usually 12 months, exceed either (1) a predetermined dollar amount, or (2) a percentage of the company's premiums (loss ratio) for that period. This is commonly referred to as Stop Loss Reinsurance or Excess of Loss Ratio Reinsurance.

AGGREGATE LIMIT. [General]. Usually refers to Liability Insurance and indicates the amount of coverage that the insured has under the contract for a specific period of time, usually the contract period, no matter how many separate accidents may occur.

ALL STATES ENDORSEMENT. [Workers' Compensation]. This endorsement gives the insured coverage for compensation benefits to employees in states that are not listed in the policy. Its purpose is to protect an insured who unexpectedly becomes subject to a compensation law but has not had time to add that state to his policy. It is not acceptable in states that have monopolistic state funds.

ATTRACTIVE NUISANCE. A legal doctrine which states that special care is required of an organization with respect to property which attracts children.

BAILEE. An individual or organization entrusted by another to care for property.

BLANKET CONTRACTUAL. Blanket Contractual Liability insurance is automatically included under the broad form endorsement as an extension of the term, incidental contract, as defined in the standard policy jacket. Such coverage applies to both written and oral agreements relating to the named insured's business, even though the operations of the business change during the course of the policy period. The only restrictions are when the named insured acquires or forms any organization of which it maintains ownership or majority interest.

BROAD FORM COMPREHENSIVE GENERAL LIABILITY. The coverages automatically included in the standard broad form endorsement are: (1) Blanket Contractual Liability, (2) Personal Injury and Advertising Injury Liability, (3) Premises Medical Payments, (4) Host Liquor Liability, (5) Fire Legal Liability on Real Property, (6) Broad Form Property Damage Liability, including Completed Operations, (7) Incidental Medical Malpractice, (8) Non-owned Watercraft Liability, (9) Limited Worldwide Coverage, (10) Additional Persons Insured, (11) Extended Bodily Injury coverage, and (12) Automatic Coverage on Newly Acquired Organizations.

BROAD FORM PROPERTY DAMAGE ENDORSEMENT. [Liability]. An endorsement to a General Liability policy that deletes the exclusion referring to property in the care, custody, or control of the insured and replaces it with a less restrictive exclusion.

BUSINESS INTERRUPTION. Coverage which pays for loss of earnings when operations are suspended as a result of an insured property loss to ones own property.

CARE, CUSTODY, OR CONTROL. Excludes property damage to a wider scope of property than this name implies: (1) property owned or occupied or rented to the insured, (2) property used by the insured, (3) property in the care, custody, or control of the insured or as to which the insured is exercising physical control.

There are two exceptions to the exclusion. It does not apply to property damage to property used by or in the care, custody, or control of the insured, provided responsibility for such property has been assumed under a written sidetrack agreement. The second exception provides coverage for damage to property in the care, custody, or control of the insured - other than property owned or occupied by, rented to, or used by the insured - damaged as a result of use of an elevator at the named insured's premises.

CATASTROPHE REINSURANCE. [Reinsurance]. A form of Excess of Loss Reinsurance which, subject to a specified limit, indemnifies the ceding company against an amount of loss in excess of a specified amount as the result of an accumulation of losses resulting from a catastrophic event or a series of catastrophic events.

CESSION. [Reinsurance]. The unit of insurance transferred to a reinsurer by a ceding company. It also refers to the process of ceding insurance to a reinsurer.

CLAIMS MADE FORM. [Liability]. A form which has historically been used in the Malpractice field which the industry as a whole is moving towards. A policy written on this basis covers only those claims which occur during the period and are reported during the policy period; however, when the insured renews the claims made form, coverage for prior acts is provided back to what is known as the retroactive date, which is the effective date of the original claims made policy with the same insurer.

COMPLETED OPERATIONS INSURANCE. [Liability]. A form of insurance issued particularly to various types of contractors. It covers a contractor's liability for accidents arising out of jobs or operations that he has completed.

COMPREHENSIVE GENERAL LIABILITY POLICY (CGL). [Liability]. This policy covers the insured against liability for all General Liability hazards, including unknown hazards, unless excluded by the policy. Examples of exposures coverage are Premises and Operations, Products and Completed Operations, Independent Contractors, and Designated Contracts.

CONSEQUENTIAL LOSS (or DAMAGE). [Property]. (1) An indirect loss arising out of the policyholder's inability to use the property over a period of time, as opposed to a direct loss that happens almost instantaneously. Business Interruption, Extra Expense, Rents Insurance, and Leasehold Interest are the most common coverages included under the category of Consequential Loss coverages. (2) A loss not directly caused by a peril insured against, such as spoilage of frozen foods caused by fire damage to the refrigeration equipment.

