

CALIFORNIA INTERGOVERNMENTAL
RISK AUTHORITY

MASTER PROGRAM DOCUMENT FOR
THE
POOLED GENERAL LIABILITY PROGRAM

CALIFORNIA INTERGOVERNMENTAL RISK AUTHORITY (CIRA)

MASTER PROGRAM DOCUMENT (MPD)
FOR THE
POOLED GENERAL LIABILITY PROGRAM (PGLP)

ARTICLE I: DEFINITIONS

The following definitions apply to this MPD:

1. **General Manager** shall mean the person responsible for the daily administration, management, and operation of the **Authority's** programs as defined in the Bylaws.
2. **Authority** shall mean the California Intergovernmental Risk Authority (CIRA).
3. **Board** shall mean the Board of Directors for the California Intergovernmental Risk Authority (CIRA) Joint Powers Authority.
4. **Deposit Contribution** shall mean that amount to be paid by each **Participant** for each **program year** as determined by the **Board** in accordance with Article III, Section B of this MPD.
5. **Joint Powers Agreement** shall mean the agreement made by and among the public entities listed in Appendix A (**Member Entities**) of the **Joint Powers Agreement**, hereafter referred to as **Agreement**.
6. **Limit of Coverage** shall mean the amount of coverage stated in the Declarations or certificate of coverage, or sublimits as stated therein for each **Participant** or **covered party** per **occurrence**, subject to any lower sublimit stated in the MOC.
7. **Loss Experience** shall mean only such amounts as incurred (paid and reserves) as are actually paid by the **Participant** or the **Authority**, including payments to investigators and defense attorneys, as outlined in the **Program** Memorandum of Coverage (MOC).
8. **Member Entity** shall mean a signatory to the **Agreement** establishing the California Intergovernmental Risk Authority (CIRA) Joint Powers Authority.
9. **Memorandum of Coverage** shall mean a document issued by the Authority specifying the coverages and limits provided to the Members participating in the Program.
10. **Participant** shall mean a **Member Entity** who has elected to participate in the Program
11. **Program** shall mean the self-funded General Liability Program of the Authority.
12. **Program Year** shall mean that period of time commencing at 12:01 a.m. on July 1 and

ending at 12:00 am on the following July 1.

13. **Retained Limits** shall mean the amount stated on the applicable Declarations or certificate of coverage, which will be paid by the **Participant** or **covered party** before the **Authority** is obligated to make any payment from the pooled funds.
14. **Self-Insured Retention (SIR)** shall mean the **Authority's limit of coverage** above **Participant's Retained Limits** and up to the attachment point for excess coverage.
15. **Third Party Administrator (TPA)** shall mean the Program claims administrator for the **Authority**

ARTICLE II: GENERAL

A. AUTHORITY

1. The Program Master Program Document (MPD) is one of the **Authority's** governing documents. However, any conflict between the Program MPD, the **Authority's Joint Powers Agreement**, the Bylaws, or the Memorandum of Coverage (MOC) shall be determined in favor of the **Agreement**, the Bylaws, or the MOC, in that order.
2. The **Program** MPD is intended to be the primary source of information, contain the rules and regulations, and serve as the operational guide for the conduct of the **Program**.
3. The **Program** has been organized under authority granted by, and shall be conducted in accordance with, the laws of the State of California; regulations prescribed by the Department of Industrial Relations (DIR) and the State of California Audit Unit; and the accreditation standards set forth by the California Association of Joint Powers Authorities (CAJPA).
4. The Program has selected participation in ERMA (Employment Risk Management Authority) for employment practices claims. This MPD is applicable to all liability claims, except for employment practices claims covered by ERMA. Any and all employment practices claims under the authority of ERMA shall be handled under the exclusive control of ERMA. This includes, but is not limited to, claims handling, attorney selection, and settlement. All contributions to ERMA will be included in the member contributions, and both the Authority and the Member shall follow ERMA's governance.

B. PURPOSE

The **Authority**, as a part of its overall objectives, has designed the **Program** to provide for the needs of the **Program Participants** in the area of general liability.

C. PARTICIPATION

All **Member Entities** may become **Participants** in the **Program** and are encouraged to do so. However, the terms and conditions which may be imposed on **Member Entities** which desire to join the **Program** may be different, depending upon payroll, number of employees, the size of the **Member Entity**, its loss record, and other pertinent information.

