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COMPTROLLER'S MEMORANDUM NO. 2021-10

TO: All Department Heads and Agencies

FROM: Curt T. Otaguro, Comptroller 

SUBJECT: Risk Management and Insurance Program for State Government

This Memorandum updates and supersedes CM-88-06. The purpose of this Memorandum is to inform you that the Department of Accounting and General Services is the primary agency for the development and management of the State's risk management insurance program, which excludes worker's compensation and public employee benefit programs.

Legal References

Under Chapter 41D, Hawaii Revised Statutes (HRS) ("Statute"), the State Comptroller is authorized and responsible for a risk management and insurance program.

Discussion

Unexpected accidents and losses can impair the financial integrity and operational efficiency of State Government. Events and circumstances that cause losses must be identified, evaluated and controlled in ways that will minimize disruption of public service and cost to government operations.

Protection of financial resources and operational capacities of the State Government against the consequences of loss can be best achieved through the implementation of a comprehensive risk management and insurance program. Exposures to property and liability losses are covered under the statute. Liability exposures include bodily injury and property damage liability; liability arising out of the use of automobile, aircraft and watercraft; personal injury liability; liability assumed under contract; and error and omission liability. Property losses include damages to State buildings and loss of personal property, loss of valuable papers, and recovery of extra expense and lost income. Also covered are losses due to the dishonesty of State employees, theft of State property or funds by non-employees, and the forgery of instruments that result in the withdrawal of funds from State accounts. In addition, exposure to State cyber incidents and accompanying damages to State assets and third parties will be addressed by the program.

Excluded by the Statute are exposures from the State's worker's compensation and public employees benefit programs, and medical malpractice insurance and casualty insurance for the Department of Health, Hawaii Health Systems Corporation, University of Hawaii and the Research Corporation of the University of Hawaii.

Risk Management Program Authority and Responsibility

The Department of Accounting and General Services has established the Risk Management Program (Risk Management Office or "RMO") to develop and implement policies and procedures pertaining to the management of the risk management and insurance program except for exposures specifically excluded in the Statute. Issued State Comptroller Memorandums regarding risk management and insurance administration remain in effect covering topics such as automobile liability insurance program, statewide property insurance, crime policies, tort liability claims administration and cyber policy and claims.

The responsibility of the Risk Management Staff includes identifying and analyzing the State's loss exposures; determining which risks the State should self-insure and which risks should be commercially insured; answering questions from State agencies regarding coverages provided by the program; coordinating limited loss control matters; assisting State agencies in ensuring that proper insurance, in conjunction with indemnity clauses, are used in contracts; purchasing statewide property insurance; ensuring reporting of incidents and claims when they occur and the complete recordkeeping thereof; administering contracted or internal claims administration and adjusting, actuarial, insurance broker, and other services; and administering the risk management program to ensure that risk management activities are coordinated in an effective statewide program.

Agency Authority and Responsibility

This memorandum is applicable to all State agencies, including executive departments, boards and commissions, elected officers and employees of the State, corporations formed by the Legislature, person acting on behalf of a State agency in an official capacity, temporary workers (whether with or without compensation) but excluding contractors with the State. Agency risk management coordinators have been appointed to coordinate risk management activities within their respective departments or agencies. They are responsible for reporting property and casualty incidents and claims, placing proper insurance and indemnification clauses in contracts, reporting loss information within their agency. No agency may purchase insurance unless approved by the State Comptroller or as provided by law, in order to prevent overlaps and unnecessary insurance coverage.

All losses including incidents must be reported to the RMO. Standard forms have been developed to report losses and incidents which can be found on the RMO homepage <http://ags.hawaii.gov/aso/rmo/>. The Risk Management Program will maintain a risk management information system (database) to track losses, determine frequency and severity of losses and implement reasonable measures to prevent or pay for losses.

The Statute also permits the Attorney General to refer claims against the State to the State Comptroller for informal resolution when provided for by Chapter 662, HRS. Issued State Comptroller Memorandum 2021-11 covers revised procedures for reporting liability claims.

Risk Management Revolving Fund

The State Risk Management Revolving Fund ("Fund") has been created under the Statute to pay for self-insured losses or damages to State property, liability (up to its designated authority) on other casualty claims such as Crime and Cyber claims for and against the State, for purchase of statewide property and casualty insurance, and to operate the risk management program.

Funding for the State Risk Management Revolving Fund through each biennium fiscal budget will be provided by appropriations granted by the Legislature to the RMO. Therefore, the Comptroller, with concurrence of the Director of Finance, will apportion to and collect from state agencies funds based on their loss experience and/or loss exposures. Each agency charged with an assessment should request funding through the budget process for their assessment. The RMO will advise the agencies on the amount of their assessments. The purpose of assessing each agency is to hold each agency accountable for its losses and promote interest and participation in the efforts of the RMO to prevent or minimize losses.

Funds appropriated or collected shall be invested through the Director of Finance and the interest earned shall be credited to the Fund. Monies in the Fund will not lapse and will be used to carry out the purpose of the Act.

Any concerns or questions regarding this Memorandum should be directed to the Risk Management Officer of the Department of Accounting and General Services at 586-0550.