

**COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject

Limitation of Liability on Service Agreements

**Policy
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B-28

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Purpose

To establish a policy to delineate contractual obligations in the areas of contribution and indemnification for any legal liabilities that may arise out of service agreements for services between the County of San Diego and other public agencies where the County is the service provider.

Background

This policy recognizes that the County has heretofore entered into agreements with incorporated cities and other public agencies for the performance of various services by the County, such as Law Enforcement, Animal Regulation and Roadway Maintenance and that such agreements will be entered into in the future.

-Such contracts are agreements defined under Government Code Section 895. Government Code Section 895.2 imposes joint and several liability on the parties. This means absent any specific agreements, both entities would be held responsible for legal liability for injury caused by a negligent or wrongful act or omission occurring in the performance of such agreement to an injured third party.

-Government Code Section 895.4 allows as part of the agreement, the public entities may provide for contribution or indemnification upon any liability arising out of the performance of the agreement.

Policy

It is the policy of the Board of Supervisors that:

- All Service Agreements between the County and other public entities to provide County delivered services shall contain insurance and indemnification provisions that will serve to ensure that all Worker's Compensation and Public Liability loss exposures are fully identified and addressed in terms of responsibility and financing.

-Wherever practicable, agreements will contain provisions regarding indemnification developed and/or approved by County Counsel which recognize both the interests of the County and contracting public agency.

-This Board Policy will apply solely to service agreements where services to a separate entity are actually to be performed by County employees.

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-This Board Policy will be applicable solely to those service agreements entered into between the County of San Diego and other governmental agencies.

-The requirements of this Board Policy shall, effective on the date of its adoption, apply to all new service agreements, all renewals of service agreements, and all existing service agreements where the County can legally renegotiate the terms of such agreement.

-The County's expenditures necessary to purchase insurance, claims management services, payment of settlements or judgments, legal defense costs incurred by the County in the defense of lawsuits alleging County liability arising out of contract performance and such other expenses as deemed advisable to mitigate the exposures to the County under any service agreement should be addressed pursuant to Board Policy B-29, Fees, Grants, Revenue Contracts-Department Responsibility for Cost Recovery.

-Prior to final approval and signing of any service agreement, such agreement shall be reviewed by the Risk Management Division, Department of Human Resources and County Counsel, for analysis as to the nature and types of liability exposures involved, the proper limits of insurance coverage where required, and any other matter coming within the scope of this policy.

Sunset Date

This policy will be reviewed for continuance by 12-31-2029.

Board Action

5-3-88 (52)

8-8-89 (34)

11-7-95 (34)

03-14-06 (11)

12-09-08 (33)

11-17-15 (26)

10-29-19 (26)

11-15-22 (22)

REVISION DATE

CAO Reference

Auditor and Controller