Section	**Effective**	**Replaces**
ADMINISTRATIVE POLICY	DATE	PRO-C-19, D-13, D-34 Various
Title RISK MANAGEMENT CONSIDERATIONS IN PROCUREMENT: INSURANCE, BONDS AND SURETIES		**Page** 1 of 8

SCOPE: The purpose of this policy is to establish requirements and official procedure for risk management-related components of state contracting, including the procurement of insurance and bonds; certification documentation standards; and establishing any bond or surety in a solicitation/contract.

POLICY: When the state contracts with a supplier, their services necessarily include an inherent liability risk, or cost of defense, to the State of Wisconsin. There are various risk-related factors agencies must take into consideration in procurement activities.

Standard and High-Risk Insurance Coverage in Contracts

Agencies will prescribe either standard, or high-risk, insurance coverage requirements in state contracts as provided herein.

A high-risk service procurement means a contract, procurement or purchase that significantly increases the possibility of loss or exposure to loss to the State of Wisconsin, its agencies, employees, agents or officers from a third party. See Appendix A: Insurance Coverage Limits Requirements.

Some procurements have varying insurance requirements. An agency having insurance questions about procurement situations should contact its agency risk manager or the State Bureau of Risk Management (Risk Management).

Workers compensation insurance coverage is required by statute for commodity and standard service procurements. The state may require such coverage even when the number of employees is fewer than that for which the statutes require workers compensation insurance.

Certificates of Insurance

Depending upon the level of risk the contract presents, agencies may require submittal of a current certificate of insurance.

When an agency makes a purchase through a statewide contract issued by the Bureau, the Bureau will have obtained any required certificate of insurance. See PRO-402, Statewide Contracts: Standards and Utilization.

Bonds and Sureties

The State Bureau of Procurement (Bureau), or an agency operating under delegated authority, may require sureties from bidders or contractors when such action is deemed to be in the best interests of the state.

A surety is a guarantee that a supplier will perform or complete some specific act or process. Sureties will be justified, will not be required as a matter of course, and will not be used to restrict competition.

Procurement of Insurance and Bonds

Insurance and bonds are commodity procurements. Risk Management will approve purchases of insurance and bonds, regardless of the dollar amount.

PROCEDURE:

I. Insurance Coverage: Standard Goods and Services Contracts

A. The agency will specify, in the request for bid/proposal or other procurement/purchasing document, and resulting contracts regardless of the value of the contract or the type of procurement:

1. "Standard insurance limits", as stated in Appendix A. The agency may require higher coverage limits for an individual procurement if the agency's risk manager approves.

2. Require issuance of the vendor's insurance policy with a minimum thirty (30) day cancellation notice, by an insurance company licensed to do business in the State of

Wisconsin, with a minimum AM Best rating of A-, and the signature of an authorized agent.

B. Including the state Standard Terms and Conditions (form DOA-3054) satisfies I, A. In the case of a waiver of bidding, the agency must specify the insurance requirements with the purchase order or in the contract. See PRO-404, Standard Terms and Conditions.

C. The "standard insurance limits" are minimum limits of coverage; however, an agency may request lower limits for unique agency procurements, if pre-approval is secured from that agency's risk manager (when one exists) and final approval is secured from Risk Management.

D. The requirement for workers compensation insurance applies to every contract, even if the vendor has fewer than three (3) employees. The state may require such coverage even when the number of employees is fewer than that for which the statutes require workers compensation insurance.

E. The agency need not obtain a copy of the vendor's certificate of insurance; agencies may request proof of insurance as needed.