Employees of the **Authority** shall be covered for purposes of employment practices liability under the **Program** and shall be considered a **Participant** in the **Program**.

D. GOVERNANCE

Each **Participant's** appointed Director and alternate Director shall be the representative for the **Program**. The **Participant** will be entitled to one vote on all issues or decisions that involve the **Program**.

Either the appointed Director or appointed alternate Director must attend at least one Board of Directors meeting for each Program Year, either in person or virtually. Violation of this requirement may result in a \$1,000 surcharge. Payments for the surcharge shall be included and paid in the next billing cycle.

E. GOALS AND OBJECTIVES

1. The **Authority** offers **Member Entities** this **Program** designed to provide coverage for the liabilities outlined in the Memorandum of Coverage.
2. The **Program** shall provide general liability coverage for the **Participants** utilizing an optimum mix of risk retention and risk transfer. The **Program** may provide various levels of retentions for the **Participants**, provide a risk sharing pool for losses above individual retention levels up to the **Authority's Self-Insured Retention (SIR)**, and obtain excess coverage for the amount of the loss which exceeds the **Authority's SIR**. Additionally, the **Program** shall provide for the sharing of operating costs and payment of the excess coverage by charging all **Participants** their share of such costs.
3. Although the **Program** is provided to the **Participants** under those terms and conditions which prevail at the time of the **Participant's** joining the **Program**, the **Board** shall have the right to alter, from time to time, the terms and conditions of the excess coverage and the pooled underlying coverage in response to the needs and abilities of the **Program** and the **Participants**, as well as in response to availability of coverage from outside sources.
4. The **Authority** offers participation in a risk sharing pool, covering losses of **Participants** in accordance with the MOC adopted by the **Member Entities**. The assets of the pooled **Program** shall be maintained at all times as the assets of the

5. **Participants** collectively. The assets may be disbursed only pursuant to the provisions of this MPD, and no **Participant** shall have an individual right to exercise control over said assets.
6. The **Program** will provide coverage under the terms and conditions set forth in the MOC. In addition to the coverage provided by the MOC, the **Authority** may purchase excess insurance or reinsurance. The amount of coverage to be pooled and/or purchased is at the discretion of the **Board**.

ARTICLE III: PROGRAM ELEMENTS

A. FUNDING

1. Funding each year shall be at a minimum of the 80% confidence level at the discretion of the Board of Directors.
2. The Target Equity goal is set at five times the **Program's SIR**.
3. A Rate Stabilization Fund in an amount not to exceed \$2,000,000 may be established to off-set pool and excess rate increases as determined by the Board of Directors. The Fund may be replenished at the Board of Director's discretion when the fund falls below 50% capacity.
4. Funding in excess of the 90% confidence level, excluding the target equity goal, may be available for distribution at the discretion of the Board of Directors.
5. If the overall confidence level falls below 70% according to actuarial projections, the Board of Directors may declare an assessment to be shared by all **Program Participants**.
6. Upon completing seven years, a program year shall be available for Retrospective Premium Adjustment (RPA)
7. Distributions under the RPA formula will be made in the following percentages:

50% of equity in year 6	70% of equity in year 8
60% of equity in year 7	90% of equity in year 9
8. Program years may be considered for closure 10 years after the year-end, and it has been at least on year since closure of the last claim in the proposed year(s). Once declared closed, 100% of remaining equity may be distributed to members through the RPA formula.
9. If a claim is reported or reopened after a year, and the year has been closed and equity returned, surplus in positive years may be used to offset the deficit in negative years. Any surplus in a positive year must exceed a funding level equal to

a 90% confidence level to be used to offset a deficit. If there is no offset available, members may be assessed at the discretion of the board.

