



WASHINGTON COUNTIES
RISK POOL

WCRP Contracts Workshop

Part I: Overview

Derek Bryan – Executive Director



What is Risk looking at?

- 1. Indemnification & Hold Harmless**
- 2. Miscellaneous Provisions**
- 3. Insurance Requirements**
- 4. Certificates (Evidence of Coverage)**

What is Risk looking at?

- 1. Indemnification & Hold Harmless**
2. Miscellaneous Provisions
3. Insurance Requirements
4. Certificates (Evidence of Coverage)

1. Indemnification & Hold Harmless

- a. I'm responsible for my liability and your liability.
- b. I'm responsible for my liability and your liability, unless you are solely negligent.
- c. You're responsible for your liability and I'm responsible for mine.

1. Indemnification & Hold Harmless

- a. I'm responsible for my liability and your liability.
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- c. You're responsible for your liability and I'm responsible for mine.

1a. Indemnification & Hold Harmless

The COUNTY shall indemnify and hold harmless CONTRACTOR, and its employees and agents, from and against any claim, loss, liability or damage (including attorneys' fees incurred in connection with the defense of any action based on any such alleged act or omission, which attorneys' fees shall be paid as incurred) arising out of or in connection with any act performed, or omitted to be performed in connection with this Contract; provided that such indemnification and hold harmless shall not cover (i) indemnification prohibited by law, or (ii) any act or omission of CONTRACTOR amounting to an intentional breach of this Agreement, fraud, gross negligence, or willful misconduct. Without limiting the foregoing, the county will defend, indemnify and hold CONTRACTOR and its employees and agents from and against any claim, loss, liability or damage resulting from the failure to provide medical care, treatment, diagnostics or pharmaceuticals to any person.

1. Indemnification & Hold Harmless

- a. I'm responsible for my liability and your liability.
- b. I'm responsible for my liability and your liability, unless you are solely negligent.
- c. You're responsible for your liability and I'm responsible for mine.

1b. Indemnification & Hold Harmless

To the fullest extent permitted by law, COUNTY agrees to indemnify, defend and hold CONTRACTOR and its departments, officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) of the CONTRACTOR, its employees or agents or CONTRACTOR's subcontractors and their employees or agents; except, however, that this indemnification obligation shall not apply when the CONTRACTOR's is determined to have sole negligence.

1b. Indemnification & Hold Harmless

*To the fullest extent permitted by law, COUNTY agrees to indemnify, defend and hold CONTRACTOR and its departments, officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) of the CONTRACTOR, its employees or agents or CONTRACTOR's subcontractors and their employees or agents; except, however, that this indemnification obligation shall not apply when the CONTRACTOR's is determined to have **sole** negligence.*

1. Indemnification & Hold Harmless

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- b. I'm responsible for my liability and your liability, unless you are solely negligent.
- c. **You're responsible for your liability and I'm responsible for mine.**

1c. Indemnification & Hold Harmless

Each of the Parties, shall protect, defend, indemnify, and hold harmless the other Party, its officers, officials, employees, agents and volunteers, while acting within the scope of this Contract as such, from any and all costs, claims, injuries, damages, suits, losses or liabilities of any nature, including attorney's fees, arising out of or in any way resulting from, that Party's own acts, errors or omissions which may arise in connection with its performance under this Contract.

What is Risk looking at?

1. Indemnification & Hold Harmless
- 2. Insurance Requirements**
3. Miscellaneous Provisions
4. Certificates (Evidence of Coverage)

2. Insurance Requirements

Standard Insurance limits required (for decades):

\$1,000,000 per occurrence / \$2,000,000 aggregate

The Value of \$

1988	\$1,000,000
2000	\$1,458,405
2010	\$1,871,308
2020	\$2,221,037

2. Insurance Requirements

General liability insurance

S&F, L.E., Road Maintenance

Automobile liability insurance

Covering vehicles, drivers

Professional liability (E&O)

Personal injury for Wrongful Acts

Contractual Liability

For contractual obligations

Property Insurance

Covering their own property

Cyber

1st & 3rd Party data Breach,

Workers' compensation

Injury to their own employees

3. Insurance Requirements

Risk Analysis Matrix

	General Liability	Automobile Liability	Workers' Comp.	Errors & Omissions	Builder's Risk	Pollution Liability	Special Coverage
Activity in Contract							
Advertising, publication	(1)		(Statutory)				
Aircraft: use, ownership or maintenance			(Statutory)				(10)
Ambulance services	(1)	(5)	(Statutory)				
Animals: care, use of, maintenance of	(1)		(Statutory)				(?)
Carnival, festival rides and attractions	(5)	(1)	(Statutory)				
Caustics: use or handling of	(3)	(1+)	(Statutory)			(1+)	(3+)
Child care	(5)	(1)	(Statutory)				(5+)
Construction, remodeling	(5)	(1+)	(Statutory)	(1+)	Value	(1+)	
Docks/wharves; use, ownership or maintenance	(5)	(1)	(Statutory)				(5)
Electric County: use of, electrical work	(3)	(1)	(Statutory)		Value		
Emission or discharge of noxious	(5)	(1)	(Statutory)			(5+)	
Explosives: use of, transportation	(10)	(1)	(Statutory)		Value		(5+)
Flammables: usage of	(5)	(1)	(Statutory)			(1+)	
Food: service, sales	(3)	(1)	(Statutory)				
Medical services, skilled	(1)	(1)	(Statutory)	(3+)			(1)
Miscellaneous services (e.g.,	(1)	(1)					
Nuclear/radioactive material: use of	(1)		(Statutory)				(5+)
Sewer; maintenance, construction, repair	(3+)		(Statutory)		Value		
Professional services, other than medical or design	(1)	(1)	(Statutory)	(1+)			
Professional services: engineering	(1)	(1)	(Statutory)	(1+)	Value		

What is Risk looking at?

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3. Miscellaneous Provisions

Waiver of Title 51 Immunity

It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification.

3. Miscellaneous Provisions

RCW 51.04.010

Declaration of police power—Jurisdiction of courts abolished.

“The common law system governing the remedy of workers against employers for injuries received in employment is inconsistent with modern industrial conditions...

...The state of Washington, therefore, exercising herein its police and sovereign power, declares that all phases of the premises are withdrawn from private controversy, and...

...except as otherwise provided in this title; and to that end all civil actions and civil causes of action for such personal injuries and all jurisdiction of the courts of the state over such causes are hereby abolished...”

3. Miscellaneous Provisions

Waiver of Subrogation

The CONTRACTOR and COUNTY each hereby waive all rights of subrogation against the other for recovery of damages to the extent these damages are covered by general liability, excess, property, or umbrella insurance maintained pursuant to this Agreement.

3. Miscellaneous Provisions

Limitations on Liability

In no event shall CONTRACTOR's liability with respect to claims arising out of this Agreement exceed the total amount of the fees paid hereinunder to CONTRACTOR.

3. Miscellaneous Provisions

Exclusions

- Liquor Liability
- Contractual Liability
- Health Care Services
- Aircraft (UAV included?)
- Watercraft of a certain length
- Autos used for business
- Environmental/Pollution

3. Miscellaneous Provisions

Occurrence vs. Claims Made

Occurrence: *Applicable policy and coverage is triggered by the date of the loss.*

Claims Made: *Applicable policy and coverage is triggered by the date the claim is made against the insured.*

3. Miscellaneous Provisions

Endorsements

- Can reduce limits
- Can change who is an insured
- Can change what is covered or excluded
- Can change deductibles

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4. Certificates

What they are:

- a. Evidence that insurance exists
- b. Acknowledgment from an insurer/broker

What they are not:

- a. A contractual agreement or guarantee*
- b. An adequate description of policy language

**(T-Mobile v. Selective Insurance)*

4. Certificates

ACORD		CERTIFICATE OF LIABILITY INSURANCE				DATE (MM/DD/YYYY)																																																																										
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B	COMMERCIAL GENERAL LIABILITY			KE00006922000	12-01-AM 4/25/18	12-01-AM 4/25/18	EACH OCCURRENCE	100,000																																																																								
	CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (If auto contract)	30,000																																																																								
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A	Participant Accident			KPK0028127900	12-01-AM 4/25/18	12-01-AM 4/25/18	AD&D	1,000																																																																								
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PRODUCER		<p>CONTACT</p> <p>PHONE: _____ FAX: _____</p> <p>(A/C No. Ext): _____ (A/C No): _____</p> <p>E-MAIL: _____</p> <p>ADDRESS: _____</p>			
INSURED		<p>INSURER(S) AFFORDING COVERAGE</p> <p>INSURER A: ABC INSURANCE COMPANY</p> <p>INSURER B: XYZ CASUALTY COMPANY</p> <p>INSURER C: _____</p> <p>INSURER D: _____</p> <p>INSURER E: _____</p> <p>INSURER F: _____</p>			
COVERAGES		CERTIFICATE NUMBER: 1895487		REVISION NUMBER: _____	
<p>THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERMIT, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. NC=NOT COVERED.</p>					
INSUR	TYPE OF INSURANCE	ADDL INSD	SUB INSD	POLICY NUMBER	POLICY PERIOD (MM/DD/YYYY)
B	<p>COMMERCIAL GENERAL LIABILITY</p> <p>CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR</p> <p>OWNERS & CONTRACTORS</p> <p>GEN'L AGGREGATE LIMIT APPLIES PER:</p> <p>POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC</p> <p>OTHER: _____</p>			KE00006922000	12:01AM 4/25/18
					<p>LIMITS</p> <p>EACH OCCURRENCE 100,000</p> <p>DAMAGE TO RENT OF PREMISES (If applicable) 30,000</p> <p>MED EXP (Any one person) NC</p> <p>PERSONAL & ADV INJURY 1,000,000</p> <p>GENERAL AGGREGATE NONE</p> <p>PRODUCTS-COMMOP AGG 500,000</p> <p>Part Lgl Liab 1,000,000</p>
	<p>AUTOMOBILE LIABILITY</p> <p>ANY AUTO <input checked="" type="checkbox"/></p> <p>OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS</p> <p>HIRE AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY</p>				
					<p>COMBINED SINGLE LIMIT (See Accidents) \$1,000,000</p> <p>BODILY INJURY (Per person)</p> <p>BODILY INJURY (Per accident)</p> <p>PROPERTY DAMAGE (Per accident)</p>
B	<p>UMBRELLA LIAB</p> <p>EXCESS LIAB <input checked="" type="checkbox"/> CLAIMS-MADE</p> <p>DED <input type="checkbox"/> RETENTION</p>			XX00006922700	12:01AM 4/25/18
					<p>EACH OCCURRENCE 200,000</p> <p>AGGREGATE 200,000</p>
	<p>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</p> <p>ANY PROFESSIONAL SERVICES EXCLUDED? (Mandatory in NH) (If yes, describe under DESCRIPTION OF OPERATIONS below)</p> <p>Y/N</p>				
					<p>PER-STATUTE</p> <p>OTHER</p> <p>E.L. EACH ACCIDENT</p> <p>E.L. DISEASE - EA EMPLOYEE</p> <p>E.L. DISEASE - POLICY LIMIT</p>
A	Participant Accident			KPX002812790	12:01AM 4/25/18
					<p>ADD</p> <p>Primary Medical 10,000</p> <p>NC</p> <p>Excess Medical 1,000,000</p> <p>Weekly Indemnity NC</p>
<p>DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, may be attached if more space is required)</p> <p>ANNUAL PROOF OF COVERAGE</p>					
CERTIFICATE HOLDER				CANCELLATION	
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4. Certificates

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		PHONE (A/C No. Ext):		FAX (A/C, No):	
		E-MAIL ADDRESS:			
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COVERAGES

CERTIFICATE NUMBER

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					<p>LIMITS</p> <p>EACH OCCURRENCE 100,000</p> <p>DAMAGE TO RENT OF PREMISES (If applicable) 30,000</p> <p>MED EXP (Any one person) NC</p> <p>PERSONAL & ADV. INJURY 1,000,000</p> <p>GENERAL AGGREGATE NONE</p> <p>PRODUCTS-COMMOP AGG 500,000</p> <p>Part Lgl Liab 1,000,000</p>
	<p>AUTOMOBILE LIABILITY</p> <p><input checked="" type="checkbox"/> ANY AUTO</p> <p>OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS</p> <p>HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY</p>				
					<p>COMBINED SINGLE LIMIT (Per accident) \$1,000,000</p> <p>BODILY INJURY (Per person)</p> <p>BODILY INJURY (Per accident)</p> <p>PROPERTY DAMAGE (Per accident)</p>
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	<p>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</p> <p>ANY PROFESSIONAL SERVICES EXCLUDED? (Mandatory in NH)</p> <p>(If yes, describe under DESCRIPTION OF OPERATIONS below)</p>				
					<p>PER-STATUTE OTHER</p> <p>E.L. EACH ACCIDENT</p> <p>E.L. DISEASE - EA EMPLOYEE</p> <p>E.L. DISEASE - POLICY LIMIT</p>
A	Participant Accident			KPX002812790	12:01AM 4/25/17 - 12:01AM 4/25/18
					<p>ADD</p> <p>Primary Medical 10,000</p> <p>NC</p> <p>Excess Medical 1,000,000</p> <p>Weekly Indemnity NC</p>
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, may be attached if more space is required)					
ANNUAL PROOF OF COVERAGE					
CERTIFICATE HOLDER				CANCELLATION	
				<p>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</p> <p>AUTHORIZED REPRESENTATIVE: Scott Kunkel</p>	



