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(505) 476-1857

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(505) 827-2141

PURCHASING DIVISION
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Letter of Administration
Issuing Certificates of Coverage
Fiscal Year 2022 Beginning July 1, 2021

TO: All Public Entities Covered by the Risk Management Division under the Tort Claims Act and the Insurance on Public Buildings Act

FROM: Mark Tyndall, Director
Risk Management Division (RMD)
State of New Mexico, General Services Department (GSD)

SUBJECT: Letter of Administration Issuing Certificates of Coverage
Description of, Type, Extent, and Nature of
RMD Administered Insurance and Self-Insurance Programs

PLEASE TAKE NOTICE:

As authorized by Rule 1.6.5.8 of the New Mexico Administrative Code ("Certificates of Coverage"), this Letter of Administration issues the Property and Liability Certificates of Coverage. The type, extent, and nature of the coverages extended under these Certificates of Coverage are set out in Rule 1.6.5 of the New Mexico Administrative Code, which is fully incorporated herein by reference.

The Certificates of Coverage provide property and liability coverage to the extent required by the Insurance on Public Buildings Act (NMSA 1978, § 13-5-1 et seq.) and the New Mexico Tort Claims Act (NMSA 1978, § 41-4-1 et seq.). These Certificates of Coverage supersede and replace any and all prior Certificates of Coverage. The Certificates of Coverage are effective as of July 1, 2020.

If any legal documents relating to a claim are presented to or served upon your agency or university, E-Mail to pac.claims@state.nm.us or fax to (505) 827-2969 IMMEDIATELY to the attention of RMD's Property and Casualty Bureau. RMD will notify you as to availability of coverage and provide any special instructions.

I. NEW MEXICO TORT CLAIMS ACT MAXIMUM LIMITS (General Liability)	
Medical and Medically-Related Expense Per Occurrence	\$300,000.00
Bodily Injury Each Person (excludes medical expenses)	\$400,000.00
Bodily Injury Each Occurrence (excludes medical expenses)	\$750,000.00
Property Damage Per Location Per Occurrence	\$200,000.00

II. APPLICABLE DEDUCTIBLES (Per Occurrence; Per Agency)	
Property Real (Buildings) and Personal (Contents)	\$2,500.00
Theft and/or Vandalism (All Property, All Vehicles)	\$5,000.00
Personal Property of Others in Your Care	See Above
Vehicles (Owned, Hired, and Non-Owned)	\$2,500.00
Fine Arts (Stand Alone Policy)	\$25,000.00
Unmanned Aerial Systems (Drones) including attachments	Greater of 15% of Actual Cash Value or \$2,500.00
Boiler (Mechanical Breakdown)	\$2,500.00

As to the State of New Mexico Property Certificate of Coverage, specifically described coverages, exclusions, and dispute processes contained therein are the following: purpose and nature of the certificate, property covered, perils covered, coverage limits and deductibles, extensions of coverage, property excluded, perils excluded, valuation, payments to loss payee, duties of the governmental entity after a loss, coverage dispute, valuation dispute, other coverages, subrogation, and other conditions. If applicable the Property Certificate of Coverage also contains terms of: business interruption extra expense, tuition fees, and fine arts coverage. The exact terms and conditions of coverage are fully described in complete detail in the State of New Mexico Property Certificate of Coverage and those terms and conditions are controlling.

Specifically described coverages, exclusions, and dispute processes contained in the State of New Mexico Liability Certificate of Coverage are the following: purpose and nature of the certificate, coverage defined, covered party, exclusions, conditions, and definitions (used in the certificate). The exact terms and conditions of coverage are fully described in complete detail in the State of New Mexico Liability Certificate of Coverage and those terms and conditions are controlling.

This is an overview only of coverages. Refer to the Certificate of Coverage(s) for detailed terms and conditions.

A. AIRCRAFT

RMD has secured aircraft policies for those agencies which have an exposure. This standalone policy covers liability, medical, airfields/landing strips, and hull coverages. Aircraft traveling to Mexico must be pre-insured by the State before entering into Mexican airspace. RMD must be notified thirty days before the proposed trip.

