

WHITE PAPER

Contractual Risk Transfer

In the practice of good risk management, your Entity should attempt to transfer the risk of accidental loss accruing through its contractual relationships. Usually, your Entity will require the other party to a contract (contractor) to assume your Entity's liability arising out of the contractor's negligent delivery of products, services, or activities. This transfer generally is appropriate, **as the contractor is most often the party in the best position to control loss.**

1. Assess the risk relating to the 3rd party
2. Use Indemnity Language in the Agreement
3. Determine the appropriate type and quantum of insurance required
4. Verify and monitor coverages
5. Report claims promptly

This intended transfer of risk is achieved by requiring suppliers, contractors, tenants, and users of public facilities (i.e. the other party to most Entity contracts) to hold your entity harmless in an indemnification agreement arising from their products, activities, or use of your facilities. The best way to assure that the transfer actually takes place (i.e. that a loss will be paid by someone other than your Entity) is to require a strong indemnity agreement.

Risk transfer should also involve including insurance requirements in the agreement that is appropriate for the goods or services being provided. In addition to protecting the contractor, the insurance should also protect the Entity, its officers, officials, employees, and volunteers.

Non-insurance sections of the contract are also very important to the risk management process. At a minimum, always review the “scope of work” and “indemnification” sections of a contract. If the contractor’s insurance does not cover all of their indemnity exposures under the contract, it is its responsibility to obtain the necessary coverages to satisfy its agreement with your Entity.

High level summary of how we do it