

Taurus Insurance & Risk Mgmt. Consulting, LLC
Sample Social Service Agency
Insurance Policy Audit Report

**Package Policy – Commercial General Liability, Social Services Professional
Liability and Property**

XYZ Insurance Company

Policy #: 111

Policy Term: May 1, 2019-20

Commercial General Liability Coverage

This section of the policy provides coverage subject to policy exclusions and limitations for your legal liability arising from bodily injury, personal injury (false arrest, libel, slander, and other injuries defined in the policy), advertising injury and property damage to others arising out of your activities and operations within the United States, its territories or possessions, Puerto Rico, or Canada. Additional limits are available under the separate catastrophe/umbrella liability policy, which is discussed later. Coverage for liability arising out of your use of automobiles is provided under the automobile section of this policy. The costs of defending insured claims are also covered under this policy. Defense costs are paid in addition to policy limits.

The limits of liability for your commercial general liability coverage are \$1,000,000 per occurrence, \$3,000,000 annual aggregate for all product liability and completed operation claims, and \$3,000,000 annual aggregate per insured location for all other types of liability claims. Additional limits are available under the separate Excess Liability policy, which is discussed later.

Fire Damage Legal Liability Coverage is provided with a policy limit of \$1,000,000 per occurrence. This provides coverage for damage caused by fire to real property you rent, lease or occupy that is owned by others.

Medical Expense Coverage is provided up to \$20,000 per person. Medical Expense Coverage provides benefits for people injured on your premises without regard to fault. This coverage does not apply to injuries to any person while taking part in athletics.

The annual premium is \$38,966.

This policy provides the following additional coverages:

1. Coverage is provided as an additional insured to the following individuals: directors, officers, employees and volunteers while within the scope of their duties for your organization.
2. Coverage for liability arising out of the use and operation of any non-owned watercraft less than 55 feet in length.

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- 3.** Coverage as an additional insured for these organizations where your firm has agreed to do so under a written contract for claims arising out of your acts or omissions for these organizations:

Washington County & Washington Employment & Training, Inc.
City of Bangor, Community Development Grants Administration
Friendly Bank National Association, ISAOA
Jones Bancorp Community Investment Corp. Respect to "Olga Parking Easement Area"
Washington County and the State of Maine
Washington County Combined Community Service Board
Washington County Real Estate
Washington County Behavioral Health Division Community Services Branch
Olga Village
University of Maine, Environmental Health, Safety & Risk Management

COMMENTS AND RECOMMENDATIONS

1. ATHLETIC PARTICIPANTS EXCLUSION ISSUE. The policy excludes coverage for any claim arising out of any person practicing for or participating in any sports or athletic contest or exhibition that you sponsor as described in the Schedule section on the Endorsement or in the policy's Declarations pages. The Schedule section of this endorsement is blank and there is nothing in the Declarations pages describing the athletic or sports activities that are excluded.

The missing athletic or sports activities that are excluded need to be identified as quickly as possible. It is clear that XYZ Insurance Company intends to exclude some or all athletic or sports activities within your operations. This will create a serious gap in your liability insurance coverage.

SSI sponsors several athletic or sports contests/exhibitions including:

- a. Charter School inter-school athletic programs
- b. Coed leagues in soccer, flag football, tennis, golf, and intramural volleyball
- c. Boys' and girls' leagues in basketball and volleyball
- d. SS Pop Warner Tackle Football
- e. Barry Bonds Little League
- f. Joe Frasier Boxing Program

Participants in these programs could be seriously injured and SSI could have no liability insurance coverage if the injured parties or their parents/guardians claimed the injury was caused or made worse because of the negligence of SSI, its employees, volunteers or student teachers.

Policy Reference: The Exclusion – Athletic or Sports Participants Endorsement, Form # LL 23 01 11 85

2. FUND RAISING EVENTS ENDORSEMENT ISSUE. The policy excludes coverage for the following fund raising events unless the event is listed on the Schedule Section of the endorsement:

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- a. Parades sponsored by the Insured
- b. Animals - other than house pets
- c. Carnivals and fairs with mechanical rides sponsored by the Insured
- d. Events involving contact sports
- e. Any event with greater than 500 people at any one time (including otherwise acceptable events)
- f. Any event with liquor provided by the Insured if a license is required for such activity.

The Schedule Section of the endorsement is blank. Therefore, you have no liability insurance coverage for any of the above listed fund raising events. If you should sponsor a currently excluded event, you must have this endorsement amended to provide insurance coverage for the event before it takes place. Otherwise, you could have an uninsured loss should someone be injured at the event.

Policy Reference: The Fund Raising Events Endorsement, Form # PL-XX-001 (12/2005).