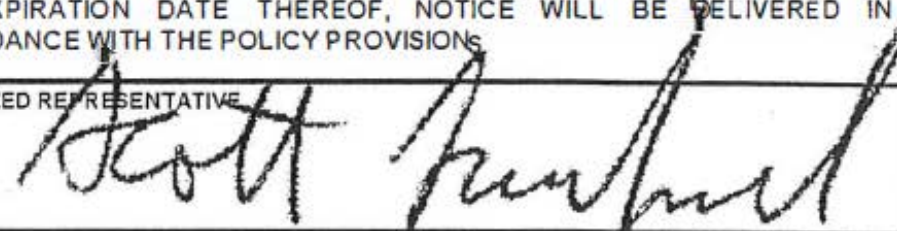
4. Certificates

COVERAGES		CERTIFICATE NUMBER: 1895487		REVISION NUMBER:		
<p>THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. NC=NOT COVERED</p>						
INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY) POLICY EXP (MM/DD/YYYY)	LIMITS
B	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <u>Owners & Contractors</u> GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:			KEO0006922000	12:01AM 4/25/17 12:01AM 4/25/18	EACH OCCURRENCE 1000000 DAMAGE TO RENTED PREMISES (Ea occurrence) 300000 MED EXP (Any one person) NC PERSONAL & ADV INJURY 1000000 GENERAL AGGREGATE NONE PRODUCTS-COMP/OP AGG 5000000 Part Lgl Liab 1000000
	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY					COMBINED SINGLE LIMIT (Ea Accident) \$1,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
B	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION			XKO0006922700	12:01AM 4/25/17 12:01AM 4/25/18	EACH OCCURRENCE 2000000 AGGREGATE 2000000
	WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A			PER-STATUTE OTHER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT
A	Participant Accident			KPX0028127900	12:01AM 4/25/17 12:01AM 4/25/18	AD&D 10000 Primary Medical NC Excess Medical 100000 Weekly Indemnity NC

4. Certificates

ACORD		CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY)		
<p>THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.</p> <p>IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).</p>						
PRODUCER		<p>CONTACT</p> <p>PHONE: (A/C No. Ext): FAX: (A/C No.)</p> <p>E-MAIL: ADDRESS:</p> <p>INSURER(S) AFFORDING COVERAGE: NAIC #</p>				
INSURED		<p>INSURER A: ABC INSURANCE COMPANY</p> <p>INSURER B: XYZ CASUALTY COMPANY</p> <p>INSURER C:</p> <p>INSURER D:</p> <p>INSURER E:</p> <p>INSURER F:</p>				
COVERAGES		CERTIFICATE NUMBER: 1895487		REVISION NUMBER:		
<p>THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERMIT, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. NC=NOT COVERED.</p>						
INSURER	TYPE OF INSURANCE	ADDL. INS.	SUBS. INSD.	POLICY NUMBER	POLICY PERIOD (MM/DD/YYYY)	LIMITS
B	<p>COMMERCIAL GENERAL LIABILITY</p> <p>CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR</p> <p>OWNERS & CONTRACTORS</p> <p>GEN'L AGGREGATE LIMIT APPLIES PER:</p> <p>POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC</p> <p>OTHER:</p>			KE00006922000	12:01AM 4/25/18	<p>EACH OCCURRENCE 100,000</p> <p>DAMAGE TO RENT OF PREMISES (If applicable) 300,000</p> <p>MED EXP (Any one person) NC</p> <p>PERSONAL & ADV. INJURY 1,000,000</p> <p>GENERAL AGGREGATE NONE</p> <p>PRODUCTS-COMMOP AGG 500,000</p> <p>Part Lgl Liab 1,000,000</p>
	<p>AUTOMOBILE LIABILITY</p> <p><input checked="" type="checkbox"/> ANY AUTO</p> <p>OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS</p> <p>HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY</p>					<p>COMBINED SINGLE LIMIT (Ex. Accidents) \$1,000,000</p> <p>BODILY INJURY (Per person)</p> <p>BODILY INJURY (Per accident)</p> <p>PROPERTY DAMAGE (Per accident)</p>
B	<p>UMBRELLA LIAB</p> <p>EXCESS LIAB</p> <p>DED. RETENTION</p>			XX00006922700	12:01AM 4/25/18	<p>EACH OCCURRENCE 200,000</p> <p>AGGREGATE 200,000</p>
	<p>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</p> <p>ANY PROFESSIONAL SERVICES EXCLUDED?</p> <p>(Mandatory in NH)</p> <p>(If yes, describe under DESCRIPTION OF OPERATIONS below)</p>					<p>PER-STATUTE OTHER</p> <p>E.L. EACH ACCIDENT</p> <p>E.L. DISEASE - EA EMPLOYEE</p> <p>E.L. DISEASE - POLICY LIMIT</p>
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CERTIFICATE HOLDER				CANCELLATION		
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4. Certificates

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, may be attached if more space is required)	
ANNUAL PROOF OF COVERAGE	
CERTIFICATE HOLDER	CANCELLATION
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	AUTHORIZED REPRESENTATIVE 

ACORD 25 (2016/03)

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Before You Go

- **Primary & Non-contributory**
- **Watch for large deductibles or SIRs**
- **What is 25/50/25 (or similar) on auto policies?**

Auto Policy Limits

Third Party (Liability):

25

/

50

/

25

BI – Per Person

/

BI – Per Accident

/

PD – Per Accident

\$25,000

/

\$50,000

/

\$25,000

Before You Go

- **Primary & Non-contributory**
- **Watch for large deductibles or SIRs**
- **What is 25/50/25 (or similar) on auto policies?**
- **What is CSL**
- **Is Builder's Risk needed? If so, who secures it?**



Thank you!!

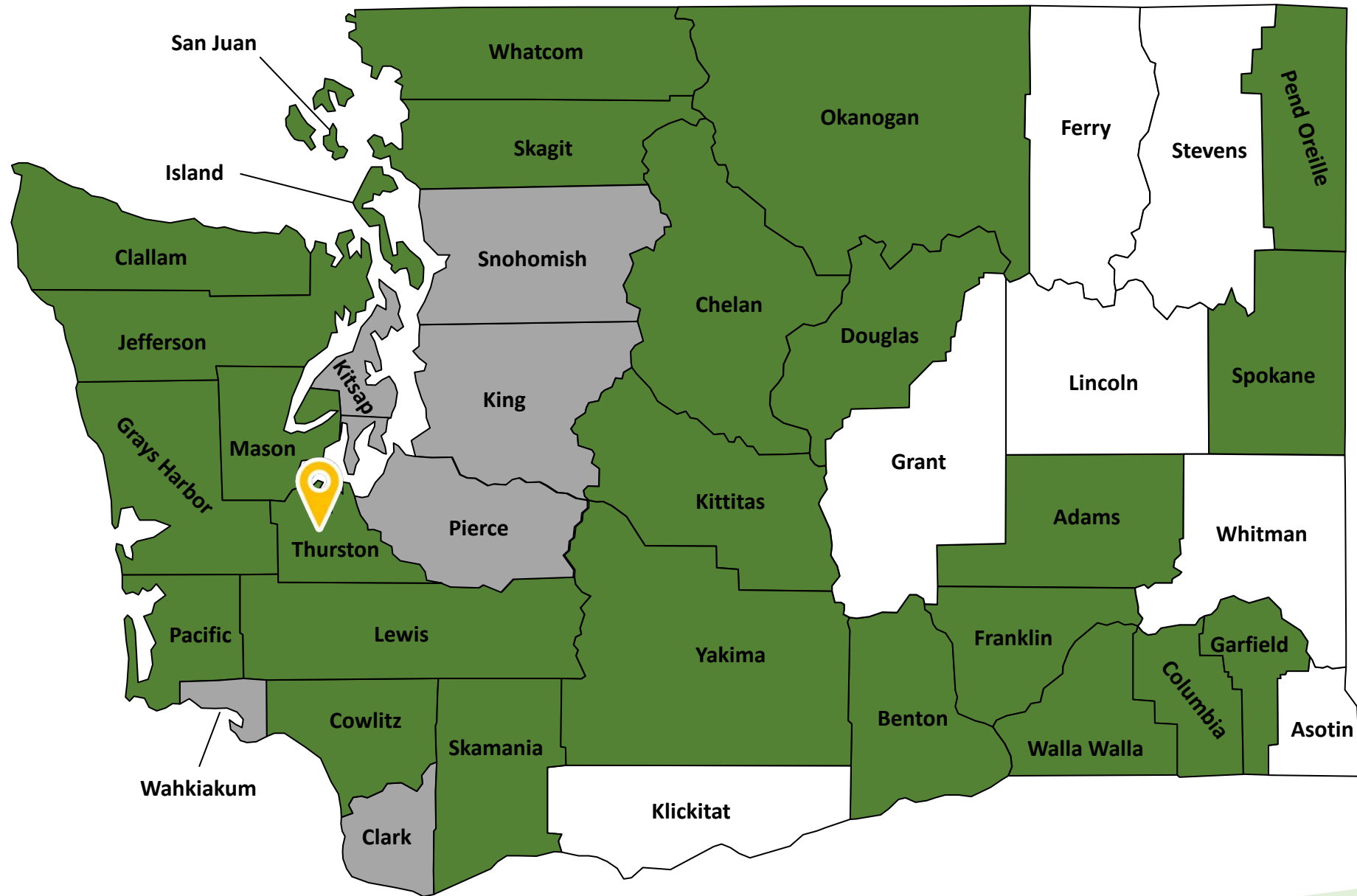


WASHINGTON COUNTIES
RISK POOL

RISK MANAGEMENT PROCESS

Patrick W. Conesa - Risk Analyst





What is Risk Management?

“The process of planning, organizing, leading, and controlling the activities of an organization; In order to minimize the adverse effects of accidental losses (exposures) on that organization at a reasonable cost.”

(Essentials of the Risk Management Process ARM 54 Text, Insurance Institute of America)

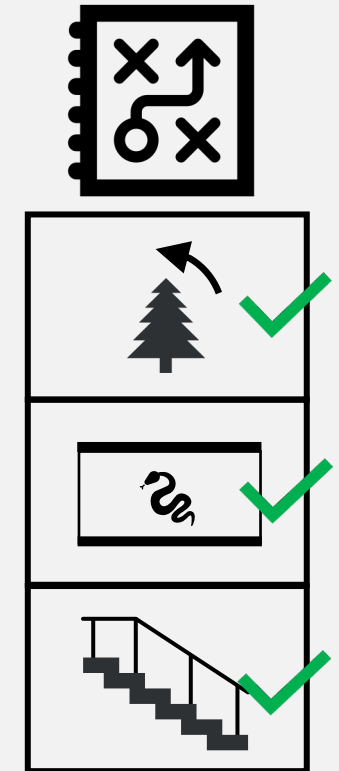
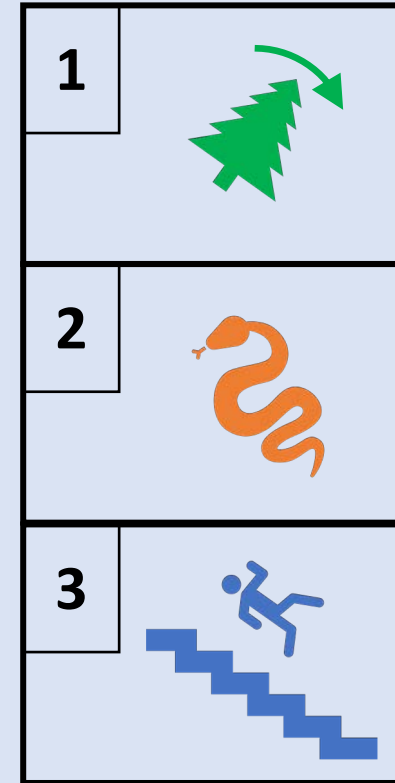
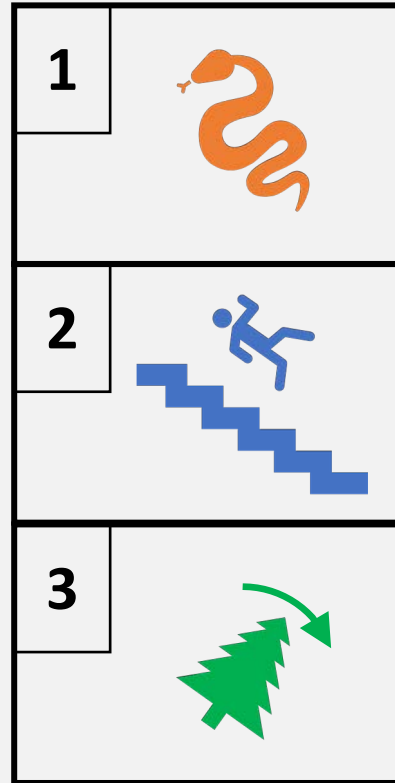
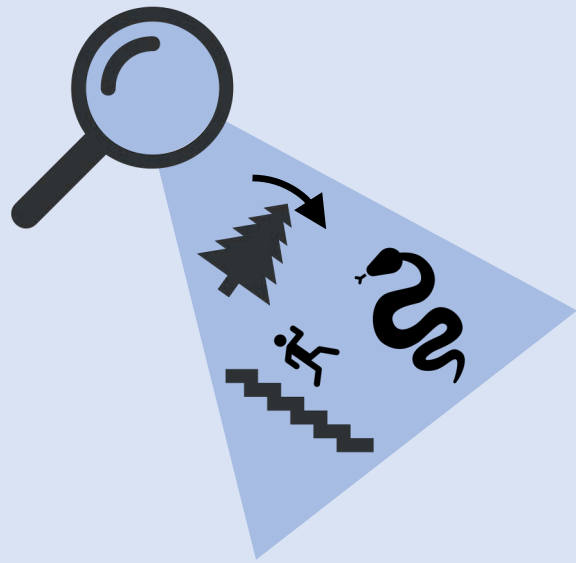
Risk Management Process Broken Down