RMD has secured Unmanned Aerial Systems liability policies for those agencies which have an exposure. The public liability fund will be excess to this coverage. UAS/Drones physical damage shall be subject to a \$10,000 occurrence limit. Higher limits are available via market placement.

B. AUTOMOBILE

1. State-Owned Vehicles

Coverage includes all State Agencies and Universities up to the limits required by the Tort Claims Act. In order to drive any licensed motor vehicle, an employee must be in compliance with state motor vehicle laws, i.e., being licensed to drive in the State of New Mexico and being able to show financial responsibility (by having vehicle insurance as shown by a current and valid "Evidence of Coverage" certificate issued by RMD). In addition, the employee must be in compliance with the State GSD motor vehicle rule 90-202 (or its successor) if applicable and any other additional requirements of the employer.

2. Employee Vehicles

The State will provide secondary liability coverage up to the Tort Claims limit as described in the New Mexico Tort Claims Act but this *will be excess of the employee's own vehicle coverage*. The employee's personal automobile liability, collision and comprehensive policies are primary, including applicable deductibles to be paid by the employee. The State will only provide secondary coverage for remaining financial exposure, if any, up to the Tort Claims limit. RMD recommends the agency confirms employee vehicle liability, collision and comprehensive insurance.

In the case of physical damage to an employee vehicle, the only claims to be submitted to RMD are losses exceeding the agency's vehicle deductible after the employee has submitted the claim to their insurance company. Please submit documentation from the employee's supervisor certifying the employee was in the course and scope of duties at the time of the accident/incident. The agency will be responsible for the applicable RMD deductible.

3. Rental Cars

Liability coverage for in state rental vehicles is self-insured, paid out of the Public Liability Fund administered by RMD. The State will provide coverage where the State or employee is

responsible due to the Tort Claims Act and when the State is legally responsible. Physical damage for rental cars is covered under the Property Certificate of Coverage, subject to the applicable vehicle deductible.

4. Automobile – Uninsured, Underinsured, and Medical Payments

Pursuant to Article IX, Section 14 of the New Mexico Constitution, RMD *does not* provide uninsured, underinsured, or medical payments coverage.

5. Automobile Liability Coverage (Mexico)

This coverage is provided through a Mexican Auto Insurance Policy purchased by RMD to provide coverage for agencies and universities traveling into Mexico via automobile on authorized state business. Automobile travel into Mexico must be reported to Risk Management prior to the trip. A maximum of eight vehicles at one time is allowed. Proof of insurance is required prior to entering Mexico and is provided through our contracted insurance broker. Please refer to the RMD website for instruction on how to obtain required documentation. Claims made when no “Evidence of Coverage” certificate has been issued will be DENIED.

C. GENERAL LIABILITY

Coverage is provided through a combination of self-insurance under the Public Liability Fund administered by RMD and insurance policies purchased by RMD for all State Agencies and Universities up to the limits of the Tort Claims Act (NMSA 1978, § 41-4-1 et seq.).

D. MEDICAL MALPRACTICE LIABILITY

This coverage relates to all authorized medical exposures whether hospital, clinic, infirmary, emergency medical services (including ambulance operations) and treatment provided by emergency medical technicians, doctors, nurses, dentists, pharmacists, technicians, or other medical professionals.

E. VOLUNTEERS

Volunteers acting within the scope of their volunteer service while under the supervision of a State Employee fall within the definition of Public Employees per § 41-4-3 (F) of the Tort Claims Act and are entitled to coverage under the Liability Certificate. Volunteers are not considered public employees when in transit to or from any event. Volunteers are not considered public employees for personal property coverage or workers’ compensation coverage.

F. LAW ENFORCEMENT OFFICERS’ LIABILITY

This covers exposures relating to police, jailers, matrons, etc. for negligent acts in the course and scope of employment.

G. FOREIGN JURISDICTION EXCESS LIABILITY

Pursuant to NMSA 1978, Section 41-4-28, RMD carries excess liability coverage for claims arising out of occurrences outside of New Mexico that would not come under New Mexico's Tort Claims Act such as claims for accidents that happen in other states or countries. RMD will only purchase such coverage if it is satisfactory and available at a reasonable cost. If satisfactory coverage is not available, RMD shall provide a certificate of up to \$1,000,000 per occurrence. If satisfactory coverage is unavailable and RMD does not offer a sufficient certificate, then the State Governmental Entity shall cover the risk.