Human Services Organization Professional Liability Coverage

This section of the policy provides coverage for your legal liability arising from injury caused by a professional incident that occurs during the policy period subject to policy exclusions and limitations. Coverage is only provided for Professional Services as defined in the insurance policy. The cost of defending insured claims are also covered under this policy. Defense costs are paid in addition to policy limits. Defense costs are part of the policy limit. They are not paid in addition to the policy limit. This coverage is not subject to a deductible.

The limits of liability for this coverage are \$1,000,000 per claim; \$3,000,000 aggregate for all claims during the policy year. Additional limits are available under the separate Excess Liability policy, which is discussed later.

The annual premium for this coverage is \$25,987.

This policy provides the following additional coverages:

1. Coverage is provided as an insured person to the following individuals: directors, officers, employees, volunteers and students in training while within the scope of their duties for your organization.

COMMENTS AND RECOMMENDATIONS

1. EXCLUDED PROFESSIONAL SERVICES ISSUE. The policy states there is no coverage for claims arising out of:

1. Any medical facility (**SSI's sponsors medical clinics that could be considered a "medical facility".**);

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2. prescription, utilization, furnishing, or dispensing of drugs or medical, dental, or nursing supplies or appliances, except as directed by a physician, physician assistant, nurse, or a psychologist as permitted under state law, and in the normal practice as a human services organization provider; **(School nurses or other school personnel dispensing of drugs or other medical supplies would be excluded.)**

3. professional services of any psychiatrist;

4. professional services of any physician, dentist, chiropractor, optometrist. However, with respect to you and your "employees" only, this exclusion does not apply to services performed by a physician, dentist, or optometrist, provided that all of the following conditions are met:

a. Such professional is not your "employee" or volunteer; and

b. You have current written confirmation of malpractice insurance covering such professional with limits of at least \$1,000,000.

5. any pollution hazard. **This would include contamination by bacteria, virus or fungus.**

Schools usually have a school nurse and may have speech or physical therapists and other individuals providing some type of health service or medical services. They may also have a school psychologist or psychiatrist. They may utilize volunteer doctors and/or paramedics at school athletic events. SSI needs to carefully evaluate its professional liability exposure in these areas and its insurance coverage for such activities. It has no insurance coverage for these activities. This issue needs to be addressed immediately.

In addition, SSI's operations include exercise/health club facilities utilized by its residents and/or clients. Individuals providing guidance connected with these facilities could be interpreted to be providing health or therapeutic services, treatment, advice or instruction. SSI needs to carefully evaluate its professional liability exposure in these areas and its insurance coverage for such activities. It may have no insurance coverage for these activities.

Policy Reference: Exclusions 3, 5, 6, 7, and 14 on pages 1 and 2 of the Human Services Organization Professional Liability Coverage Form, # XX-LL-003 (07/04).

2. PUNITIVE OR EXEMPLARY DAMAGES OR MULTIPLIED DAMAGES EXCLUSION ISSUE. The policy excludes coverage for punitive or exemplary damages or the multiple portion of any damages. Such damages are insurable under Maine law.

Punitive or exemplary damages can be awarded when the insured has engaged in gross negligence, a conscious disregard for the safety of others or some other type of offensive conduct or outrageous behavior. Many lawsuits ask for punitive damages as part of the legal proceedings.

SSI's Commercial General Liability, Business Automobile Liability and Commercial Umbrella Liability coverages do not exclude punitive or exemplary damages or the multiple portion of any damages. This

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Professional Liability coverage should provide the same coverage for these damages as SSI's other liability insurance coverages.

Policy Reference: Definition of Damages in Section V. E. on pages 7 and 8 of the Human Services Organization Professional Liability Coverage Form, # XX-LL-003 (07/04).

3. BINDING ARBITRATION ENDORSEMENT ISSUE. Your policy requires any insurance coverage dispute with the insurance company to be settled by mandatory binding arbitration. You cannot seek to settle insurance coverage disputes through the regular court system of judges and juries. This puts you at a significant disadvantage.

Judges and juries tend to be more sympathetic to insurance policyholders rather than insurance companies in any coverage disputes. Insurance companies try to utilize binding arbitration whenever possible and are quite good at playing this game. Insurance policyholders rarely utilize binding arbitration and often their attorneys have little experience with binding arbitration.

SSI's Commercial General Liability, Business Automobile Liability and Excess Liability coverages do not have a Binding Arbitration Endorsement. We recommend this Binding Arbitration Endorsement be deleted from the Professional Liability Coverage Section.

Policy Reference: The Binding Arbitration Endorsement, Form # XX-AVV-1 (4/03).