II. Insurance Coverage: High-Risk Contracts

A. High risk services include but are not limited to the following; the procuring agency will review Appendix A and specify the appropriate insurance amount:

- Air Charter
- Ambulance Service
- Asbestos Abatement

- Building Remodeling and Construction
- Custodial Services
- Daycare
- Elevator Maintenance
- Food Service
- High Risk Entertainment/Speakers
- Medical Services, including Optical and Laboratory
- Recreational Services
- Refuse Transportation and Disposal
- Security
- Tower Inspection and Maintenance Services
- Transportation Services

B. The agency may specify higher limits for one of the services listed above, or on a high-risk service not listed above, with approval of the agency's risk manager or, when no agency risk manager exists, Risk Management.

C. Agencies must obtain a certificate of insurance for high-risk contracts. By obtaining an appropriate certificate of insurance and maintaining a current certificate on file for a high-risk procurement, the state has evidence that insurance has been obtained that transfers risks associated with the business relationship with the supplier from the state to the insurer.

D. If the supplier fails to provide a certificate of insurance that is consistent with the contract requirements, the agency may cancel the contract or award and make another award.

III. Certificate of Insurance

Where an agency or this policy requires a certificate of insurance, it will be completed as follows:

A. The vendor must provide a copy of the certificate of insurance prior to the commencement of the contract to the individual designated by the procuring agency.

B. The agency reviews to ensure the certificate contains:

1. Name of the insured, the name and the address of the insurance agency, the type(s) of insurance, the policy number(s), the effective date(s), the expiration date(s), name and address of the certificate holder, and the signature of the representative authorizing the policy.

2. Names the State of Wisconsin, its officers, employees, and agents, as an additional insured.

3. Specifies at least the limits of insurance coverage required for the procurement.

4. Provides for a minimum of a thirty (30) day cancellation notice to the procuring agency.

C. The agency must also verify that the insurance provider is authorized to do business in the State of Wisconsin and has an A.M. Best rating of A- or better, by the Wisconsin Office of the Commissioner of Insurance, Bureau of Financial Examinations.

D. When an agency makes a purchase through a contract established by another agency (piggybacking), the agency that originally developed and established the contract is responsible for obtaining any required certificate of insurance.

E. If the supplier is self-insured, they must provide financial records that demonstrate financial ability to cover losses up to the limits of the required insurance that are acceptable to the agency's risk manager. The state will notify the vendor of the specific financial records that must be provided.

IV. Bonds and Sureties

A. Sureties may consist of cash on deposit with an agency, certified or cashier's check, irrevocable letter of credit, or a bond issued by a bonding or insurance company authorized to do business in Wisconsin.

B. Basic types of sureties include but are not limited to:

1. A bid surety required to be submitted with a bid to ensure that a bidder will accept any resulting contract award.

2. A payment surety required in conjunction with the award of a contract that assures that a contractor will pay the valid bills of subcontractors who perform work under the prime contract to prevent the state from being subject to a lien action by the subcontractor.

3. A performance surety required to ensure that a contractor will perform to the requirements of a contract.

C. Justification for requiring sureties can include:

1. A history of nonperformance on state contracts.

2. A valid need for bid sureties, such as when failure to sign a contract may result in serious harm or damage to state operations.

3. Situations where nonperformance of a contract can result in grievous harm or damages to state operations or where the need for on-time delivery of a component can negatively affect a broad project.

D. If sureties are required on a solicitation, the requirement will be applied to all bidders and contractors. In exceptional cases, the Bureau may approve the imposition of surety requirements on an individual bidder when such approval is necessary to permit them to receive an award where performance history would otherwise preclude such action.

E. Sureties may not be amended as the result of an amendment to a solicitation or contract. New sureties will be called for and provided. Since a surety is a guarantee of performance of a specific act, an amendment that changes the act on which the surety is provided, by nature, voids the original surety.

V. State Risk Management Approvals of Insurance/Bond Procurements

A. Prior to purchasing insurance, including bonds, the agency will obtain approval from State Risk Management. The agency will consult with State Risk Management on any change, deletion or addition of coverage. The State Bureau of Procurement will fulfill this requirement on the agency's behalf for nondelegated (i.e., transactions handled by the Bureau) insurance/bonds procurements.