

Responsible Officer:	EVP - Chief Financial Officer
Responsible Office:	RK - Risk / EH&S
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Scope:	All University of California locations

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I. POLICY SUMMARY

This policy establishes the required insurance provisions to be included in contracts between Contractors/External Users and the University. These requirements must be included in the contract as a contractual obligation that must be complied with by the Contractor/External User before commencing work, providing goods, or using University facilities.

This policy also provides general guidelines for minimum insurance requirements to be included in the contract and maintained by the Contractor/External User.

II. DEFINITIONS

Certificate of Insurance: A document that provides evidence that an individual or entity has adequate insurance coverage in force to protect the interests of the University (and other parties when necessary).

Contractors: Independent contractors, consultants, vendors, or other service providers performing work or services under a contract, purchase order or other written agreement with the University.

External Users: Non-University individuals or groups using University facilities, such as support groups, registered student organizations, or commercial tenants.

Indemnification: An agreement to accept responsibility for another party's conduct, through the payment for defense costs and ultimate settlement and/or judgment on behalf of the other party.

Severability of Interest: A policy provision indicating that the insurance applies to each insured as though a separate policy were issued to each (except as to policy limits). This would allow coverage to the University if it is sued by the Contractor/Vendor, if otherwise covered under the policy.

III. POLICY TEXT

- A. All agreements between Contractors or External Users and the University *must* include, as part of the contract:
1. A provision to defend , indemnify and hold harmless the University from loss, injury or damage caused by or as a result of the Contractor/External User's negligent or intentional acts arising out of performance of the contract.
 2. A requirement that the Contractor/External User maintain certain levels of insurance (See Section V. B. below and Minimum Insurance Requirements (<http://www.ucop.edu/riskmgmt/faq/coi.html>))
 3. A requirement that the Contractor/External User add the University as an additional insured; and
 4. A requirement that the Contractor/External User provide a Certificate of Insurance showing evidence of compliance with the established minimum insurance requirements (or a signed statement from an authorized officer if the entity is self insured) *prior* to commencing work, providing goods, or using University facilities. See Section III. B. below.
- B. An agreement between Contractors/External Users and the University *may not* include an agreement by which the University assumes liability for conduct of persons other than University officers, agents, employees, students, invitees, and guests. See Regents' [Standing Order 100.4\(dd\)\(9\)](#).
- C. Under the terms and conditions of any contract, purchase order or other agreement, the non-University entity is required to show evidence of adequate insurance coverage by furnishing a Certificate(s) of Insurance indicating compliance with all requirements.
- D. All Certificates of Insurance issued to the University by the Contractor/External User must:

1. Require advance written notice to the University in accordance with policy provisions of any modification, change, or cancellation of any component of the insurance coverage;
2. Indicate that The Regents of the University of California are an additional insured as described in the contract, except for Professional Liability and Workers' Compensation Insurance;
3. Include certification that the insurance policy for Professional Liability includes contractual liability coverage for liability that would exist in the absence of the contract;
4. Include certification that the General Liability coverage contains a Severability of Interest provision and shall be primary insurance as respects the University, its officers, agents and employees, and that any insurance or self-insurance maintained by the University shall be excess of and non-contributory with such insurance.

IV. COMPLIANCE / RESPONSIBILITIES

A. Campus and Medical Center Responsibilities

1. Chancellors or local Risk Management offices will ensure the requirements described in this Policy have been met **before** the commencement date of a contract, purchase order, or other agreement.
2. Campuses and medical centers must abide by the Minimum Insurance Requirements <http://www.ucop.edu/riskmgmt/faq/coi.html>
3. In certain situations, a local Risk Management office may develop exceptions to the Minimum Insurance Requirements. The exceptions must be developed in consultation with the campus or medical center administrators. In some instances, a local Risk Management office may determine additional risk is involved and higher limits are required, while in other instances a local Risk Management office may determine lower limits are justified.

In the event the local Risk Management office and the campus or medical center administrators do not concur, the final determination will be made by the University Chief Risk Officer (or designee).

4. Exceptions to the indemnification requirements must be approved by the local Risk Manager and the Office of General Counsel.

