York Region

STATUS
Council Approved **Y** **N**
CAO Approved: **Y** **N**

TITLE: Insurance and Risk Management Policy	**NO.:** **Approval Date:** **Last Updated:**

POLICY STATEMENT:

A policy governing the utilization and application of insurance and risk management practices and procedures.

APPLICATION:

This policy is applicable to all operations conducted by the Corporation including its boards and subsidiaries, and to all employees who are responsible for the control, administration and management of insurance and risk management practices.

PURPOSE:

This policy establishes objectives, standards of care, reporting requirements, and responsibilities for protecting the Corporation from financial consequences resulting from the destruction, damage or loss of its assets and/or its liability to others.

DEFINITIONS:

Certificate of Insurance: A document signed by the insurer(s) or insurance broker that confirms insurance coverages and limits in place for the named insured.

Claims Analysis: A comprehensive review of the losses incurred which looks at the financial impact and the root cause of the losses.

Corporation: The Regional Municipality of York, its boards and subsidiaries.

Employer's Liability: Liability covering employees for injury while performing their job. This coverage replaces workers compensation in instances where WSIB is not required or where the employer has opted out.

First Party: The Regional Municipality of York or the Corporation.

Indemnity Clause: A statement, which provides legal exemption from liability for damages or injury.

Loss Prevention: Any measure which reduces the probability or frequency of a particular loss but does not eliminate completely all possibility of that loss.

Materials & Labour Bond: A surety bond issued to guarantee that all claimants/suppliers will be paid for the cost of materials and labour furnished to the principal contractor for use on the project.

Performance Bond: A surety bond issued to guarantee the completion of a project by another contractor should the original contractor fail to meet their obligations.

Reciprocal / Insurance Reciprocal: A risk sharing arrangement in which similar entities pool funds in order to pay for claims arising out of their operations. An insurance reciprocal is a not-for-profit organisation licensed by the Superintendent of Insurance and is under the scrutiny of the same regulatory body as a traditional insurer. They act much like traditional insurers in that policies are issued, premiums are charged, reinsurance is purchased; adequate claims reserves are established; and claims are paid. An example of this would be the Region's insurer, the Ontario Municipal Insurance Exchange (OMEX).

Reserve: A financial amount allocated to cover anticipated losses within the self-insured amount or deductible of a specific insurance coverage or coverages.

Risk Assessment: The process of evaluating the risk associated with conducting an activity or operation which includes risk identification, measuring the anticipated impact and examining the likelihood of the risk occurring.

Risk Control: The part of risk management that involves the implementation of policies, standards, procedures and physical changes to eliminate or minimize adverse risks.

Risk Management: A process of well defined steps that when taken in sequence, support better decision making by contributing to greater insight into risks and their impacts.

Risk Management Committee: A committee consisting of senior representatives of the Corporation who ensure that risk management initiatives support the business of the Region.

Self-insurance: Insuring potential loss yourself by setting aside money to cover possible losses rather than by purchasing an insurance policy. Self-insurance may also include the deductible portion of an insurance policy.

Service Providers: Pre-screened and pre-approved vendors who conduct a business that supports the efforts of insurance and risk management staff in meeting their objectives, such as adjusters or lawyers.

Subrogation: The right of a person or corporation who has paid a liability on behalf of another to recover such costs from the responsible third party.

Third Party: A person or entity outside of the Corporation who may be a party to a contract or a vendor or claimant.

Traditional Insurer: A for-profit company licensed by the Superintendent of Insurance for Ontario that agrees to indemnify for losses under specific conditions.

WSIB Clearance Certificate: A certificate from the Workers Safety & Insurance Board which confirms that worker's compensation coverages are in effect for the noted 60 day period for an insured employee.

DESCRIPTION:

A) PHILOSPHY FOR INSURANCE AND RISK MANAGEMENT

The philosophy of the insurance and risk management program will be to attain the optimal balance between conducting an activity or operation, and the associated risks or consequences through the proactive application of risk management practices and the utilization of insurance products.

B) OBJECTIVES OF INSURANCE AND RISK MANAGEMENT POLICY

The primary objectives of the Insurance and Risk Management Program shall be to:

- Adhere to statutory requirements;
- Manage and/or prevent asset losses and liability exposure;
- Limit the financial impact from asset loss or destruction and liability exposure; and
- Manage and resolve all insurable claims.

1. Adherence to statutory requirements

It shall be the Corporation's practise when performing insurance and risk management activities to adhere to all statutory requirements which are set out mainly in the Municipal Act and the Insurance Act but also include all of the statutory acts listed in the Reference Section of this Policy. Specific requirements include but are not limited to the following:

a) Automobile accident benefit claims will be adjudicated and otherwise managed in accordance with the Statutory Accident Benefits Schedules;

b) Property damage claims resulting from travel on Regional roads will be assessed in accordance with the guidelines found in the Ontario Good Roads Act (minimum maintenance standards);

c) Personal information will be held in confidence and considered private in accordance with the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA);

d) Protocols will be implemented to govern actions of employees while driving corporate vehicles and/or while driving on corporate business; and

e) Payments related to the death or disability of family members will be in accordance with the Family Law Act.