IDENTIFY

ASSESS

TREAT

IMPLEMENT



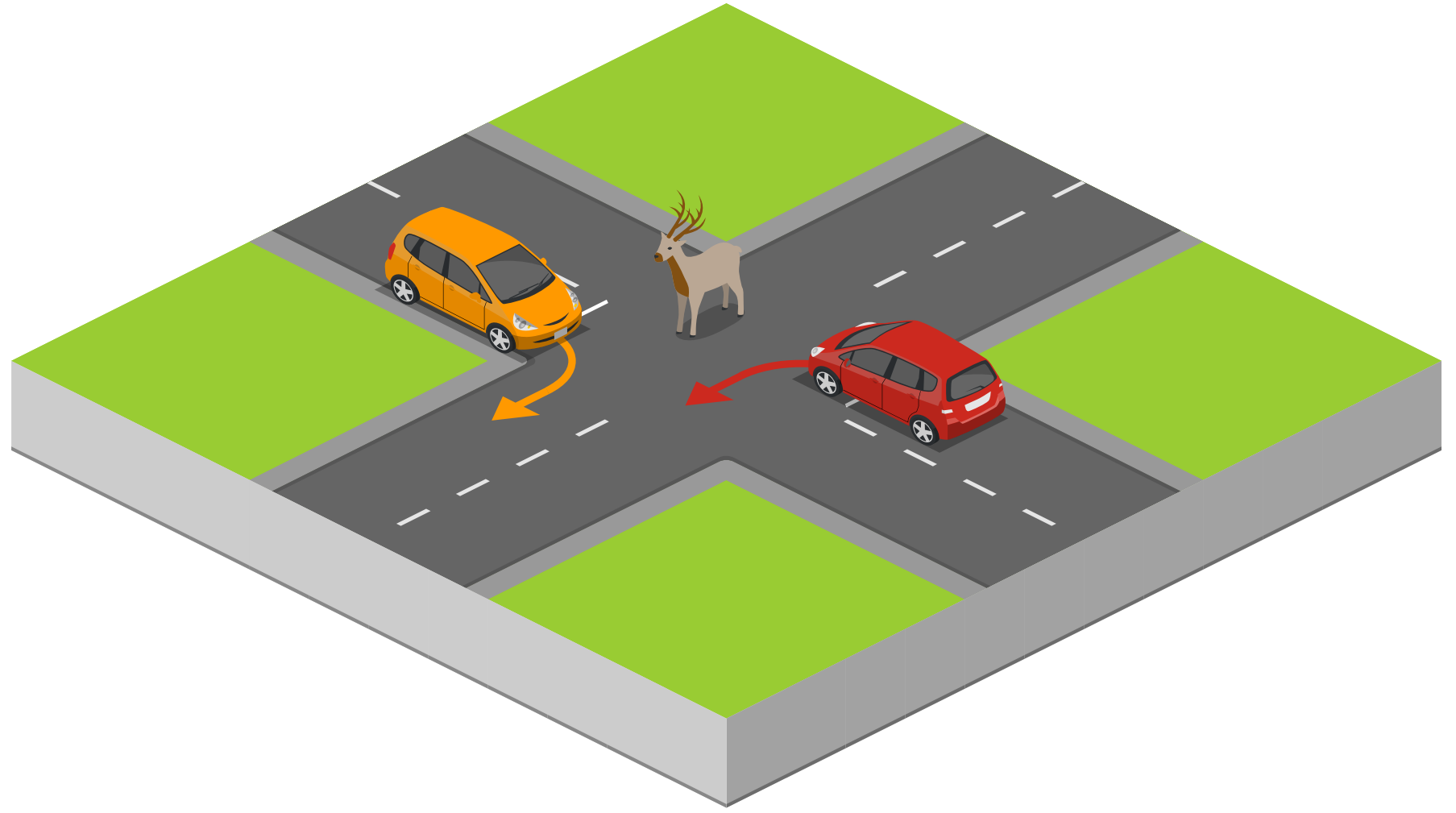
Everyday Risk Management

RISK vs. REWARDS



Everyday Risk Management

I.P.D.E.



What could cause an incident?

**What are
we missing???**



KNOWN vs. UNKNOWN

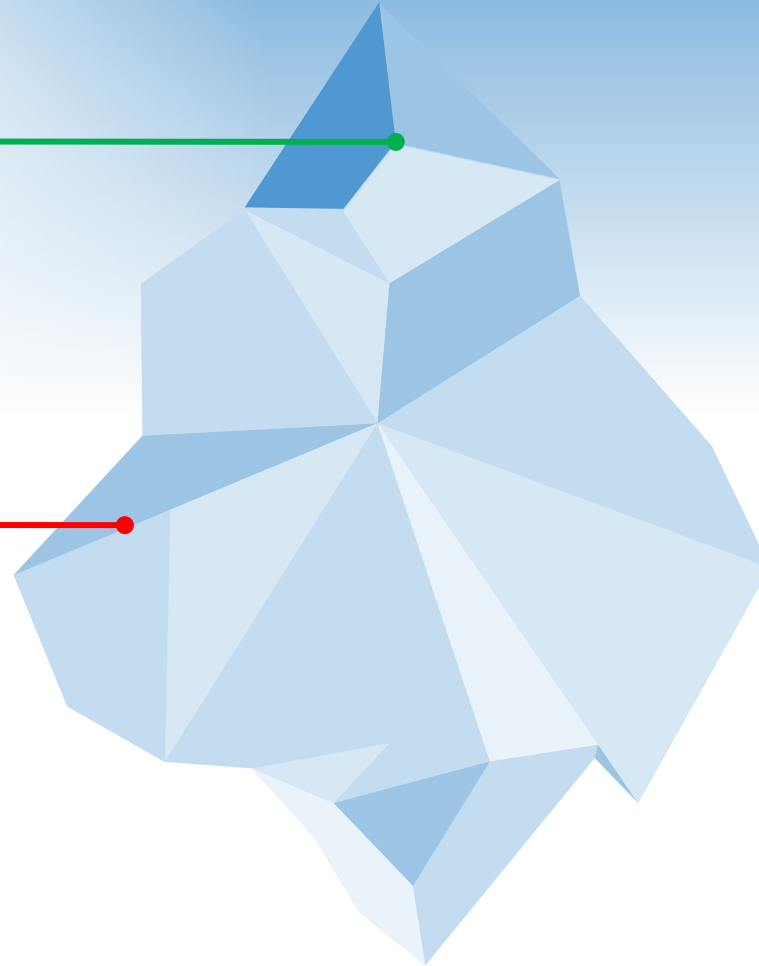
KNOWN RISKS

An illustration of an iceberg floating in a blue ocean under a blue sky with white clouds. The visible tip of the iceberg is labeled 'KNOWN RISKS' with a green line pointing to it. The much larger, submerged part of the iceberg is unlabeled, representing 'UNKNOWN' risks. The bottom of the image shows green land with a white coastline.

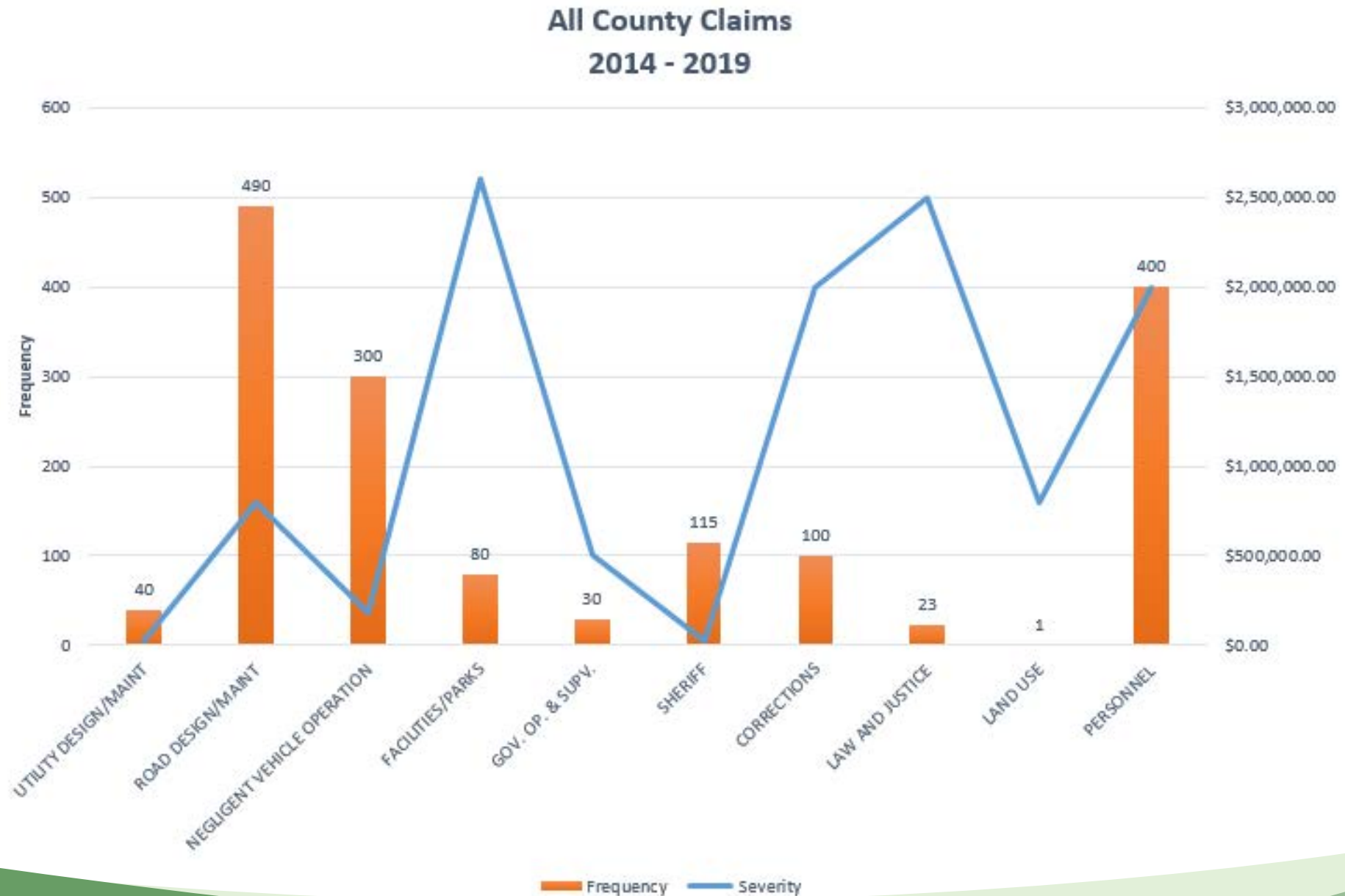
KNOWN vs. UNKNOWN

KNOWN RISKS

UN-KNOWN RISKS



How will that incident impact us?