5. Large companies are often self-insured, and may not be able to provide a Certificate of Insurance. As an option, the local Risk Manager may obtain a statement signed by an authorized corporate officer assuming liability on behalf of the company. The local Risk Manager shall, however, determine that a self-insured company has the necessary financial resources to guarantee payment if and when required to indemnify and defend the University pursuant to the contract. A determination as to *necessary financial resources* depends on the type of business and is as follows:
 - a) Non-Publicly Traded Entity: a debt to net worth ratio of no more than 60%. The formula used is:
$$\text{(Current Liabilities) divided by (Tangible Net Worth) = Current Debt to Net Worth Ratio}$$
 - b) Publicly Traded Entity: a credit rating of A- or better from Standard and Poor's or a similar rating agency
 - c) Public Agency: this requirement is not applicable.
- B. In evaluating the acceptability of an entity's self-insurance, the local Risk Management Office should obtain a recently audited financial statement and a description of the entity's self insurance program, including information on how the program is funded.
- C. Office of the President Responsibilities
 1. The Office of Risk Services shall maintain the Minimum Insurance Requirements that establish the minimum insurance requirements for various University activities. The Minimum Insurance Requirements will be updated as necessary and posted on the Office of Risk Services website at <http://www.ucop.edu/riskmgmt/faq/coi.html>
 2. The Chief Risk Officer is responsible for the development of this Policy regarding Certificates of Insurance.
 3. The Chief Risk Officer (or designee) will periodically audit and review Certificates of Insurance issued on behalf of or to the University of California, including terms and conditions for any exceptions made by the local Risk Management office. The local Risk Management Office must maintain records of exceptions and make the records available for audit. Based upon the audit and review, the Chief Risk Officer may issue additional guidelines as needed that may limit the range of exceptions allowed at the local level.

4. The Chief Risk Officer (or designee), as necessary, will make the final determination for any exceptions to the Minimum Insurance Requirements.
5. The Office of Risk Services, as necessary, will assist in developing exceptions to the established minimum insurance requirements.
6. The Office of General Counsel will advise on and approve exceptions to the established indemnification requirements.
7. The Office of Risk Services is available to advise local Risk Management offices on this Policy.

V. PROCEDURES

- A. The local Risk Management office should be consulted early in any contracting process regarding insurance and indemnification contract provisions. The following information is needed to initiate the process:
 1. The name and address of the individual or entity requesting a Certificate;
 2. the location of the event or activity;
 3. the effective date and duration of the event or activity;
 4. a description of planned event or activities;
 5. the name of any sponsoring organization(s);
 6. a general description of participants in the event or activity;
 7. the insurance limits required; and
 8. a copy of the associated contract, license, permit, letter of understanding, and/or purchase order.
- B. A determination should be made regarding the required minimum insurance coverage and policy limits (See Minimum Insurance Requirements <http://www.ucop.edu/riskmgmt/faq/coi.html>).

FORMS/INSTRUCTIONS:

Minimum Insurance Requirements: <http://www.ucop.edu/riskmgmt/faq/coi.html>

General: <http://www.ucop.edu/riskmgmt/faq/coi.html>
Health Related: <http://www.ucop.edu/riskmgmt/faq/coi.html>
Construction: <http://www.ucop.edu/riskmgmt/faq/coi.html>
Transportation: <http://www.ucop.edu/riskmgmt/faq/coi.html>

Office of the President, Risk Services	http://www.ucop.edu/riskmgmt/staff.html
Campus Risk Management	http://www.ucop.edu/riskmgmt/crmdir.html
Medical Center Risk Management	http://www.ucop.edu/riskmgmt/hrmdir.html
Office of General Counsel	http://www.ucop.edu/assign.html

VI. RELATED INFORMATION

Insurance requirements for construction-related contracts are contained in the University of California *Facilities Manual*: <http://www.ucop.edu/facil/fmc/facilman/>.

University of California Standard Terms and Conditions of Purchase
<http://www.ucop.edu/ucophome/policies/bfb/bus43exh-c-appa.pdf>

Business and Finance Bulletin G-28, Policy and Regulations Governing Travel.
<http://www.ucop.edu/ucophome/policies/bfb/g28.html>

The Certificate of Insurance evidencing the University's insurance is available for download at the Risk Services website at:
<http://www.ucop.edu/riskmgmt/faq/documents/generic-certificate-self-ins.pdf>

Regents' Standing Order 100.4(dd)(9):
<http://www.universityofcalifornia.edu/regents/bylaws/so1004.html>.