CONTINGENT BUSINESS INTERRUPTION INSURANCE. [Property]. Coverage for the loss of earnings of an insured because of a loss to another business which is one of his major suppliers or customers. For instance, if the insured sells all of his products to one customer and that customer suffers a fire which prevents him from being able to use the product, then the insured has a contingent business interruption.

CONTRACTUAL (or ASSUMED) LIABILITY INSURANCE. [Liability]. This insurance protects the insured in the event a loss occurs for which he has assumed liability, express or implied, under a written contract. For example, under most construction agreements with a municipality, the contractor agrees to "hold the municipality harmless" for any accidents arising out of the job. Contractual Liability Insurance would thus protect the contractor from any loss for which the municipality would be liable in connection with the construction.

DUAL CAPACITY. A doctrine which counters the exclusive remedy purpose of workers compensation laws and allows an employee to sue the employer provided the injury resulted from some other relationship other than employee/employer.

DEMOLITION CLAUSE. [Property]. A provision that excludes liability for costs incurred in demolishing undamaged property, often necessitated by building ordinances requiring that structures must be demolished after a certain degree of damage has been sustained.

DIFFERENCE IN CONDITIONS (DIC). [Property]. A separate contract that expands or supplements insurance on property written on a named perils basis so as to cover on an all-risk basis, subject to certain exclusions.

EQUIPMENT FLOATER. [Inland Marine]. A form which covers various types of equipment, e.g., construction equipment, against specified perils or occasionally on an all-risk basis subject to exclusions.

EXCESS OF LOSS REINSURANCE. [Reinsurance]. (1) A generic term describing reinsurance which, subject to a specified limit, indemnifies the ceding company against the amount of loss in excess of the specified retention. It includes various types of reinsurance, such as Catastrophe, Per Risk, Per Account, and Aggregate Excess of Loss. (2) A form of reinsurance which indemnifies the ceding company for that portion of the loss resulting from a single occurrence, however defined, that exceeds a predetermined amount, which is referred to as a first loss retention or deductible.

EXPEDITING EXPENSE. Expenses which are incurred in order to quicken the repair or replacement of insured property so as to reduce the amount of business interruption loss.

EXTRA EXPENSE INSURANCE. [Property]. A form that provides reimbursement to the insured for the extra expenses reasonably incurred to continue the operation of a business when the described party has been damaged by a peril covered by the contract. This insurance is normally used by businesses where continuity of operation, regardless of cost, is a necessity as, for example, cleaners or other businesses conducting services. The term ADDITIONAL LIVING EXPENSE INSURANCE is defined with regard to extra expenses incurred by individuals.

FACULTATIVE (or SPECIFIC) REINSURANCE. [Reinsurance]. Reinsurance by offer and acceptance of individual risks, wherein the reinsurer retains the “faculty” to accept or reject each risk offered by the ceding company.

FELLOW EMPLOYEE EXCLUSIONS. [General Liability]. Two exclusions, “i” and “j”, are intended to eliminate coverage for liability arising out of injury to the insured’s employees. Exclusion “i” (often called the Worker’s Compensation exclusion) eliminates coverage as to any obligation of the insured under a worker’s compensation, unemployment compensation, disability benefits, or similar law.

Exclusion “j” eliminates coverage as to employee injury arising out of and in the course of employment and it excludes coverage for any obligation of the insured to indemnify another because of damages arising out of such injury. There is an exception to the exclusion; neither part affects coverage for liability assumed under an incidental contract.

FIDELITY BOND. A bond which pays the employer (insured) for loss resulting from dishonest acts of covered employees.

FRANCHISE DEDUCTIBLE. [General]. A type of deductible which originated with Marine Insurance. It states that no claim is payable unless it exceeds a stated amount or a stated percentage of the amount of insurance. Once the claim exceeds that amount or percentage, the entire amount of the claim is payable.

HAZARD. A situation (i.e., ice on stairs) which increases the chance of loss or impact the amount of loss.

HOLD HARMLESS AGREEMENT. [Liability]. A contractual arrangement whereby one party assumes the liability inherent in a situation, thereby relieving the other party of responsibility. Such agreements are typically found in contracts like leases, sidetrack agreements, and easements. For example, a typical lease may provide that the lessee must "hold harmless" the lessor for any liability from accidents arising out of the premises. The effect of such an agreement is that the lessee must provide a defense for the lessor, and if any judgment is rendered against the lessor, the lessee would have to pay.

"IF ANY" BASIS. Typically an underwriter, if willing to accept a given type of risk, but unclear of whether a hazard exists, will provide a rate and will identify the exposure to which this rate will be applied, if upon audit, it is determined that such an exposure existed.