Types of Risk Management

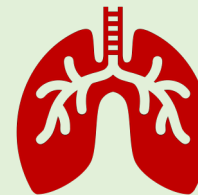
Traditional Risk Management



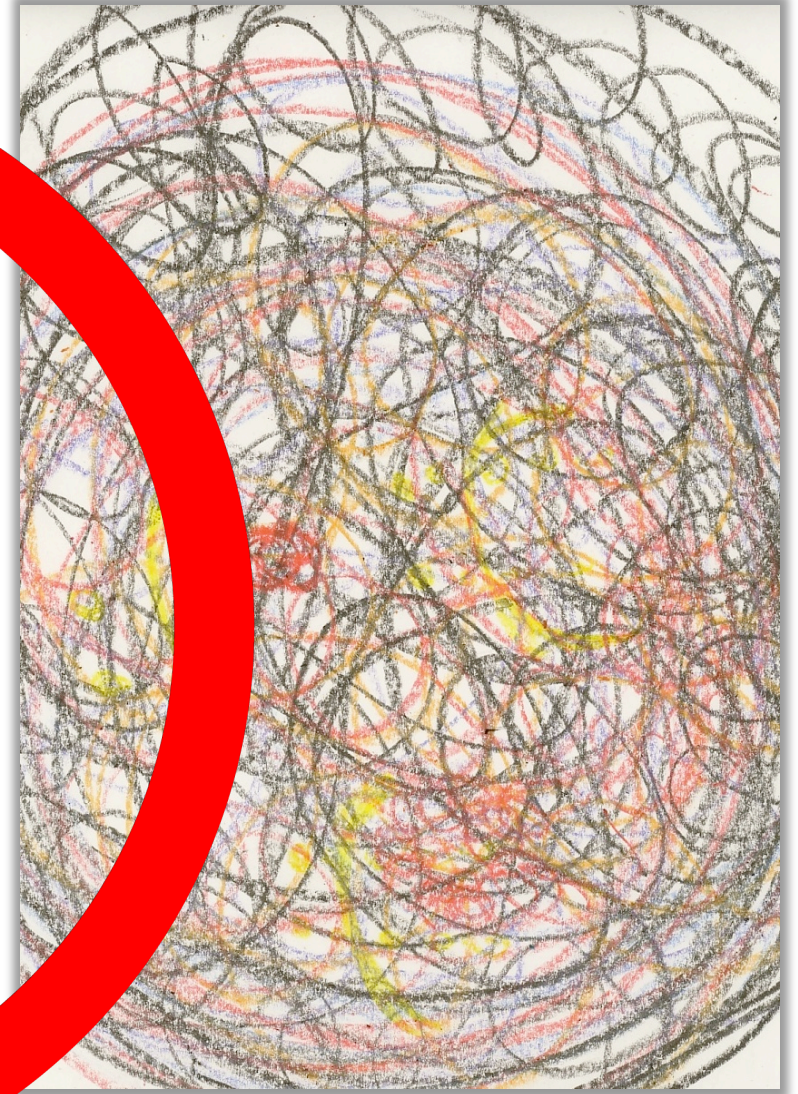
Enterprise Risk Management



Public Entity Risk Management



So Many Options



Risk Management Program

- Risk Financing Options
- Insurance Procurement
- Contract Review
- Program Management & Reporting
- Risk Identification
- Loss Prevention
- Loss Reduction

Loss Prevention Defined

LOSS PREVENTION

Preventing losses before they occur.



Awareness
Training



Protective
Equipment

Loss Reduction Defined

LOSS REDUCTION

Reducing the severity.



Sprinkler
Systems



Requiring
Seatbelts

Differences Between Public and Private Sector

Public Entities

- Provide essential functions.
- Have different exposures.
- Have legal requirements.
- Public interest in operations.
- Power to tax.
- Can be political scrutiny.
- Special tax status.
- Differing accounting procedures

Internal Partnerships

Safety Managers

Internal Auditors

Prosecuting Attorneys

Public Records Officers

Records Retention Officers

IT Employees

Facility Managers

Human Resource Managers

Emergency Management



External Partnerships



Washington Counties Risk Pool
Created by Counties for Counties

WE **ENERGIZE** THE POWER OF POOLING

AGRiP

ASSOCIATION OF GOVERNMENTAL RISK POOLS



**Public Risk
Management
Association**

Five Step Risk Management Process

1. Identify & Analyze Loss Exposures
2. Examine Risk Management Alternatives
3. Select Among Risk Management Alternatives
4. Implement Chosen Risk Management Technique
5. Monitor And Improve Risk Management Program

Public Entity Risk Management



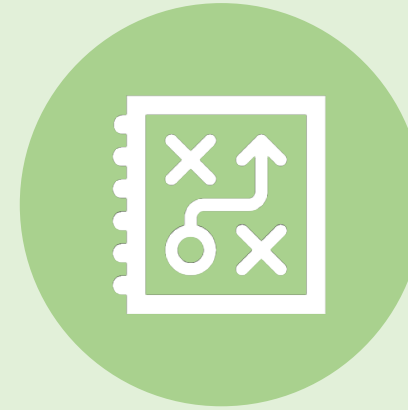
**1. IDENTIFY
EXPOSURES**



**2. EXAMINE
ALTERNATIVES**



**3. SELECT
ALTERNATIVES**



**4. IMPLEMENT
TECHNIQUES**



**5. MONITOR
RESULTS**

Remember:

IESIM

Independent
Engineer
Speedily
Impresses
Management

STEP 1: Identify & Analyze Loss Exposures



1. IDENTIFY EXPOSURES

Identification Tool Categories:

- Documents
- On-site Visits
- Regulatory Compliance
- Claims Reporting & Analysis
- Education & Training
- Monitor & Control
- Agreements

STEP 1: Identify & Analyze Loss Exposures



1. IDENTIFY EXPOSURES

Identification Tool Categories:

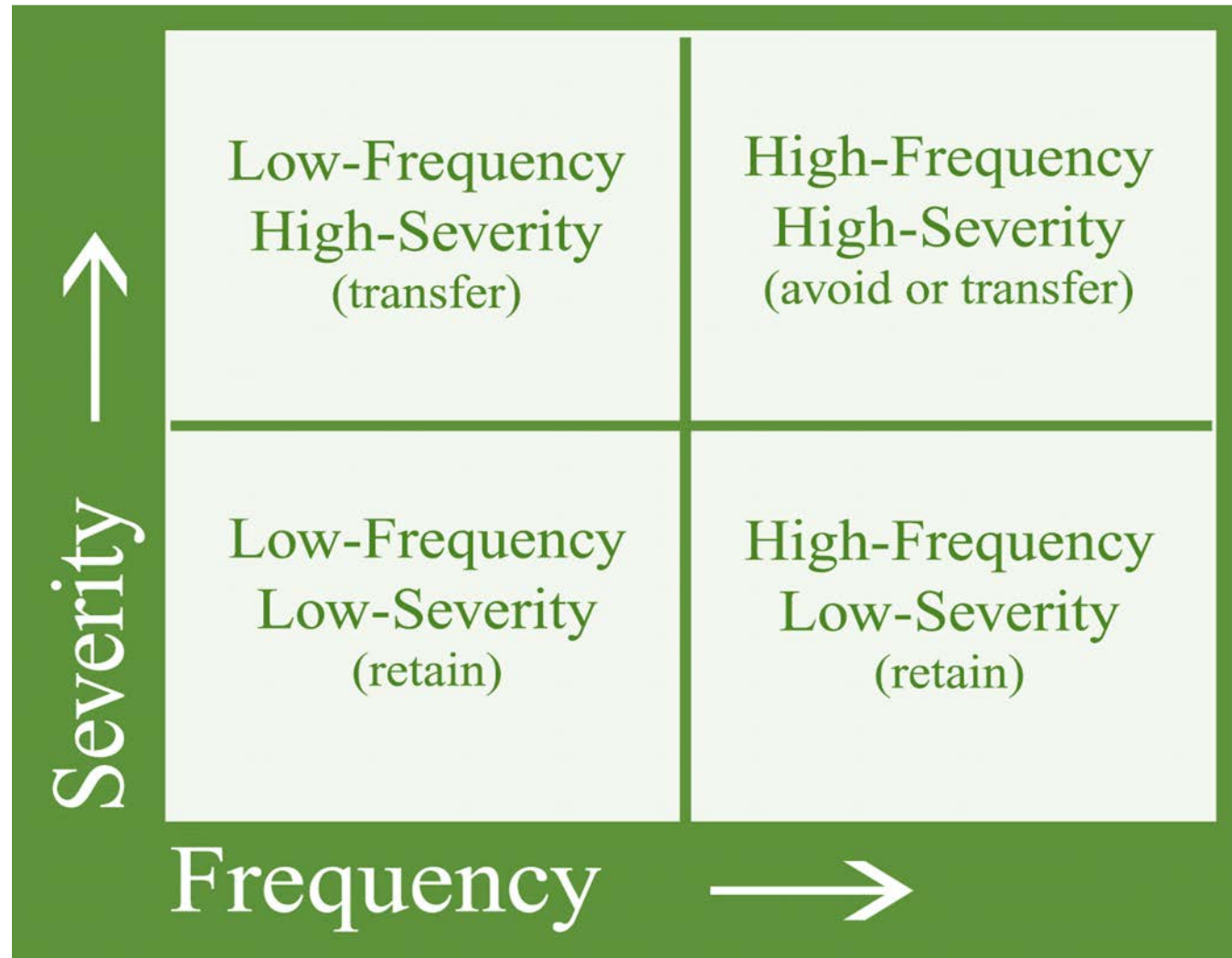
Documents

- Risk Management
- Financial
- Contracts
- Legal & Public Notices
- Administrative
- Official Proceedings
- Annual Reports
- Ordinances

STEP 1: Identify & Analyze Loss Exposures



1. IDENTIFY EXPOSURES



STEP 2: Examine Risk Management Alternatives



2. EXAMINE ALTERNATIVES

What are our options?

- Avoidance
- Reduce the Likelihood
- Reduce the Impact
- Segregation or duplication
- Contractual Transfer

STEP 3: Select Risk Management Alternatives



3. SELECT ALTERNATIVES

How do we choose?

- Evaluation Techniques
- Frequency/Severity of Claims
- Publications/Periodicals/Other Universities
- Political/Litigation Climate
- Anticipate

STEP 3: Continued

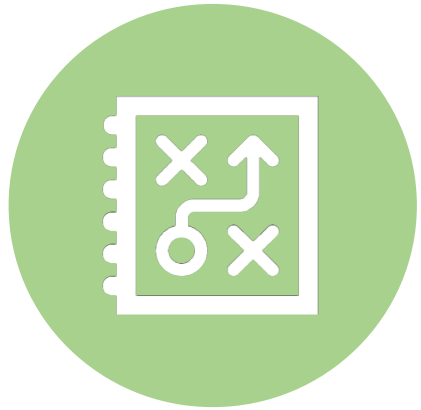


3. SELECT ALTERNATIVES

Mitigation Options

- Control It (prevention & detection techniques)
- Share It (co-source; warrants; guarantees)
- Transfer It (insurance; hold harmless contracts)
- Avoid It (process re-design; eliminate process)
- Accept It (cost/benefit analysis)
- Residual Risk (Opportunity To Manage)

STEP 4: Implement Risk Management Technique



- Management Support
- Documentation and Notification
- Governing Board Approval for Major Actions
- Develop Policies and Procedures

4. IMPLEMENT TECHNIQUES

STEP 5: Monitor/Improve Program



5. MONITOR RESULTS

- Compare Actual Results to Anticipated Results
- Consider Environmental Changes
- Keep Records/Documents
- Document Decision Making Process
- Maintain a Safety/Loss Control Program
- Continue to Monitor Results
- Start over at Step 1 !!!

IF NOTHING ELSE, REMEMBER:

IESIM

Exposure Identification

- Systematic process for examining the financial, physical, and human values of an entity.
- ID's how the values could be impaired by an accident.
- Estimating the consequences that such an accident would have for the public entity.

How are we exposed to liability; in everything we do?