H. CIVIL RIGHTS LIABILITY COVERAGE

This coverage does not include defense of criminal proceedings or payment and/or settlement of any part of the compensation package including, but not limited to, lost wages, salaries, retirement, insurance, benefits, or plaintiff legal fees.

I. PROPERTY COVERAGE – Subject to applicable deductible and exclusions

a. Basic Coverage

This covers State-owned buildings, State-owned contents, State-owned miscellaneous items, and property of others in your care subject to the Insurance on Public Buildings Act (NMSA 1978, § 19-5-1 et seq.). NOTE: RMD must be notified in writing of any new or newly acquired buildings to affect coverage. In addition, RMD must be informed of any buildings that have been vacated, demolished, or disposed of.

b. Property in Course of Construction

RMD provides coverage to State Governmental Entities for buildings or renovation projects in the course of construction. This coverage is subject to the conditions and exclusions of the Property Certificate. This coverage does not indemnify any private sector contractor, entity, business, person, or organization.

RMD must be notified of any new construction projects of State Governmental Entities if the project value exceeds \$500,000. RMD must receive such notification prior to the initiation date of the contract.

c. Fine Arts

This covers paintings, etchings, drawings, photographs (including their frames, glass, and shadow boxes), rare books, manuscripts, rugs, tapestries, statuary, and other verified works of art or rarity of historic value or artistic merit. This coverage is insured through insurance policies purchased by RMD. This standalone coverage is subject to a \$25,000.00 deductible and is not covered by the Public Property Reserve Fund.

d. Boiler and Mechanical Breakdown

Boilers are covered under a combination of self-insurance under the Public Property Reserve Fund administered by RMD and boiler insurance policies purchased by RMD. Our arrangements with the boiler insurance policy underwriters require the insuring company to make boiler inspections at all insured locations.

J. BONDS

RMD provides access to blanket and individual bond coverage for payable losses as required by the Surety Bond Act or other applicable law for state employees. Any agency that requires a blanket bond or other specific type of bond for an employee or class of employees shall submit required documentation to RMD's Director for consideration of approval. This standalone coverage is purchased through RMD and is not covered by the Public Liability Fund.

K. HEALTH CARE STUDENT COVERAGE

RMD extends coverage under the Public Liability Fund for health care liability to students currently enrolled in a health care instruction program through a governmental entity.

L. COVERED COMMUNITY LAND GRANTS and SPECIAL DISTRICTS

- a. Coverage for Community Land Grants and Special Districts is contingent upon prompt payment of the premium assessment determined by the Director of the Risk Management Division.
 - i. Community Land Grants: The General Services Department, Risk Management Division is authorized under Section 41-4-30 of the Tort Claims Act to issue a Certificate of Coverage to community land grants that are governed as a political subdivision of the State of New Mexico pursuant to 1978 NMSA, Chapter 49, Article 1. Coverage is extended per the terms and conditions of NMAC 1.6.6.1 et. seq.
 - ii. Special Districts: Special Districts organized pursuant to NMSA § 73-2-1 et. seq.; § 73-9-1 et. seq.; and § 73-20-1 et. seq. may apply to RMD for coverage as provided by enabling statutes.

M. ADDITIONAL INSURED

Pursuant to Article IX, Section 14 of the New Mexico Constitution, RMD will **not** indemnify any private or public sector contractor, entity, business, person, or organization as an additional insured nor will RMD indemnify, hold harmless, or defend any 3rd party individual or business.

N. EVIDENCE OF COVERAGE

Upon written request, RMD will issue an "Evidence of Coverage" certificate to any State Agency to show proof of insurance for liability and/or property coverage.

O. CLAIMS (How to file)

General Liability, Auto Liability, Property Coverage, Civil Rights, Medical Malpractice, Law Enforcement Officers Liability, Fine Arts, Aircraft, Boiler, **E-Mail to:**
pac.claims@state.nm.us