INCIDENTAL CONTRACT. Exclusion "a" of the General Liability policy eliminates coverage for liability assumed by the insured under any contract or agreement - unless that contract or agreement meets the policy definition of incidental contract. The definition includes any of the following contracts, if in writing:

1. A lease of premises.
2. An easement agreement, except in connection with construction or demolition operations on or adjacent to a railroad.
3. An agreement to indemnify a municipality, if required by ordinance (unless the agreement is in connection with work to be performed by the insured for the municipality).
4. A sidetrack agreement.
5. An elevator maintenance agreement.

If the insured has assumed liability under other than an incidental contract, separate Contractual Liability insurance should be arranged.

INCIDENTAL MEDICAL MALPRACTICE LIABILITY COVER. Coverage applies to anyone, other than an insured who is engaged in the business or occupation of providing medical and kindred services.

Incidental Medical Malpractice coverage, which is provided as an extension of the term "bodily injury," means injury arising out of the rendering of or the failure to render – during the policy period - of such services as medical, surgical, dental, x-ray, and the furnishing of drugs, medical, dental and surgical supplies.

INCREASED COST OF CONSTRUCTION INSURANCE. [Property]. Insurance that covers the additional cost of reconstructing a damaged or destroyed building where ordinances require rebuilding with more expensive materials, services, or techniques.

INDEPENDENT CONTRACTOR. [General]. One who agrees to perform according to a contract and who is not an employee.

LAW OF LARGE NUMBERS. [General]. This law states that the larger the number of exposures considered, the more closely the losses reported will match the underlying probability of loss. The simplest example of this law is the flipping of a coin. The more times the coin is, flipped the closer it will come to actually reaching the underlying probability of 50% heads and 50% tails.

LOADING OR UNLOADING EXCLUSION. [Automobile Liability]. Claims resulting from the handling of property are excluded if they occur before the property is accepted by the insured for loading or after it is deposited at the place of final delivery. Loss resulting from loading/unloading by a mechanical device attached to the truck is covered.

LOADING OR UNLOADING EXCLUSION. [General Liability]. Claims resulting from the handling of property are excluded if the property is moved from the place where it is accepted for movement into or onto the automobile and after the property has been moved to the place where it is finally delivered. Movement of property by mechanical device (other than a hand truck) not attached to the automobile is covered.

LONGSHOREMEN'S AND HARBOR WORKER'S ACT. [Worker's Compensation]. A federal act that stipulates compensation levels for injured longshoremen and harbor workers.

MAXIMUM FORESEEABLE LOSS. The maximum amount of a property loss given the most unfavorable conditions including failure or sprinklers and fire department.

MUTUAL INSURER. [General]. An incorporated insurer without incorporated capital owned by its policyholders. Although mutual insurers do distribute their earnings to their policyholders in the form of dividends, the term should not be used in a sense that make it synonymous with participating. In most jurisdictions, a mutual insurer is free to issue non-participating insurance if it chooses and a stock insurer is free to issue participating insurance.

NAMED PERIL. A policy which only covers specifically identified perils such as flood and earthquake.

OFFICERS AND DIRECTORS LIABILITY INSURANCE. [Liability]. A type of insurance which protects the officers and directors of a corporation against damages resulting from negligent or wrongful acts which may harm the corporation, its stockholders, or the public.

OWNERS AND CONTRACTORS PROTECTIVE LIABILITY POLICY. [Liability]. A policy which protects an insured against losses caused by the negligence of a contractor or subcontractor that he hires. Also sometimes referred to as Independent Contractors Insurance.

PERIL. The cause of a loss such as fire, wind, collision, etc.

PERSONAL INJURY COVERAGE. [Liability]. A term used to describe coverage for libel, slander, false arrest, and invasion of privacy. It is usually issued as an endorsement to a standard General Liability Policy and is provided by the "Broad Form" endorsement.

PREMISES AND OPERATIONS LIABILITY INSURANCE. [Liability]. The premises and operations hazard encompasses liability for accidental bodily injury or property damage that results from either a condition on the insured's premises or the insured's operations in progress whether on or away from the insured's premises.

PROBABLE MAXIMUM LOSS. Maximum amount of property loss if sprinklers worked and fire departments responded.

PRODUCTS AND COMPLETED OPERATIONS INSURANCE. [Liability]. Coverage which protects an insured against claims arising out of products sold, manufactured, handled, or distributed. Claims are covered only after the product has been sold and possession relinquished. The completed operations portion of this insurance provides protection against claims arising out of operations which have been completed by or for the named insured or abandoned by the named insured.

PUNITIVE DAMAGES. [Legal]. Damages awarded over and above compensatory damages which serve to make an example of, or punish, the wrongdoer. It is agreed that General Liability policies cover punitive damages when included with compensatory in a lump sum, but it is up to the courts to decide whether or not they are to be awarded. This is difficult for the courts, for if the wrongdoer's insurance covers punitive damages, the punishment effect is lost.

RAILROAD PROTECTIVE LIABILITY. [Liability]. A Protective Liability coverage written in favor of a railroad on behalf of those who are conducting operations on or adjacent to railroad property.