10. The following four benchmarks will be reviewed before an RPA is issued:

- **Net Contribution to Equity**

Calculation: $(Contribution - Excess Insurance) / Equity$

Measures the impact of pricing inaccuracies on equity (a low ratio is desirable). A low ratio indicates that more equity is available to cover under-charged years. The target is less than 200%

- **Claim Reserves and IBNR to Equity**

Calculation: $(Claim Reserves + IBNR + ULAE) / Equity$

Measures the impact of reserves inaccuracies on equity (a low ratio is desirable). A low ratio indicates more equity available to cover years with large losses. The target is less than 300%

- **Prior Year Loss Development**

Calculation: $(Year 1 Loss Reserves / Year 2 Loss Reserves) / (Yr 2 / Yr3) - 1$

Measures the change in loss reserves from one year to the prior year. A lower ratio indicates not much change in reserves between years. Target of less than 20% is desirable.

- **Change in Equity**

Calculation: $(Year 2 Equity / Year 1 Equity) - 1$

Measures the change in equity. Any increase is desirable. The target is less than 10%.

B. DEPOSIT CONTRIBUTIONS

1. Annually, each **Participant** shall pay a **deposit contribution** to the **Authority** for each **program year**. Such **deposit contribution** shall consist of the amount needed to cover excess insurance or reinsurance premiums (if any), administrative expenses and actuarially-determined losses, plus a margin for added confidence as determined by the **Board**.
2. The following criteria is used to calculate the **deposit contribution** for each **Participant**:

Participant's payroll
Participant's loss experience
Participant's self-insured retention

3. The **deposit contribution** is calculated by taking the **Participant's** estimated payroll and multiplying it by the actuarially determined rate per \$100 of payroll. Administrative and excess insurance or reinsurance are also included in the calculations. The estimated payroll is annualized for the remainder of the year with an inflation factor of three percent, unless the **Participant** provides the **Authority** with a different estimated payroll projection for its Entity.
4. The excess insurance or reinsurance premiums (if any), shall be allocated among the **Participant's** using deposit contribution calculation..
5. The administrative expenses (including claims administration) shall be allocated among the **Participants** based on payroll, loss experience and self-insured retention with the experience modification.
6. Each year the **Authority** shall bill **Participants** for the general liability **deposit contribution** for the next **program year** to be paid on an annual. The invoices shall be billed to **Participants** at least 30 days prior to the inception of a new **program year**, when practicable, and due within 45 days of the billing date.

A 2% fee of the balance due shall be assessed on late premium payments, every 30 days; this assessment will apply 60 days after the billing date.

Former **Participants** in the **Program** shall be required to pay all applicable billings for the **program years** in which they participated in accordance with the Bylaws, and shall continue to pay for administrative costs as outlined in the Bylaws.

C. SELF INSURED RETENTION

1. **Participants** may select an **SIR** of \$5,000, \$10,000, \$25,000, \$50,000, \$100,000, \$150,000, \$250,000, \$350,000, and \$500,000 and must notify the **Program** of their **SIR** selection by April 1 of the preceding **Program Year**.
2. A **Participant's SIR** evaluation shall be completed every three years in conjunction with the annual actuarial study. As a result, **Participants** may be subject to an **SIR** adjustment based on the following:
 - a. Number of losses above its **SIR**, or a disproportionate number of losses within its **SIR** level compared to the pool average; and or
 - b. Payroll that is disproportionate in size to the payroll of the other **Participants** within the **SIR** level.
3. A statistical model developed by the **Program's** actuary shall be the standard by which the Board determines which **Participants** are candidates for **SIR** adjustments. **Participants** identified as candidates for adjustment will be notified of such determinations. Should the **Participant** deem the adjustment is not warranted, they

may request exception to the adjustment by submitting a request for exception to the Board of Directors at the next regular meeting in order to provide new or updated information for consideration prior to ratification of the **SIR** adjustment. Final decisions will be in the sole discretion of the Board of Directors.

4. Approved **SIR** adjustments shall, at minimum, increase the **Participant's SIR** to the next available **SIR** level and will become effective for the next **program year**. The **Participant** shall remain at the adjusted **SIR** level for a minimum of three program years, unless otherwise approved by the Board of Directors, at which time the **SIR** may be re-evaluated based on the statistical model.

For those members with a SIR below \$100,000, the **Program** shall pay all claims expenses within the **Participant's SIR**, which shall be reconciled and invoiced to the **Participant** quarterly. The **Participant** shall have 30 days from the date of invoice to submit its **SIR** payment.