Property Coverage

This section of the policy provides coverage for direct physical damage to those buildings and contents listed on the policy as covered locations subject to policy exclusions and limitations. Coverage is on a replacement cost basis. Coverage only applies while your property is located in the United States or Canada. The policy also provides coverage for the loss of income and/or the extra expense incurred to keep your operations going after an insured loss.

The policy has a blanket single limit for property damage to real property/buildings at all your insured locations of \$43,768,900 and a blanket single limit for personal property/contents at all your insured locations of \$2,033,000. The loss of income and extra expense limit is \$415,000 on each insured building except:

- 1) There is no loss of income and extra expense coverage on the building at Location 11, 604 W. George St.
- 2) Location 12, 730 W. Elm St. has a \$348,000 limit; and
- 3) Location 13, 1123 S. 6th St. has a \$250,000 limit.

The policy is subject to a deductible of \$2,500 for physical property damage and 72 hour deductible for loss of business income and extra expense. The annual premium is \$50,233.

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The policy provides various coverages subject to sub-limits. Some of the major sub-limited coverages include:

1. \$2,500 for the research, reconstruction and re-entry costs for damage to information stored on computer media (disks, tapes, files, etc.) at insured locations.
2. \$10,000 for the research and reconstruction cost for damage to valuable papers.
3. \$5,000 per loss for property in transit (property in the process of being moved from one location to another). Coverage only applies while your property is in or on a vehicle you own, lease or operate.
4. \$10,000 for damage to property located off your scheduled/listed insured locations
5. \$10,000 or 5% of the policy limit of the insured building for loss caused by the operation of building codes or ordinances regarding the increased cost of construction to meet current building codes and \$10,000 or 5% of the policy limit of the insured building for Demolition Costs
6. Coverage for newly acquired premises for a period of 180 days from the date of acquisition: \$250,000 for buildings; \$100,000 for personal property; \$100,000 for business income and extra expense.

COMMENTS AND RECOMMENDATIONS

1. LOSS OF BUSINESS INCOME AND EXTRA EXPENSE COVERAGE MISSING. There is no loss income and extra expense coverage on the building at Location 11, 604 W. George St. This location is described on the policy as a Health Care Facility for the Handicapped. This is a serious gap in coverage. We have notified you of the need to correct/eliminate this gap immediately.

Policy Reference: Section A.1. on page 1 of the Declarations Special Property Coverage Form, #XXL 09 88 12 13.

2. BLANKET COVERAGE MISSING ON LOSS OF BUSINESS INCOME & EXTRA EXPENSE COVERAGE. We recommend coverage be provided on a single blanket limit for business income and extra expense at all locations. Currently, a separate Business Income & Extra Expense limit of insurance applies to each location. The single blanket limit would be the sum of all Business Income & Extra Expense limits at all locations. This will reduce the chance of inadequate limits at an individual location.

Policy Reference: Section A.2. on page 1 of the Declarations Special Property Coverage Form, #XXL 09 88 12 13.

3. BUSINESS INCOME COVERAGE LIMITS MAY BE INADEQUATE. Ten of the twelve insured locations for Business Income coverage have the exact same limit of \$375,000. These limits may be inadequate. In a serious loss situation (tornado, fire, natural gas explosion, roof collapse from the weight of snow, etc.), it

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could take 2 years or more to repair or rebuild severely damaged or destroyed buildings. We recommend these policy limits be closely reviewed for their adequacy.

Policy Reference: Section A.2. on page 1 of the Declarations Special Property Coverage Form, #XXL 09 88 12 13.

4. BUSINESS INCOME COVERAGE SUBJECT TO 100% COINSURANCE REQUIREMENT ISSUE. Your Business Income coverage is written subject to a coinsurance requirement. The policy limit for Business Income must be at least 100% of the business income limit required by the insurance company from its Business Income Calculation Worksheet, which is a special worksheet designed for this coverage. If the policy limits for these coverage are not adequate to meet the coinsurance requirement, you will be penalized for any size loss that may occur.

The policy should be amended to delete the coinsurance requirement on this coverage.

Policy Reference: Section A.2. on page 1 of the Declarations Special Property Coverage Form, #XXL 09 88 12 13.

5. RESTRICTED COVERAGE FOR FENCES. Locations 1, 5 and 9 list fences as part of the covered property. However, the policy covers damage to fences only if the loss or damage is caused by the following specifically named perils: fire, lightning, explosion, riot or civil commotion, damage from aircraft. This coverage is restrictive. There is no coverage for loss caused by windstorm, vandalism or damage caused by automobiles. This is a serious deficiency in coverage.

The policy should be amended to provide coverage for fences on the same basis as the coverage provided for damage to buildings and personal property. This is referred to as special perils, open perils or "all risk" coverage.

Policy Reference: Section A.5.e. on page 8 of the Special Property Coverage Form, #XXL 11 18 12 13.

Submitted by

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