Insurance Limits
A reference guide for insurance limits on construction related consultant and construction contracts.
**Insurance Limits**

The insurance limits required for construction and construction related consultant contracts have been updated, effective November 17, 2015. As a result, SUNY’s Construction, Consultant and Consultant Term Agreements now contain updated contract language and insurance limits. In addition to the updates to insurance limits, the contract language related to insurance has also been changed. SUNY’s updated insurance limits take into account the recommendations made by the Council of Contracting Agencies in the *Guidelines for Insurance Requirements in Contracts*, as well as the updated limits implemented by the State University Construction Fund. A summary of the required insurance limits is provided as Attachment 1 to this Guidance Document.

**Insurance Certificates**

In the past, SUNY required certificates of insurance on a SUNY specific certificate of insurance form. In accordance with recent legislative changes, the updated procedure and contract language require that proof of insurance be submitted on an *ACORD 25 - Certificate of Liability Insurance Form*, which has been approved by the Department of Financial Services.

These forms:

- MUST be signed by an authorized representative of the insurance carrier or producer authorized to write coverage in the State of New York
  - Excess Line, or non admitted carriers are NOT permitted, except when certain provisions are met *
- MUST disclose any deductible, self-insured retention or aggregate limit
- MUST indicate the Additional Insureds and Named Insureds
  - An additional insured endorsement CG 20 10 11 85 or equivalent is provided
  - Additional Insureds must include the State of New York, State University of New York, and State University Construction Fund
- MUST make reference to the project, contract or agreement number on the form
- The contractor name on the certificate and the contractor name on the contract MUST match exactly

*In the event that insurance cannot be obtained from an insurance company authorized to write coverage in the State of New York, the campus may consider the use of an excess line or non admitted carrier only if the following conditions are met.
- The insurance agent or broker has provided written evidence of no less than five requests for insurance quotes made to insurance carriers authorized to write coverage in the State of New York, and has provided copies of the written responses from those insurance carriers indicating those carriers are declining to offer coverage.
- The insurance agent or broker has provided an excess line insurance affidavit (Form - Exhibit A.10 of the Council of Contracting Agencies *Guidelines for Insurance Requirements in Contracts*).
Campus Counsel has approved such documentation.

Proof of Disability and Workers’ Compensation insurance must be provided on the forms required by the New York State Workers’ Compensation Board. An ACORD Certificate is not acceptable, valid proof of Workers’ Compensation and Disability Benefits insurance for New York State governmental entities.

The certificate issue date must be within 30 days of the submittal of that certificate, except for workers’ compensation and disability certificates. SUNY’s Insurance Checklist must be completed by the campus representative responsible for reviewing insurance certificates, and kept as part of the procurement record. Please refer to the updated insurance forms 7555-09 and UF-14 for instructions related to the insurance certificates.

Required documentation includes:
1. ACORD 25 - Certificate of Liability Insurance Form
2. NYS-required Workers’ Compensation/NYS Disability Insurance Forms
3. SUNY Insurance Checklist (SUNY Form 7555-09 and UF-14)

The Council of Contracting Agencies is developing guidance to state agencies on the ACORD 855 NY - Construction Certificate of Liability Addendum form. Once guidance is available SUNY will provide information and training related to the use and review the ACORD 855 form, and it will be added as an insurance requirement for SUNY’s construction contracts.

**Verification: Is the carrier authorized in the State of New York?**

In order to complete the SUNY Insurance Checklist, the campus must verify that the carrier is authorized to sell that type of insurance in the State of New York. This is done by ensuring the insurance carrier is listed on the Department of Financial Services website as a Property/Casualty Insurer. In addition to the instructions provided below, screen shots are provided as Attachment 2 to this document.

1. Go to [www.dfs.ny.gov](http://www.dfs.ny.gov)
2. Click on Insurance Industry, a list will appear below, click on Insurance Company Search
3. Click on Insurance Company Search
4. Click on List All Org Types with Descriptions
5. Click on PC Property/Casualty Insurers
6. Review or search the list (press CTL+F to search in browser).
7. Ensure that the name of the insurance company matches the name on the list exactly. There are often multiple entities associated with a company listed, but not all affiliates are authorized to sell insurance in New York State. For example ACME Insurance Inc. may be authorized, when ACME Insurance Company is not. The name on the insurance certificate must exactly match the name listed on the Department of Financial Services list.

**Expiration and Renewal of Insurance Policies**

If any policies will expire during the term of the agreement, the campus representative responsible for reviewing insurance certificates must request proof of renewal 30 days prior to the expiration of the insurance policy. A new ACORD 25 is required. If there are any changes to the policy, a new ACORD 855 form is required. If proof of renewal or replacement of coverage has not been received by the expiration date of the policy, the campus will send a letter to the contractor stating that the campus requires a new certificate of insurance.
Notice of a Potential Claim
A campus is required to notify all applicable insurance carrier(s) upon the occurrence of a triggering event, which may include, but is not limited to, accidents, property damage or personal injuries. When a campus learns of a potential lawsuit, whether by receipt of a communication or pleading from a private attorney or by a communication from the Office of the Attorney General, it should immediately identify any applicable insurance and notify all applicable insurance carrier(s) of the potential lawsuit. This notification needs to be done even if the accident or incident was previously reported to the same carrier or carriers.