Furthermore, specific activities which fall under the procedures and authorities set out in the Corporation's By-Laws will also be adhered to, unless otherwise authorized by Council members, including the acquisition of insurance and insurance services in accordance with the Region's Purchasing By-laws.

2. Manage and/or prevent asset losses and liability exposures

In order to prevent, limit or manage asset losses and liability exposures, risk management practices will be utilized to identify the potential risks, understand the sources of the risks, apply loss prevention measures, and then educate/train staff on managing risk.

a) Risk Management Committee

A Risk Management Committee comprised of senior corporate staff members will be maintained to ensure that the insurance and risk management program supports the business of the Corporation by:

- Identifying and prioritizing significant risks;
- Evaluating and recommending of measures to mitigate or prevent those risks; and
- Promoting risk management practices within each area of operation.

b) Risk Profiles

Risk profiles will be developed and loss prevention initiatives established, and monitored for all major operations of the Corporation or specific risk areas identified by the Risk Management Committee or Policy Risk & Treasury (PRT) staff by:

- Conducting physical site inspections to identify potential areas of risk and to recommend preventative measures;
- Conducting comprehensive risk analysis of corporate functions to identify and select feasible risk control techniques;
- Review of contracts to identify potential insurance and risk transfer gaps; and
- Risk assessments of proposed operations or activities during their planning stage.

c) Claims Analysis

It will be the practice of the Corporation that all losses will be analyzed on a regular basis in order to identify their financial impact and/or trends of risk exposure.

- All insurable claims will be reviewed in detail at least quarterly to analyze cause of loss and trends to assess for loss prevention measures and recommendations;
- Annual claims will be categorized and summarized to assess their financial impact and to adjust insurance reserves. This analysis will also be used in preparing and allocating the insurance and risk management budget; and
- Claims meetings will be held at least quarterly with various corporate departments and claims service providers.

d) Education and Training

An education and training program will be maintained for all staff through the following venues:

- Delivery of risk management seminars using outside experts and/or knowledgeable staff on topical risk strategies;
- Training for accident reporting and accident response processes; and
- Risk awareness education through website, newsletters and bulletins.

3. **Limit the financial impact from asset loss or destruction and liability exposure**

The financial impact arising from asset losses and liability exposures will be limited through the use of one or more of the following practises:

- Acquisition of first party insurance;
- Self-insurance;
- Risk transfer;
- Subrogation for damage to corporate property.

a) Acquisition of First Party Insurance

It will be the practice of the Corporation to purchase insurance coverages for all major sources of potential loss where economically desirable and practical, either through the use of traditional and/or reciprocal insurers.

The acquisition of insurance may require the use of outside experts where required by law or where such expertise is expected to result in better protection for the Corporation as defined in this Policy.

Appendix ‘A’ lists the coverages and deductibles for the policies currently maintained by Corporation.

b) Self-insurance

It will be the practice of the Corporation to self-insure all or part of potential losses where insurance is either not available or where the cost of such insurance is deemed to be excessive. Prior to self-insuring an exposure, PRT staff will conduct a risk assessment which may include an actuarial and/or cost-benefit analysis. If and when the Corporation chooses to self-insure an exposure, it will establish and maintain the necessary reserves to cover the cost of all potential losses. All reserves will be fully funded through the annual corporate budget process based on an annual review of requirements. Appendix A lists current exposures of the Corporation that are self-insured.

c) Risk transfer

It will be the practice of the Corporation to transfer some or all risk of loss or liability to others when appropriate, as follows:

(i) Vendor contracts

All vendor contracts prior to their execution will be reviewed to ensure that the following practices are adhered to:

- An Indemnity Clause is included in the contract, whereby the vendor is held responsible for losses or liability for which it is the direct cause;
- Adequate insurance, coverages and limits as determined by the Manager, Insurance and Risk, is maintained by a vendor as confirmed through a 'Certificate of Insurance' where the Region is named as an Additional Insured, as applicable. Such certificates will be tracked by the PRT staff through the use of an internal insurance certificate registry;
- Warranties are included in the contract to extend the liability of a vendor for certain damages under certain circumstances for a specified period of time, as required;
- WSIB coverage or Employer's Liability are confirmed where others (the vendor and its employees) are conducting work on behalf of the Corporation. In the event that personal injury should occur while conducting the work, the cost of this exposure rests with the contractor through WSIB or Employers Liability coverage and not with the Corporation;
- Performance Bonds and/or Material & Labour Bonds are obtained and maintained for construction projects where the completion of such projects is essential to the operations and commitments of the Corporation; and
- Specific insurance is purchased on behalf of the Vendor and the Corporation when it is deemed by the Manager, Insurance and Risk to be needed in order to provide adequate insurance coverage for a specific project or operation.