Exposure Identification

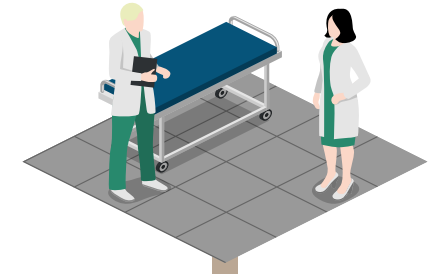
- The **activities** being conducted
- The **types** of potential claims
- The **likelihood** of claims
- The **severity** of claims



RECREATION



EMERGENCY



MEDICAL

AGRICULTURE



PUBLIC WORKS



Common Public Sector Exposures

- Human Resources
- Vehicles and Equipment
- Public and Historical Records
- Communications Equipment
- Taxes, Money, and Fees
- Regulatory Activities
- Public Use Facilities
- Recreational Facilities
- Law Enforcement
- Utilities

* Exposures are Based on RMPE 352

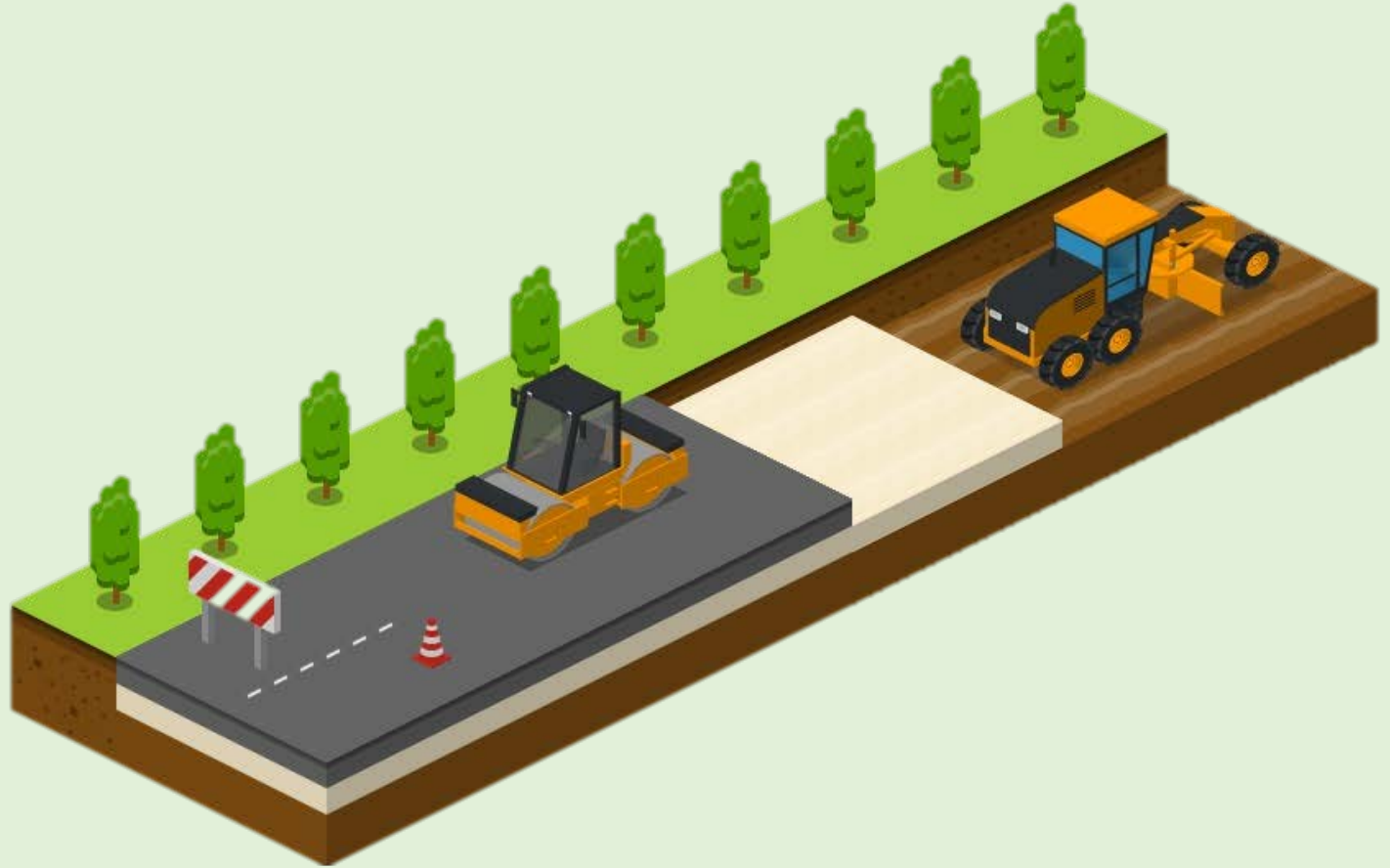
WCRP Top Exposure Categories

- Road Operations
- Regulatory Activities
- Public Use Facilities
- Transportation
- Recreation
- Operations/Administration
- Utilities
- Public Education
- Law Enforcement
- Transportation

Top Exposure Categories

Road Operations

- Roadways
- Road Infrastructure
- Signals and Lights
- Parking Structures
- Open Parking
- Snow Removal



Top Exposure Categories

Law Enforcement

- Correctional Facilities
- K9 Deployment
- Shooting Ranges
- Negligent Driving
- Excessive Force
- Drone / UAV
- Medical Malpractice
- Evidence Mis-handling
- Mis-conduct
- PREA



Top Exposure Categories

Recreation

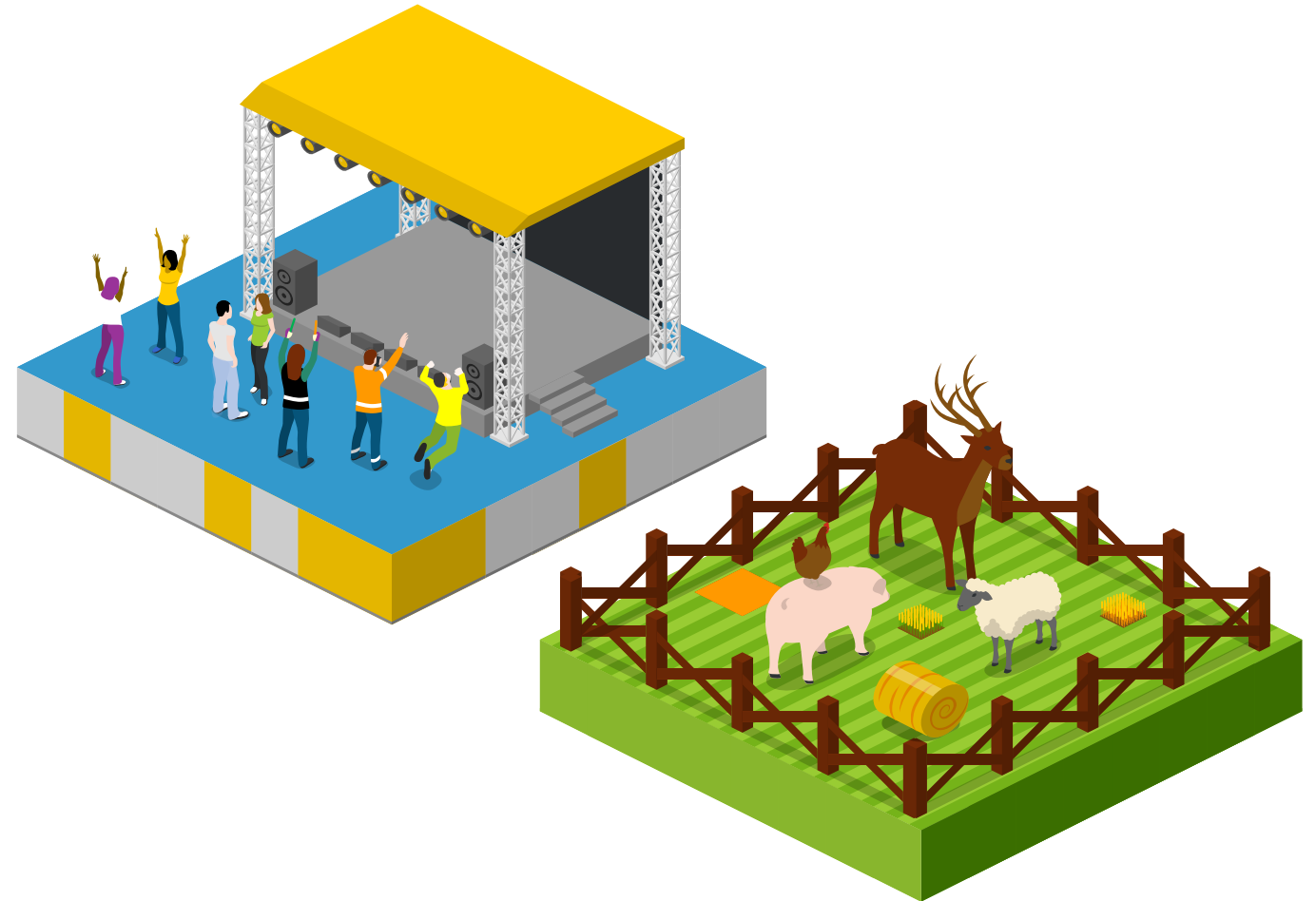
- Parks
- Playgrounds
- Golf Courses
- Swimming Pools
- Waterfront Areas
- Bicycle Paths
- Hiking Trails



Top Exposure Categories

Public Use Facilities

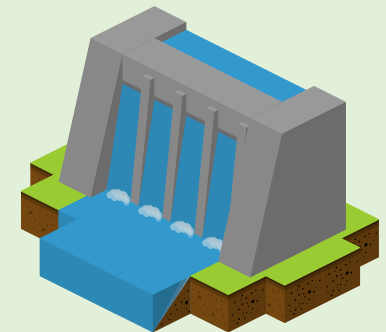
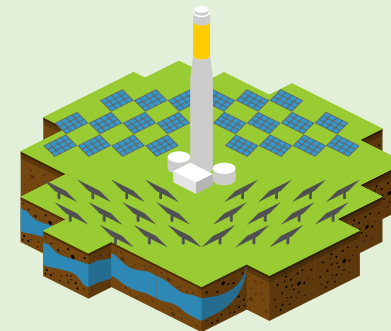
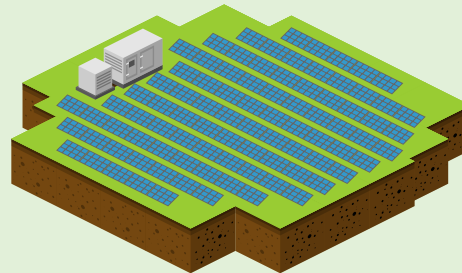
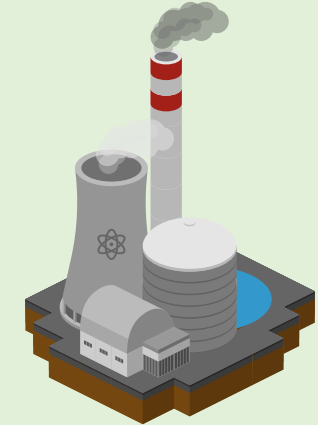
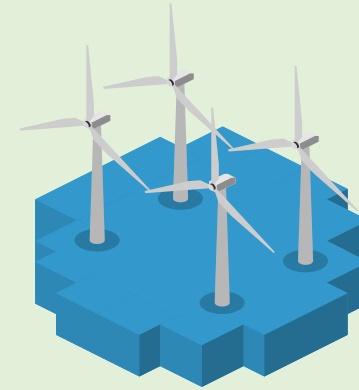
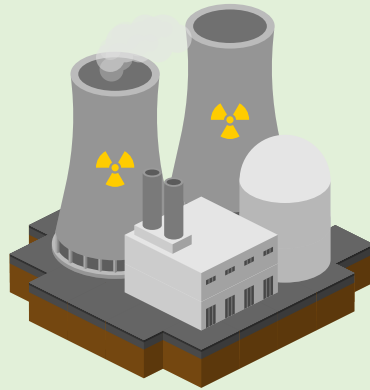
- Museums
- Libraries
- Zoos
- Stadiums
- Convention centers
- Historical Properties
- Community Centers
- Cemeteries



Top Exposure Categories

Utilities

- Water Services
- Sewage Services
- Pumping & Lift Stations
- Power Plants
- Dams
- Incinerators
- Landfills
- Hazo House
- Transfer Stations



Top Exposure Categories

Transportation

- Public Transport
- Airports
- Ports
- Marine Terminals



Other Public Sector Exposures

Public Education

- Student Discipline
- Use of Buildings
- Volunteers
- Security
- Transportation
- Alcohol & Drugs
- Athletic Programs
- Field Trips
- Special Education

Operations/Administration

- Human Resources
- Vehicles & Equipment
- Data from Public Records
- Data from Historical Records
- Communications equipment
- Taxes and Fees
- Money & Securities

Regulatory Activities

- Ordinances
- Regulatory Services
- Licensing Services
- Inspections
- Public Services

Benefits of Risk Management

- Increases awareness while performing objectives.
- Puts focus on mission critical objectives.
- Clear understanding of responsibility & accountability.
- Improves cross-functional communication.
- Creates a sense of TEAM-OWNERSHIP.
- Early identification of risks.
- Identify mitigation options to proactively reduce exposure.