RENTAL VALUES. Covers the loss of value of the property when either the owner or tenant is unable to use the property because of damage by an insured peril.

RETROCESSION. [Reinsurance]. The transaction whereby a reinsurer cedes all or part of the reinsurance it has assumed to another reinsurer.

RETROCESSIONAIRE. [Reinsurance]. (Rare.) The reinsurer of a reinsurer.

SIDETRACK AGREEMENT. An agreement between a railroad and a firm having a sidetrack on their premises. The intent is to have the firm with sidetrack hold the railroad harmless.

STATE FUND. [General]. A fund set up by a state government to finance a mandatory insurance system, such as Workers Compensation, non-occupational disability benefits, or, in Wisconsin, state-offered Life Insurance. Such a fund may be monopolistic, i.e., purchasers of the type of insurance required must place it in the state fund; or it may be competitive, i.e., an alternative to private insurance if the purchaser desires to use it.

STOP LOSS. [Reinsurance]. (1) See **AGGREGATE EXCESS OF LOSS REINSURANCE.** (2) A form of reinsurance under which the reinsurer reinsures the ceding insurer for an amount by which the latter's incurred losses in a calendar year for a specified class of business exceed a specified loss ratio.

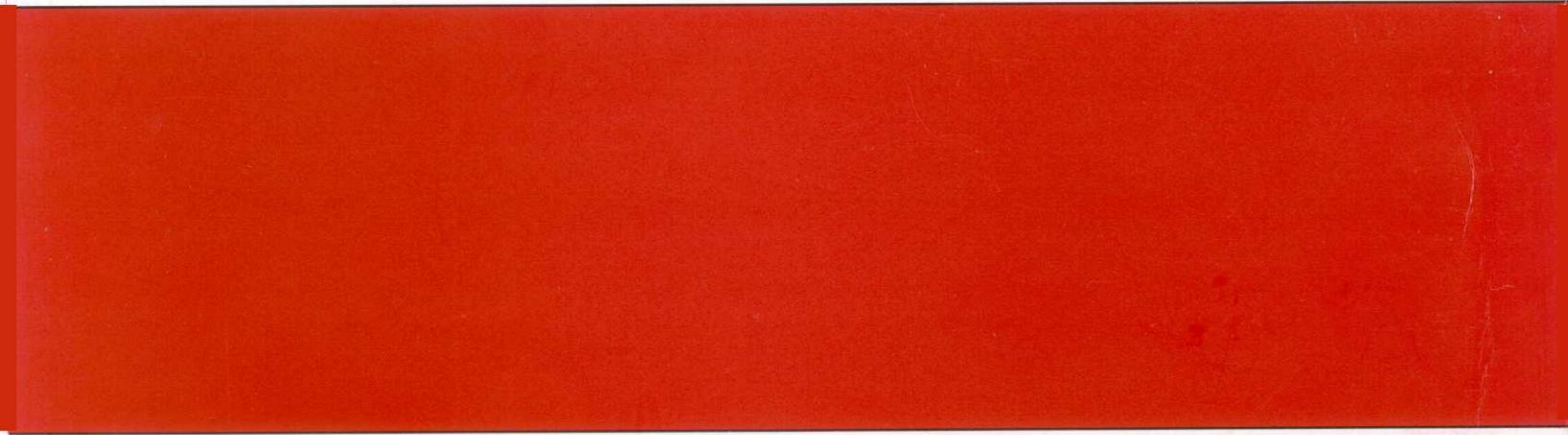
SURPLUS REINSURANCE. [Reinsurance]. (1) A form of pro rata reinsurance wherein the reinsurer accepts that part of each risk written in excess of a specified retention. The part reinsured is usually a multiple of the retention. (2) The amount of any risk which exceeds the net line retained by the ceding company. The reinsurer received premiums and contributes to the payment of losses in proportion to its share of the risk.

THIRD PARTY OVER-ACTION. A claim filed by an injured employee against a third party who, in turn, impleads the employer on the grounds of contributory negligence or indemnity.

TREATY REINSURANCE. [Reinsurance]. A contract of automatic reinsurance setting forth the conditions for reinsuring a class or classes of business.

VOLUNTARY COMPENSATION INSURANCE. [Worker's Compensation]. A coverage similar to Worker's Compensation used in circumstances in which Worker's Compensation coverage does not apply or is not required by law. An example would be an employer wanting to voluntarily pay compensation benefits to members of a company-sponsored athletic team, or a church wishing to cover volunteer workers.

XCU. [Liability]. Explosion, Collapse, and Underground Damage. This term is used in Business Liability to indicate that certain types of construction work involve these hazards. Coverage is typically excluded by exclusion (q) of the comprehensive general liability contract. The exclusion can be easily removed.



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