(ii) Use of Corporate Facilities

The use of corporate facilities shall only be granted if the following requirements are met:

- An Indemnity Clause is included in the contract in favour of the Corporation;
- Adequate insurance, coverages and limits as determined by the Manager, Insurance and Risk, is maintained through obtaining of 'Certificates of Insurance' with the Corporation named as an 'Additional Insured'. These certificates will be tracked and maintained by the PRT staff using their internal insurance certificate registry; and
- Waivers of Liability are provided by participants and or group(s) who are using the facility.

(iii) Limiting Contractual Risk Obligations of the Corporation

Obligations of the Corporation shall be reviewed prior to execution of all contracts to ensure that the risk exposure to the Corporation is limited according to the guidelines established by the Manager, Insurance & Risk, the individual department, or by the Corporation through:

- Appropriate Indemnity Clause wordings which limits the liability of the Corporation; and
- Restricting the availability of insurance guarantees and/or information.

d) Subrogation For Damage to Corporate Property

It will be the practice of the Corporation to recover the cost of damage or loss of its property by subrogating against third parties found to be responsible for the loss or damage. Unpaid collections may be referred to the Corporation's solicitor for possible Small Claims Court actions.

4. Manage and resolve all insurable claims

Claims will be managed in accordance with procedures established by the Director, Policy, Risk & Treasury, in such a manner as to meet or surpass the Corporation's customer service standards and/or its obligations to our insurer.

It will be the Corporation's practice to resolve claims in the best interest of the Corporation in a fair and consistent manner, and in compliance with all appropriate legislation.

Arbitration, mediation and/or litigation of claims may be used in order to meet the objectives of this Policy.

Claims will be analyzed and written recommendations prepared outlining strategies for disposition and/or settlement for review by the Manager, Insurance and Risk. Complex claims and those with political or departmental sensitivities will include input from other corporate stakeholders, (e.g. York Regional Police). All settlement offers must be approved by the Director of Policy Risk & Treasury and in those cases where the total cost will exceed the Corporation's deductible, by the insurer's representative.

PRT staff will also be responsible for investigating, reporting and presenting the proof of loss for claims made by the Corporation to its insurer. Further, PRT staff will manage the claim to ensure a timely and fair settlement and will secure any amounts owing to the Corporation.

C) SELECTION OF SERVICE PROVIDERS

It will be the practice of the Corporation to engage knowledgeable and skilled service providers for insurance and claims activities. These service providers may also in some circumstances require the approval of the Corporation's insurance company. Outside service providers may be utilized for the following services:

- Claims adjusting
- Legal/litigation
- Brokerage
- Actuarial
- Risk assessment analysis
- Asset appraisal

Such service providers will be called upon as needed and at the prescribed time frames to provide for consistency and stability. The service providers used will be reviewed at least once every four (4) years. Solicitation of existing and new providers will be conducted at that expiry in accordance with the purchasing by-laws of the Corporation.

Additional expert providers may be utilized such as engineers, damage appraisers or investigators as recommended by engaged service providers or the insurance company.

D) BUDGET AND RESERVES

It will be practice of the Corporation to allocate the cost of providing insurance coverage to individual business units based on an annual risk assessment and claims history. The cost of insurance and contributions to reserves to fund all potential self-insured losses as well as losses within the deductible will be estimated annually and such funding costs will be included as part of the annual insurance budget.

Reserves will be maintained to fund the cost of administering claims, to fund claims below the Corporation's deductible and in the case of self insurance exposures, to fund the amount to cover potential future loss. The adequacy of the insurance reserve may be subject to an actuarial review at least once every five (5) years.

E) REPORTING REQUIREMENTS

a) Reports to Council

Annually, the Commissioner of Finance and Treasurer will report to Council on insurance matters. This report will include:

- A statement regarding the insurance marketplace indicating trends and any major changes or developments that could effect the Corporation;
- Sources and trends of claims will be highlighted as well as any loss prevention techniques enforced as a result; and
- Any other information that the Treasurer deems important or has been requested by Council to provide.