How to Incorporate Risk Mgmt

9 Step Process

Step 1: Establish Risk As a Priority for Every Employee

Step 2: Designate a Risk Team Leader

Step 3: Define the Scope and Goals of the Risk Team's Activities

Step 4: Establish an Analytical Framework

Step 5: Recruit Team Members

Step 6: Identify and Evaluate Risks

Step 7: Plot a Risk Map

Step 8: Create an Action Plan

Step 9: Implement and Monitor the Action Plan

Public Entity Risk Management



**1. IDENTIFY
EXPOSURES**



**2. EXAMINE
ALTERNATIVES**



**3. SELECT
ALTERNATIVES**



**4. IMPLEMENT
TECHNIQUES**



**5. MONITOR
RESULTS**

IF NOTHING ELSE, REMEMBER:

IESIM



Thank you!!



WHAT WCRP WANTS COUNTY ENGINEERS TO KNOW...

Derek Bryan - Executive Director
Patrick W. Conesa - Risk Analyst





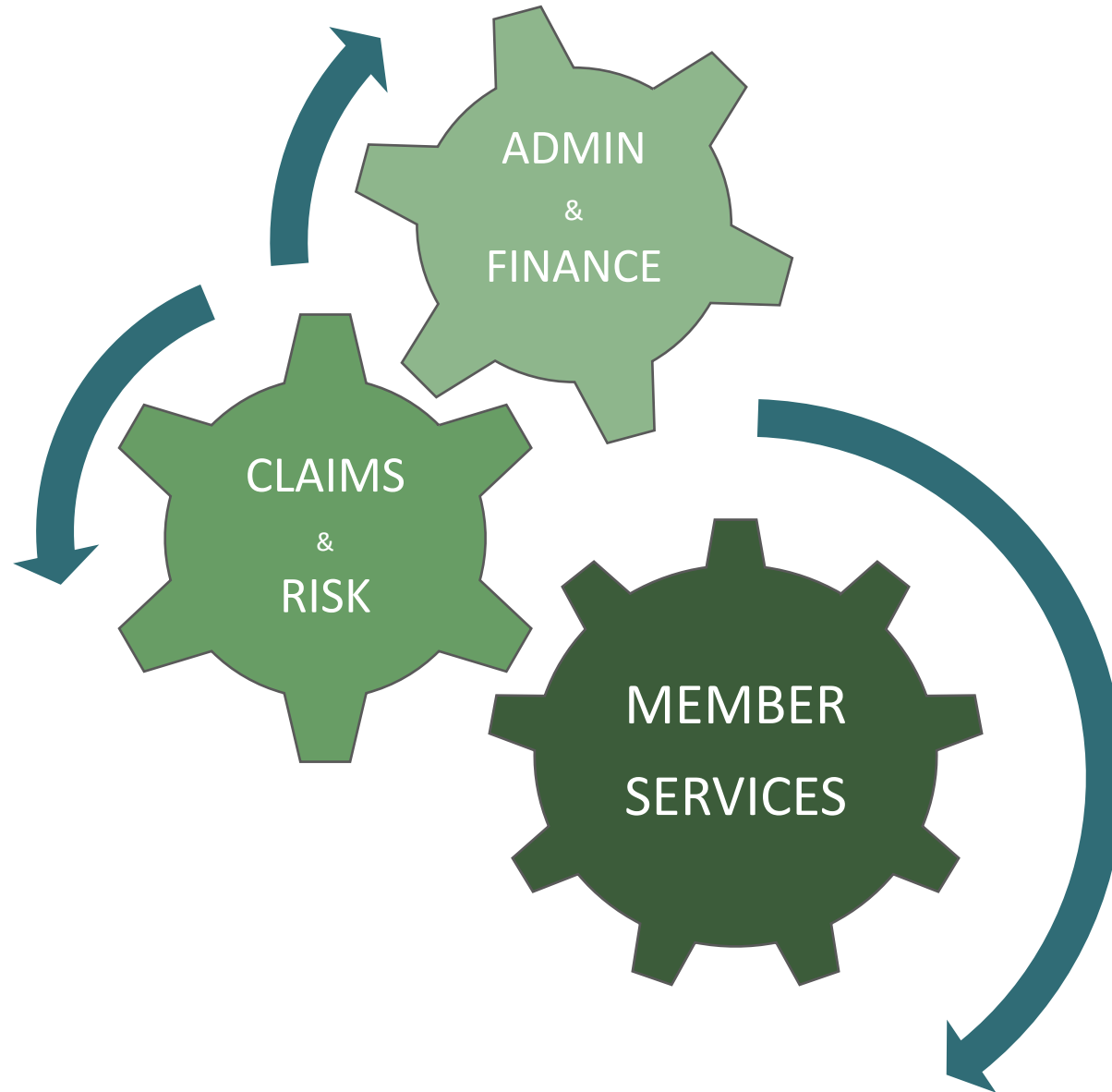
ABOUT THE WASHINGTON COUNTIES RISK POOL

Mission Statement

“To provide comprehensive and economical risk coverage...

...to reduce the frequency and severity of losses...

... to decrease the costs incurred in the management and litigation of claims.”



CLAIMS & COVERAGE

- Broad Coverage
- Experienced In-House Staff
- Member Involvement
- Aggressive Defense & Recovery

MEMBER SERVICES

- Conferences
- Scholarships
- Newsletters
- On-Line & In-Person Training

RISK MANAGEMENT

- Consulting
- Onsite Visits
- Contract Review
- Sample Policies & Manuals

FINANCIAL FOCUS

- Target-Based Funding
- Rate Stability
- Prudent Investing
- Regulatory Compliance
- Funding for the Future

Claims & Coverage

Liability

\$20M in limits
\$2M Pool SIR
\$500K County Deductible

First Party Property

\$500M in limits
\$100K Pool SIR
\$50K County Deductible

Cyber

\$2M in limits / \$10M aggregate
\$25K Pool SIR
\$0 County Deductible

County Appointed Positions

➤ **Claims Administrator**

- Coordinates member county claim reporting and administration.
- Keeps a log of all claims and lawsuits for the member county.
- Serves as liaison between the member county and the Pool's claims team.

➤ **Risk Manager**

- Oversees risk management function at county level
- Serves as liaison between the member county and the Pool's risk management program
- Reports county risk management efforts annually to the Pool
- Carries out the provisions of the Membership Compact

How Can We Help?

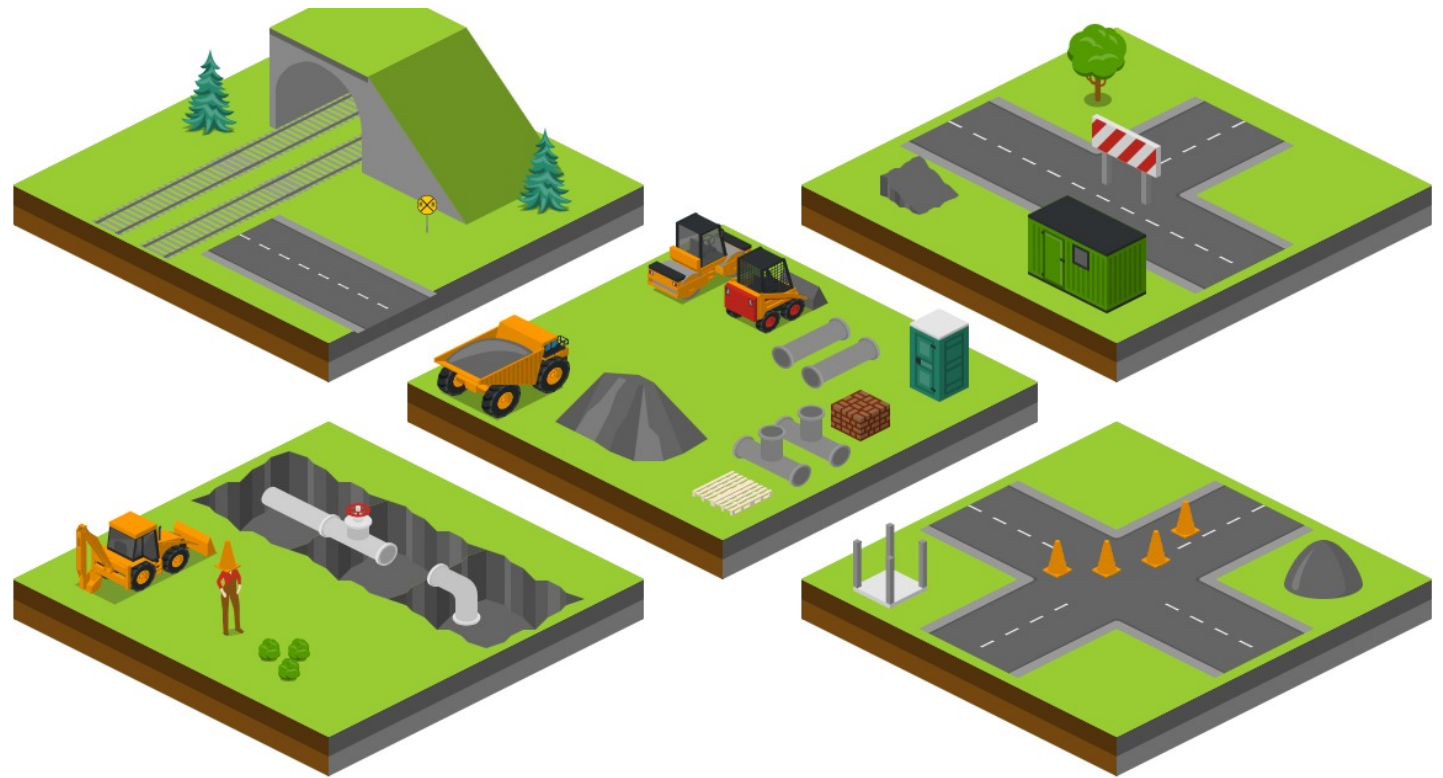
- More Training
- Increase Pre-Defense
- More Risk Management
- Efficient Claims Resolution
- Partnerships
- Take some cases to trial

How Can You Help?

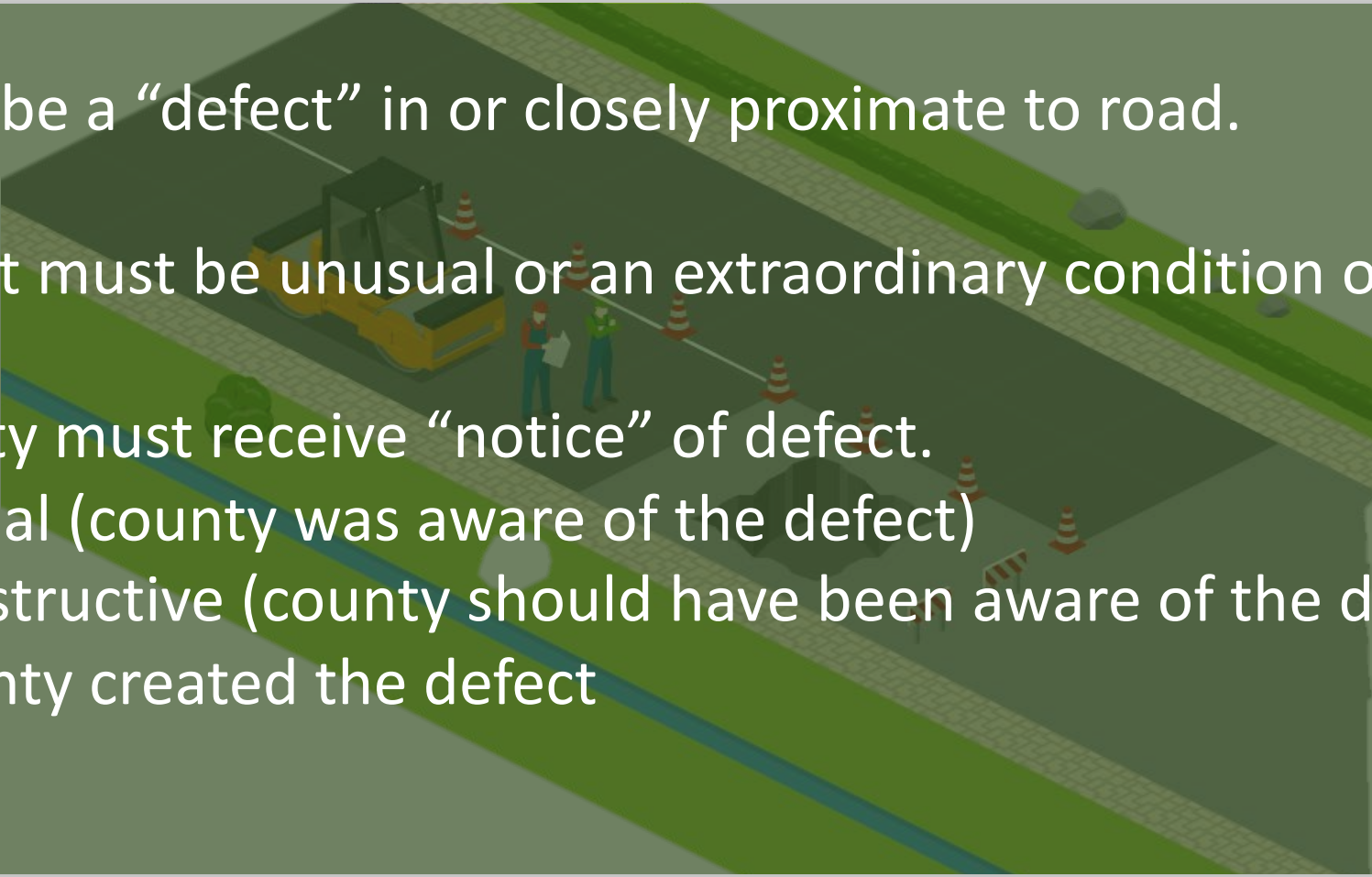
- Encourage a “Risk Management Culture”
- Communicate Internally
- Communicate Externally
- Use Pre-Defense Program
- Use your Risk Manager
- Don't wait