VII. FREQUENTLY ASKED QUESTIONS

1. What does it mean for a Contractor/External User to "indemnify" the University?

When a contractor agrees to "indemnify" the University, it agrees to pay the University's costs for any claims that are caused by the goods or services outlined in the contract. For example, if someone slips on a floor recently mopped by a contractor hired to maintain a University building, the contractor would be required to hire an attorney to defend the University and pay any settlement and/or judgment against the University. The provision that provides indemnity usually contains terms such as "hold harmless", "indemnify" and/or "defend".

2. **Why is the Contractor/External User required to have insurance?**

The insurance protects the University from loss, injury or damage caused by the negligent or intentional acts of the contractor/external user. A contractor could cause financial loss to the University far greater than the value of the contract. Anyone working for or on behalf of the University exposes the University to liability no matter how small the task is. The requirements that the contractor have adequate insurance coverage naming the Regents as an additional insured protects the University from loss or damage due to the negligence of the contractor.

3. **Why is it important for the Contractor/External User to have this insurance?**

If the contractor has agreed to indemnify the University, but does not have insurance that covers the claim, the contractor is still responsible for paying the University's costs relating to the claim. These costs would need to be paid by the contractor itself out of pocket. Because many contractors cannot afford to do this, the University may not be able to recover these costs, or may need to spend the same amount, if not more, suing the contractor to recover. The insurance (naming the University as an additional insured) helps protect the contractor and the University.

4. **What if the contractor has insurance, but it does not meet the recommended minimum insurance limits required?**

The contractor should ask their insurance broker and/or carrier to increase its limits to meet the requirement. In addition, the University has established a program that can be an alternative option for contractors to purchase insurance for University-related goods or services. This insurance would only apply to University-contracted goods and services. This program is available at <http://www.ucop.edu/riskmgt/connexions.html>.

5. **What if the contractor is unable to secure additional limits?**

All contractors must provide and meet the minimum insurance requirements. Under extenuating circumstances and only after risk assessment, can an exception be made to accept anything less, but this is strictly on a case by case basis when there is no feasible alternative. This will require a review and assessment with your local Risk Management office.

6. **What if the contractor does not have insurance?**

Normally, contractors would obtain insurance through their insurance broker. However, the University has established a program that can be an alternative option for contractors to purchase insurance for University-related goods or services. This insurance would only apply to University-contracted goods and services. This program is available at <http://www.ucop.edu/riskmgt/connexions.html>.

7. **What if the contractor is performing work/services that involves hazardous activity or poses a high risk?**

Contact your local Risk Management office early in the contract process to initiate discussion and assessment of the risks associated with the goods or services to be performed and to determine the appropriate insurance requirements.

8. **Who can provide recommendation for higher limits to require of a contractor?**
Your local Risk Management office can assist in these efforts. If necessary, they can engage the Office of the President, Risk Services, and/or the University's insurance broker to assist in determining what insurance is appropriate.
9. **What if I need an exception to the minimum insurance requirement?**
You must consult with your local Risk Management office. After risk identification and assessment, they can provide a recommendation.
10. **What if I don't agree with the recommendation made by the local Risk Management office?**
Contact the Office of the President, Risk Services. The Chief Risk Officer will make the final determination for any exceptions to the minimum insurance requirements.
11. **Can the insurance requirement be waived in its entirety?**
No, insurance cannot be waived. All contractors providing goods, services or using University facilities must provide insurance.
12. **How do I know if the insurance requirements have been met?**
A Certificate of Insurance must be provided to the University before the commencement date of a contract, purchase order, or other agreement. A Certificate of Insurance provides evidence of insurance to meet the requirements agreed to in the contract. Upon receipt of the Certificate of Insurance, it must be reviewed for compliance.
13. **Who do I contact if I need assistance or have questions?**
Your local Risk Management Office should be consulted early in the contract process to assist with risk identification and assessment to ensure the appropriate insurance is being required, and that there is compliance with this policy.
Contact your local:

Campus Risk Management: <http://www.ucop.edu/riskmgt/crmdir.html>

Medical Center Risk Management: <http://www.ucop.edu/riskmgt/hrmdir.html>

VIII. REVISION HISTORY

This policy was reformatted into the standard University of California policy template effective July 1, 2012.

Revised 11/8/2010, replaces 10/10/2007