The Commissioner of Finance and Treasurer will report to Council periodically as indicated below:

1. Review of self-insured exposure levels at least every five (5) years, or if a major change in the market occurs, or if claims history dictates such a review, or if new products are introduced that would benefit the Corporation; and

2. Review of insurance service providers at least every four (4) years including outside legal services, adjusting services, brokerage services, and property value appraisal services.

b) Reports to Operating Departments

The following reports will be provided to the appropriate operating department:

1. Claims reports outlining claim development, trends, and recommended loss prevention techniques. This may be completed quarterly for some departments and on an adhoc basis for others depending upon loss experience; and

2. Risk profile and/or assessment reports on an adhoc basis, based on change in operation, an increase in loss frequency, routine assessment, or due to specific project involvement.

3. Annual report outlining insurance to be allocated and rationale regarding changes.

F) STANDARD OF CARE

- **Delegation of Authority**

  The Commissioner of Finance and Treasurer will have overall responsibility for the prudent management of the Corporation's Insurance and Risk Management Program. However, the Director of Policy, Risk & Treasury will be responsible and have the authority for the implementation of the insurance and risk management program. Further, the Director may delegate the necessary duties to staff in order to fulfil the program requirements.

- **Prudence And Due Diligence**

  Insurance will be placed with strong and financially competent insurers, at limits and with deductibles in keeping with the Corporation's exposures and financial capabilities. Claims management and the employment of risk management methodologies will be carried out in the best interest of the Corporation. Further, staff responsible for the insurance and risk management functions will keep abreast of developments in the insurance and risk management industry, and with court decisions regarding municipal liability.

- **Ethics and Conflicts of Interest**

  (i) Employees involved in insurance placement, the handling of claims and implementation of risk management shall act in a professional and ethical manner. Further, any personal connections to claimants or service providers shall be disclosed and the employee may be requested to withdraw from involvement in the specific transaction(s) where the conflict of interest exists and;

  (ii) Service providers engaged by the Corporation shall act in a professional and ethical manner. In addition, service providers will be required to disclose any conflict of interest situation and may be requested to withdraw from involvement where the conflict exists.

- **Claims Management**

  Staff responsible for the management of claims will respond to all insurable claims presented to the Corporation with professionalism and expertise, in a timely and fair fashion.

RESPONSIBILITIES:

The Commissioner of Finance and Treasurer has overall responsibility for the management of the insurance and risk management program of the Corporation, including authorization of updates to the Insurance and Risk Management practices and procedures as required.

Notwithstanding; responsibilities will be carried out as follows:

Director of Policy Risk and Treasury and/or designate:

- Overseeing and ensuring implementation of the insurance and risk management program;
- Delegation of duties under this Policy;
- Ensures that the requirements under the Policy are met;
- The purchasing and maintenance of insurance on behalf of the Corporation, its boards and subsidiaries; and
- The settlement of self-insured claims and claims below the deductible.

Manager of Insurance and Risk and/or designate:

- Day-to-day management of the Insurance and Risk Management Program;
- Chair quarterly Risk Management Committee meetings;
- Determine insurance requirements for contracts, vendors, and agreements; and
- Maintain insurance and risk management protocols and procedures.

All Directors & Managers &/or designates:

- Report all claims to the Manager, Insurance and Risk;
- Supports the Risk Management Committee in meeting the risk awareness goals and policies; and
- Primary responsibility for enforcing procedures to protect assets and reduce liabilities under their control.

Legal Services:

- Supports the claims management process by providing litigation services and/or legal advice, as required.

Contract Managers & Purchasing Officers &/or designates:

- Ensures all contracts, RFP's and/or agreements have been reviewed by Manager, Insurance and Risk and conditions met, prior to execution or issuance.

Risk Management Committee Members:

- Assist in development of policies, practices and procedures to identify and reduce potential for loss of assets and to reduce the potential for liability exposures; and
- Act as risk management ambassadors for the corporation.

REFERENCE:

- Municipal Act 2001, S.O. 2001, c.25;
- Minimum Maintenance Standards for Roads;
- Insurance Act, R.S.O. 1990, c.I.8;
- Motor Vehicle Accident Claims Act, R.S.O. 1990, c.M.41;
- Statutory Accident Benefits Schedule;
- Negligence Act, R.S.O. 1990, c.N.1
- Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990,c.M.56;
- Personal Information Protection & Electronic Documents Act (2000, c.5)
- Municipal Health Services Act, R.S.O. 1990, c.M.57
- Municipal Conflict of Interest Act, R.S.O. 1990, C.M.50
- Financial Services Commission of Ontario Act, 1997, S.O. 1997, c.28;
- Family Law Act, R.S.O. 1990, c.F.3
- Police Services Act, R.S.O. 1990, c. P.15
- Ambulance Act, R.S.O. 1990;
- Occupiers Liability Act, R.S.O. 1990, c. O.2;
- Landlord & Tenant Act
- Highway Traffic Act, R.S.O. 1980,c198

CONTACT:

Director of Policy Risk & Treasury
Manager of Insurance and Risk

APPROVAL INFORMATION

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