ENGINEERING EXPOSURES - Examples

- Surface Patching
- Depth Patching
- Chip Seal
- Asphalt Prelevel
- Crack Sealing
- Snow and Ice Removal
- Dust Control
- Blading Gravel Roads
- Cleaning Roadways
- Shoulder Work



Rules for Road Liability

- 
1. Must be a “defect” in or closely proximate to road.
 2. Defect must be unusual or an extraordinary condition or hazard.
 3. County must receive “notice” of defect.
 - Actual (county was aware of the defect)
 - Constructive (county should have been aware of the defect)
 - County created the defect

Rules for Road Liability

4. County has option to repair defect or to otherwise warn of its presence.

5. Warning signs required only if

- Required by law
- Road defect is inherently dangerous or misleading

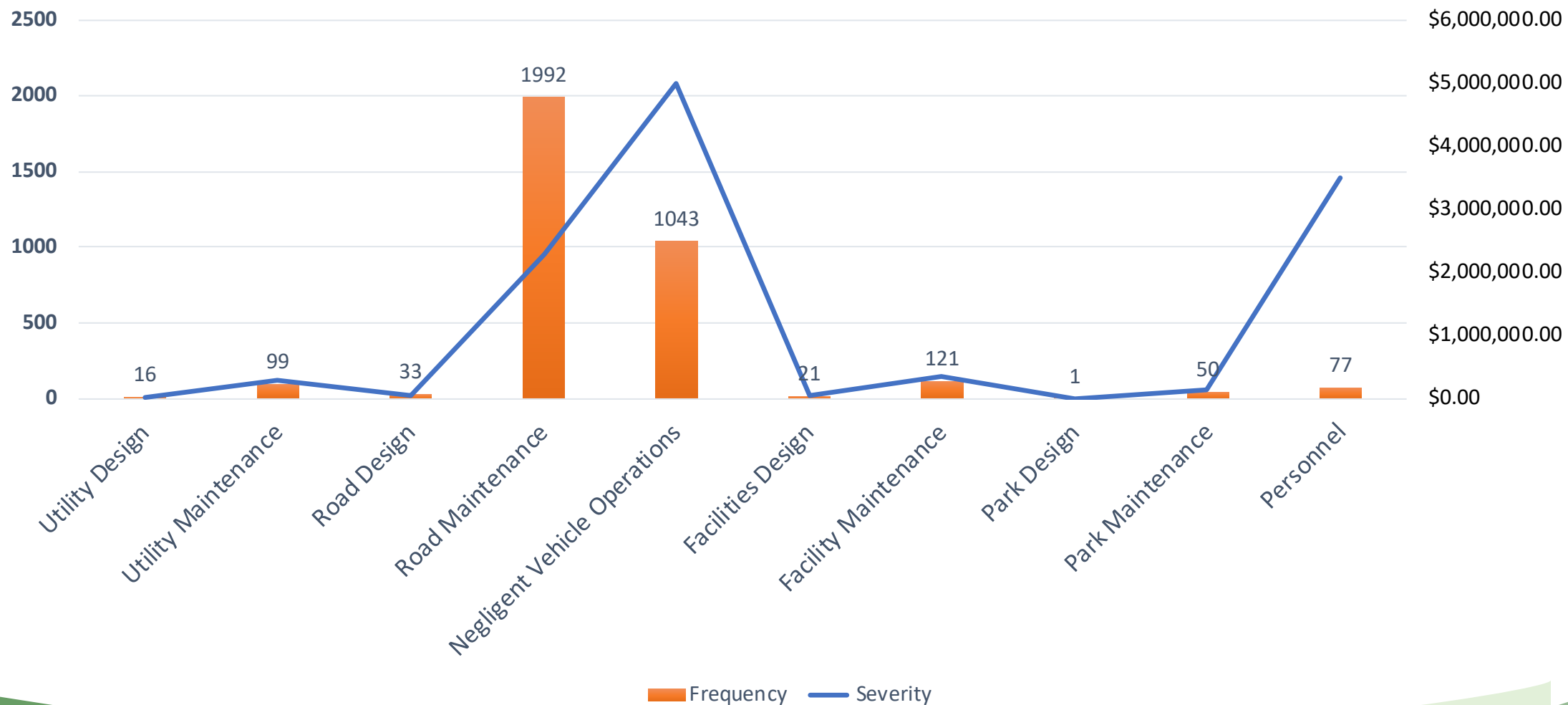
6. No duty to repair or warn of open and apparent road defects.

Top 10 Allegations

Allegation	Severity	Frequency
UTILITY DESIGN	\$30,000	16
UTILITY MAINTENANCE	\$300,000	99
ROAD DESIGN	\$60,000	33
ROAD MAINTENANCE	\$2,300,000	1992
NEGLIGENT VEHICLE OPERATION	\$5,000,000	1043
FACILITIES DESIGN	\$60,000	21
FACILITY MAINTENANCE	\$350,000	121
PARK DESIGN	\$0.00	1
PARK MAINTENANCE	\$140,000	50
PERSONNEL	\$3,500,000	77
TOTALS	\$11,740,000	3453

Where Are The Claims?

All County Claims
2010 - 2019



Frequency Severity

TOP 10 - Where Are The Claims?

Allegation	Severity	Frequency
UTILITY DESIGN	\$30,000	16
UTILITY MAINTENANCE	\$300,000	99
ROAD DESIGN	\$60,000	33
ROAD MAINTENANCE	\$2,300,000 ▲	1992
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PARK DESIGN	\$0.00	1
PARK MAINTENANCE	\$140,000	50
PERSONNEL	\$3,500,000	77
TOTALS	\$11,740,000	3453

TOP 10 - Where Are The Claims?



Allegation	Severity	Frequency
UTILITY MAINTENANCE	\$300,000	99
UTILITY DESIGN	\$30,000	16
TOTALS	\$330,000	115

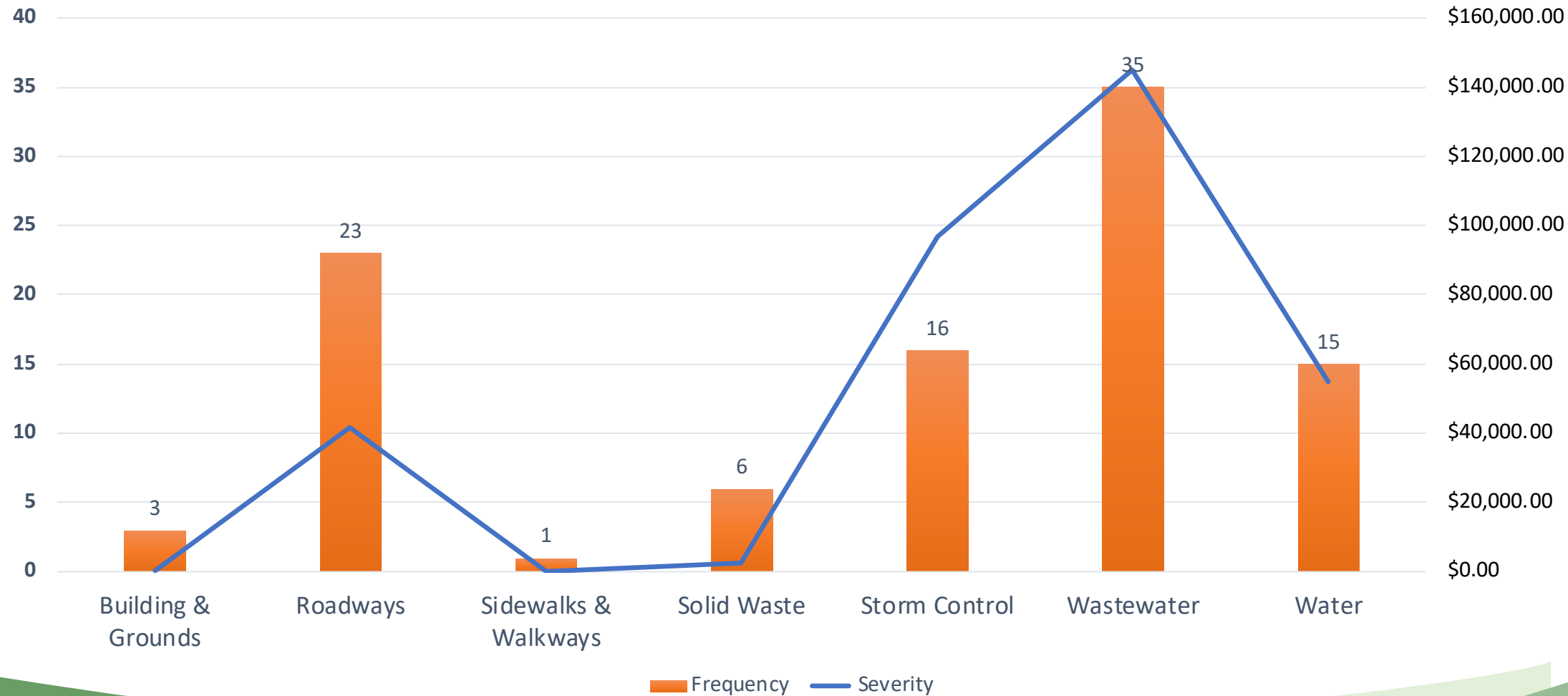
TOP 10 - Where Are The Claims?



Allegation	Severity	Frequency
UTILITY MAINTENANCE	\$300,000	99
Building & Grounds	\$500.00	3
Roadways	\$41,345.00	23
Sidewalks & Walkways	\$0.00	1
Solid Waste	\$2,500.00	6
Storm Control	\$97,000.00	16
Wastewater	\$145,000.00	35
Water	\$55,000.00	15
TOTALS	\$341,345.00	99

Where Are The Claims?

Utility Maintenance
2010 - 2019



TOP 10 - Where Are The Claims?

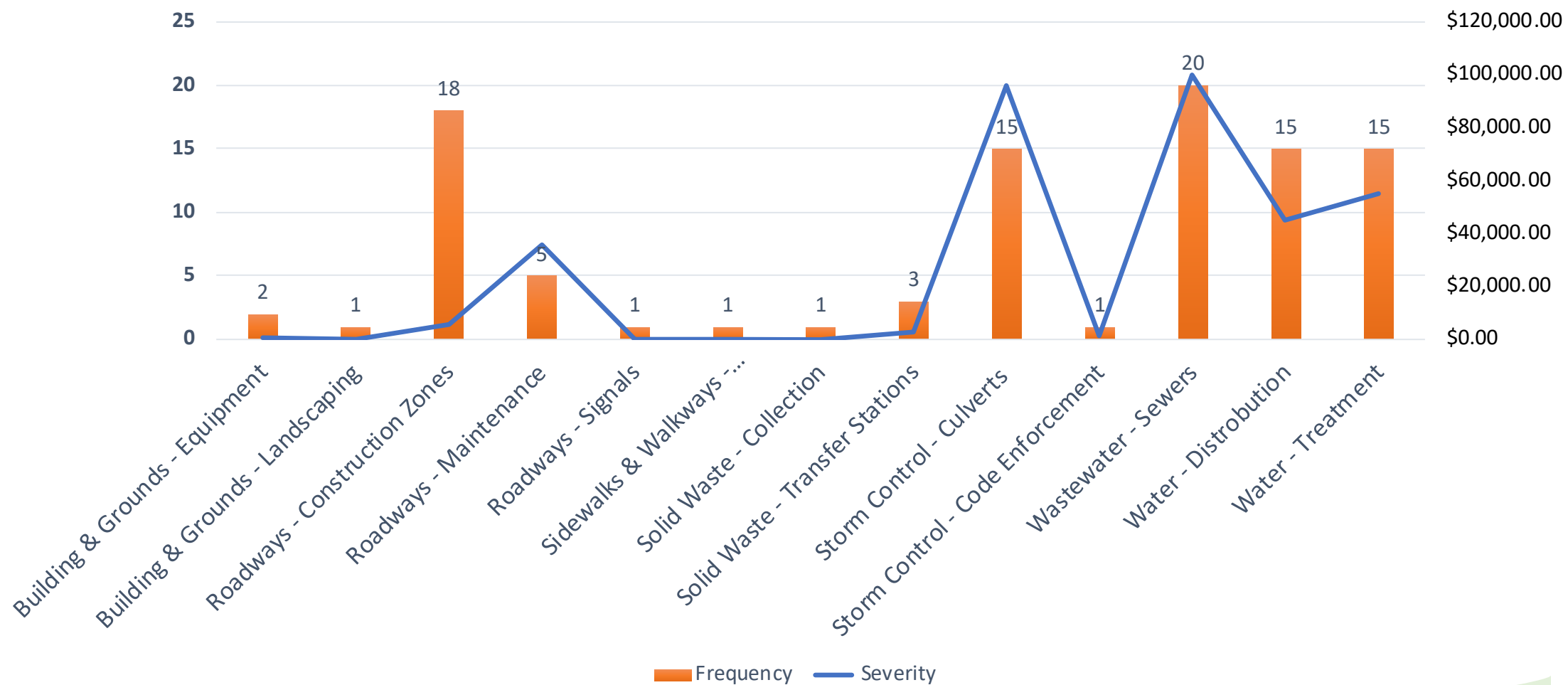
Allegation	Severity	Frequency
UTILITY MAINTENANCE	\$300,000	99
Building & Grounds	\$500.00	3
Roadways	\$41,345.00	23
Sidewalks & Walkways	\$0.00	1
Solid Waste	\$2,500.00	6
Storm Control	\$97,000.00	16
Wastewater	\$145,000.00	35
Water	\$55,000.00	15
TOTALS	\$341,345.00	99

TOP 10 - Where Are The Claims?