In addition, upon receipt of a Notice of Intention, Claim, Summons with Notice, or Complaint or letter threatening litigation, the campus must notify Albany Claims Bureau or the New York City Claims Bureau of the Office of the Attorney General, depending upon where the incident occurred. Provide proof of insurance coverage and notification to the applicable insurance company(s).

Background
Liability insurance policies typically have two notification provisions. The first is notification of an incident, i.e., the insurance company requires that it be notified of an accident or incident at the time of or shortly after it occurs. The second notification is that of a potential or existing lawsuit. Both notification provisions require the insurance company to be notified as soon as "reasonably practical" or as set forth in the policy. Campuses should establish procedures for identifying any applicable insurance and providing written notice to all applicable insurance carriers of situations causing potential claims. Failure to notify the insurance company under one or both of these required notification provisions allows the insurance company to argue denial of coverage. Campuses should also, in consultation with campus counsel, establish a process for preserving evidence.

Additional Insurance Requirements
At times a contract may require additional insurance coverage due to risks specific to that project. Examples of additional coverage that should be evaluated on a case-by-case basis include construction managers’ professional liability, environmental liability, railroad protective policies, crime insurance, marine protection and indemnity and garage liability.

Environmental Liability
When considering an environmentally sensitive project, contact campus counsel to determine if Contractor’s Pollution Liability (CPL) coverage may be required. For additional information on this type of insurance, please see the Council of Contracting Agencies Guidelines for Insurance Requirements in Contracts.

Insurance Guidelines
In addition to recommending insurance limits to agencies, the Council of Contracting Agencies’ Guidelines for Insurance Requirements in Contracts contains helpful information such as descriptions of the various types of insurance, recommendations for insurance limits for construction managers, and a glossary of insurance terms. A copy of the manual can be found on the OGS website.

Attachments
1. Insurance Limits Summary
2. Verification: Is the carrier authorized in the State of New York? – Screen Shot Instructions

**Resources**

- Certificate of Insurance Instructions and Checklist 7555-09 and 7554-12
- Guidelines for Insurance Requirements in Contracts - [OGS website](#)
- **Procedure 7554 - Construction Contracting**
  - Form 7554-09 - Construction Agreement
- **Procedure 7555 - Construction Related Consultant Contracting Procedures**
  - Form 7555-10 - Consultant Agreement
  - Form 7555-10A - Consultant Term Agreement
## Insurance Limits Summary
for Construction and Construction Related Consultant Contracts

<table>
<thead>
<tr>
<th></th>
<th>Workers Comp &amp; Disability</th>
<th>Commercial General Liability</th>
<th>Owners and Contractors Protective Liability</th>
<th>Builders Risk</th>
<th>Business Automobile Liability</th>
<th>Professional Liability (Errors and Omissions)</th>
<th>Asbestos Abatement</th>
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<td>General Aggregate</td>
<td>Each Occurrence</td>
<td>General Aggregate</td>
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<td>$2M</td>
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<td>Based on construction value</td>
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<td>$2M</td>
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<td>$1M per occurrence</td>
<td>&lt;$25M = $2M</td>
<td>Not applicable</td>
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<tr>
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<td>$1M per occurrence</td>
<td>&gt;$25M = $5M</td>
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<td>TBD on a case by case basis</td>
<td>$1M</td>
<td>Project Value</td>
<td>Not applicable</td>
<td></td>
</tr>
</tbody>
</table>

**Blue** – Increased Limit  
**White** – No Change  
**Purple** – Limit not previously defined

Please note, if campuses wish to decrease the insurance limits from those summarized here and stated in the contract or agreement templates, review and approval by campus counsel is required.
Attachment 2

Verification: Is the carrier authorized in the State of New York? - Screen Shot Instructions

How to check -
1. Go to www.dfs.ny.gov
2. Click on Insurance Industry, a list will appear below, click on Insurance Company Search
3. Click on Insurance Company Search
4. Click on List All Org Types with Descriptions

5. Click on PC Property/Casualty Insurers
6. Review or search list (press CTL+F to search in browser)

![Insurance Limits Search Results]

7. Ensure that the name of the insurance company matches the name on the list exactly. There are often multiple entities associated with a company listed, but not all affiliates are authorized to sell insurance in New York State. For example ACME Insurance Inc. may be authorized, when ACME Insurance Company is not. The name on the insurance certificate must exactly match the name listed on the Department of Financial Services list.