



Risk Transfer: (Taken from the CIRMA Risk Transfer Best Practices Guide)

Many municipalities that do not wish to assume the risk of an activity, or be held primarily responsible for any losses caused by that activity, may decide to contract out the service. Contracting for services, also known as subcontracting, is a common noninsurance risk transfer method recommended by CIRMA. By contracting for service, a municipality transfers the liability loss exposure to third parties that are better able to control losses generated by a particular activity. Take for instance building construction projects, custodial services, transportation (including student, senior center, raw material transportation) or maintenance services. Because these activities are the contractor's primary business, they are better able to assume and control the risks. Not only do municipalities benefit from transferring the risk of liability exposures, they are also relieved from the loss exposures associated with employees, such as workers' compensation, return to work, resignations and retirements.

In general is one of the most significant areas of legal concern and can involve variations on circumstances and contain many complexities. Although many "standard" agreements and contracts are available for use, no single contract or agreement should really ever be considered "standard". There are always opportunities to negotiate changes and modify the terms and conditions of these documents before signing them, even if a third party implies otherwise. An important part of contracting with a third party is knowing and identifying ahead of time what requirements or changes need to be made in a contract or agreement to adequately protect the interests of the municipality.

As a best practice, entities should have policies and procedures set up for the review and authorization of contracts and agreements entered into on the municipalities behalf. The purpose of this process should be to provide review assistance to protect a municipality's interests prior to a contract/agreement being signed. This process is intended to help municipal employees, including those with contracting authority, make decisions with which they may not be comfortable or knowledgeable enough to make alone. It also helps to clarify the responsibilities of the various persons involved in negotiating, reviewing and signing contracts/agreements.

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Every contract or agreement that a municipality enters into with a third party contains risks. In order to manage those risks a municipality should review all documents and insurance policies to help ensure that any risks are properly transferred. Having the appropriate team assembled will help with risk evaluation and allocation during the review process. Some, but not all of the criteria a municipality should consider include:

- 1) Identify and evaluating the risks involved
- 2) Decide whether to avoid, transfer, or retain these risks
- 3) Implement appropriate risk transfer and/or risk financing mechanisms

Any review should try and anticipate events or situations that could arise within the scope of work or service being provided or during the activity or event described.