Allegation	Severity	Frequency
UTILITY MAINTENANCE	\$300,000	99
Building & Grounds	\$500.00	3
- Equipment	\$500.00	2
- Landscaping	\$0	1
TOTALS	\$500.00	3

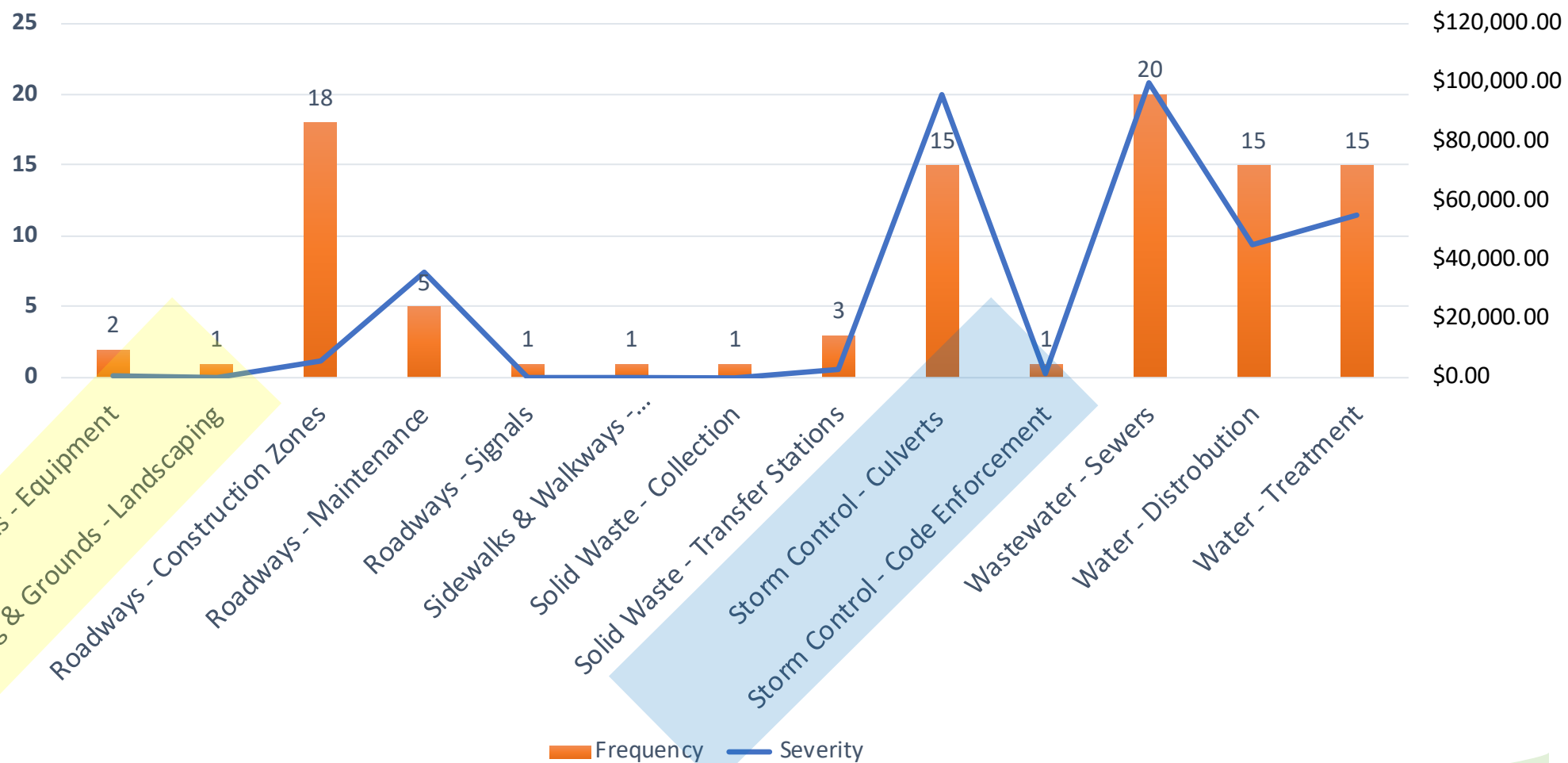
Where Are The Claims?

Utility Maintenance - Cont.
2010 - 2019



Where Are The Claims?

Utility Maintenance - Cont.
2010 - 2019



Where Are The Claims?

Operations/ Administration	Regulatory Activities	Health Care/Facilities	Utilities	Schools/ Colleges/ Universities
Administrative Codes	Background Checks	Alzheimer Care	Boilers And Chillers	On-Site Vendor Exposures
Agriculture	Building Codes	Biohazard Waste Disposal	Boring Companies	Adequate Supervision
Ada - Employment And Public Access- Related Issues	Building Inspections	Clinics	Cable/Fiber Optic Lines	Alumni
Animal Rights	Building Permits	Contagious Disease Control	Cell Phone Towers	Asbestos
Animal Waste	Charter Schools	Contagious Disease Control	Chemical Exposures	Athletics
Bad Decisions/ Indecision	Child Care Centers	Contracts With Health Care Providers	Communications Towers	Boards Of Trustees
Benefits Administration	Code Enforcement	Counselors	Dams	Bookstores
Building Permits	Departments Of Natural Resources	Dental Hygiene Clinics	Deregulation Of Utilities	Campus Monitors
Changes In Work Status (Promotion, Demotion, Job Titles)	Determining Of Boundaries	Dissection Lab	Domestic Water Drinking Systems	Campus Residences
Chemicals	Expulsions	Dnr Orders	Electricity Generation	Charter School Conversion
Civil Rights	Grant Compliance	Drug And Alcohol Centers	Emfs	Charter Schools
Code Compliance	Hazardous Materials Cleanup	Employee Assistance Programs (Eap)	Environmental Issues	Compliance Issues-Sports
Communication And Coordination Between	Healthcare-Related Licenses	Environmental Health	Failure To Supply	Crowd Control
Departments	Hunting And Fishing Licenses	Good Samaritan Laws	Flood Control	Curriculum
Competitive Bids And Procurement Operations; Rfps	Insurance Company Licensing	Home Visit Nurses	Gas, Sewer, Electric	Distance Learning
Computer Technology; Virus Protection, Internet And Email Issues	Land Use Applications	Hospitals	Hazmat Response	Drugs/ Substance Abuse
Confined Spaces	Licensure And Certification Of Professionals	Indoor Air Quality (Iaq)	Landfills	Employee Background Checks
Confidentiality Of Information And Records	Liquor Licensing	Immunization Clinics	Incinerators	Education In Correctional Facilities
Contractors	Marijuana For Medical Use	Infirmaries	Pollution	English As A Second Language (Esol)
Contracts	Motor Vehicle Licensure	Language Barriers And Health Care	Power Plants	Exchange Programs
Copyright Infringement	Restaurant Inspections	Law Enforcement Issues During Medical Emergency	Propane Tanks	Extracurricular Activities
Data Protection, Storage And Maintenance	Safety And Fire Inspections	Life Safety Issues	Recycling	Field Trips
Discipline	School Boundaries	Medical And Athletic Trainers	Reservoirs	Food Services
Discrimination	Shelters And Disaster Zones	Medication Dispensing	Sewer Backups	Fraternities, Sororities, Clubs
Disposal Of Used Items	Special Events Permits	Mental Health Facilities	Solid Waste And Transfer Stations	Fund Raising
Distance Learning/ Satellite Facilities	State Departments Of Labor	Mental Health Referrals	Storm Drains	Hate Crimes
Documentation	Taxing Authorities	Nurses	Storm Water	Host Liquor Liability
Donated Land	Use Of Facilities	Nursing Homes	Telephone Systems	Indoor Air Quality
Drug Testing	Volunteers	Nursing Students	Title V-Air Quality Issues	Intergovern- Mental Agreements
Hospitals And Health Clinics				Security
Eeoc Issues		Physical Therapy	Transformers/ Pcb's	Laboratories
Embezzlement		Pre-Schools	Underground Cabling	Lead Paint
Employment Practices		Senior Centers	Under-Ground Storage Tanks	Libraries
Encryption		Social Service Programs	Waste Collection	Medical Malpractice
Engineer's And Architect's Liability		Training The Public (Cpr, Aed, Etc)	Wastewater Treatment	Medical Monitoring
Environmental Compliance		Triage	Water Quality	Medicine Distribution
Erisa		Weight Rooms	Water Treatment Plants	Mold
Errors And Omissions				Overcrowding
Federal Regulations, Programs, Grants And Financial Aid				Parent-Teacher Associations
Fiduciary: Fees, Taxes, Grants, Handling Of Funds				Partnerships
Flsa				Personnel
Fmla				Playground
Food Service				Precedents Set By Claims And Media Influence
Foreclosures				Professional Liability



WASHINGTON COUNTIES
RISK POOL

Tort Laws Impacting the WCRP



Joint & Several Liability

- All tortfeasors are jointly and severally liable
- Intended for a fault-free injured party to receive 100% compensation from all defendants
- Percentage of fault does not limit obligation to fully compensate injured party
- If county is any percentage at fault and other tortfeasor cannot pay, county (taxpayers) responsible for entire judgment/verdict
- Does not apply if plaintiff is found any percentage at fault
- Many states impose some form of J&S liability, however, many of these allow for other affirmative defenses to place liability on plaintiff which eliminates J&S, or they impose damage caps

What would help?

- Consider limiting to non-government defendants
- Consider caps on damages where J&S applies
- Consider allowing other affirmative defenses which can place some liability on the plaintiff

Comparative/Contributory Negligence

- Acts to bar plaintiff from recovery if found to have any, or a specific percentage, of fault
- 33 states impose 50% or 51% bar
 - 21 impose complete bar if plaintiff liability is 51%
 - 12 impose complete bar if plaintiff liability is 50%
- 5 states impose complete bar if plaintiff has any liability

What would help?

- Consider bar on recovery if plaintiff liability exceeds specific thresholds
- Consider limiting recovery to special (economic) damages only if plaintiff liability exceeds 50%

Caps on Damages

- Washington State has no damage caps
- Caps place a limit on compensatory damages
- Do not apply to federal claims/lawsuits
- 33 states impose caps on damages
- Caps range from \$250K to \$2.25M

What would help?

- Consider caps of \$5M or even \$10M
- Consider caps when plaintiff has share of liability or otherwise contributed to their injuries

Defenses & Other Considerations

- Seatbelts: Washington does not allow a reduction in plaintiff injury claim for failure to wear.

What would help?

- Allow a reduction for specific injuries sustained attributable to lack of seatbelt (helmets too!).
- Collateral Source Rule: Plaintiff may use full cost of medical bills, even if reduced by health insurer.

What would help?

- Allow defendants to prove plaintiff's actual medical bills paid after reduction.
- Offers of Judgment: Only limits plaintiff's own recovery of attorney fees.

What would help?

- Require plaintiff to pay defendant's attorney fees if verdict is less than Offer of Judgment.



Thank you!!