For those members with a SIR above \$100,000, the **Program** may pay all claims expenses within the **Participant's SIR**, which shall be reconciled and invoiced to the **Participant** quarterly. The **Member** has the option of paying for claims expenses directly. The **Participant** shall have 30 days from the date of invoice to submit its **SIR** payment.

A 2% fee of the balance due shall be assessed on late premium payments, every 30 days; this assessment will apply 60 days after the billing date.

C. EXPERIENCE MODIFICATION

1. Each **Participant** shall be evaluated each year for an experience modification adjustment that shall be applied to the **deposit contribution**.
2. The calculation of the adjustment shall include the actual **loss experience** of the individual **Participant** as it relates to the average **loss experience** of the group as a whole. The experience modification formula shall:
 - a. Not consider loss years that are more than five years old.
 - b. Limit losses to \$250,000 per claim.
 - c. Apply a credibility factor based on the **Participant's** weight, between 10%-75%
 - d. Cap the experience modification factor at a minimum of 0.50 and maximum of 2.00
 - e. Not increase or decrease more than 25% from the prior year for any **Participant**.

D. EXCESS COVERAGE

1. The **Board** shall ensure that, each **program year**, **Participants** are provided with excess general liability coverage for the **Participants**. It is the intent and purpose

of the **Authority** to continue to provide such coverage to the **Participants**, provided that such coverage can be obtained, and the coverage is not unreasonably priced. This coverage may be obtained from an insurance company, by participating in another pool established under the Government Code as a joint powers authority, or offered through another **Program** pooling procedure. If the coverage is purchased from an insurance company, such insurance company shall have an A.M. Best Rating Classification of A- or better and an A.M. Best Financial Rating of VII or better or their equivalents.

2. Premiums for such coverages shall be paid by the **Program** from the proceeds received as **deposit contributions** from the **Participants**.
3. The **Board** may, from time to time, alter excess coverage based on insurance market conditions, available alternatives, costs, and other factors. The **Board** shall place excess coverage with the two competing objectives of security and minimizing costs to the **Program** as a whole.

ARTICLE IV: ADMINISTRATION

A. BOARD

1. The **Board** shall have the responsibility and authority to carry out and perform all functions, and make all decisions, affecting the **Program**, consistent with the powers of the **Authority** and not in conflict with the **Agreement**, the Bylaws, or the MOC.

B. GENERAL MANAGER

The **General Manager** shall be responsible for:

1. General oversight of the **Program**, which includes:
 - a. Monitoring the status of the **Program** and its operations, the development of losses, the program's administrative and operational costs, service companies' performance, and brokers' performance;
 - b. Developing, for **Board** approval, performance standards for **Third Party Administrator (TPA)**.
 - c. Work with the **Third Party Administrators**, including but not limited to the following:
 - i. Periodically review third party **Third Party Administrators'** claims files. The review should include all open claims, whether litigated or not, all claims reported twelve months prior, and those claims for which a **Participant** has requested a specific review;

- ii. Provide guidance to the **Third Party Administrator** on the management of problem or complex claims;
 - iii. Advise, where needed, on the selection of legal representation in anticipation of litigation;
 - iv. Monitor and evaluate the effectiveness of the defense firms and the management of the litigation;
 - v. Evaluate, where needed, recommendations for settlement of claims;
 - vi. Mediate differences, if any, between the **Third Party Administrator** and a **Participant**; and
 - vii. Review the performance of the **Third Party Administrators'** personnel assigned to the **Authority's** account with special emphasis in the handling of "open claims."
- d. Recommend to the **Board** the setting of reserves for those cases that are likely to penetrate to pooled funds;
 - e. Upon the reporting of each claim that has an expectation of exceeding the minimum incurred loss threshold set by the **Board**, review said claim for the **Authority** and report said claims to the **Board** at the next scheduled meeting;
 - f. Review the progress of all reported claims for the **Authority** and, if directed by the **Board**, propose reserve changes, and/or take control and assume settlement authority for the claim;

ARTICLE V: CLAIMS ADMINISTRATION

A. CLAIMS PROCEDURES MANUAL

- 1. A General Liability Claims Procedures Manual (Manual) including reporting procedures, forms, and other vital information is included in Appendix A and will be updated from time to time as needed.
- 2. All **Participants** shall be held accountable for understanding and abiding by the procedures stated in the Manual, as well as any changes thereto.

B. CLAIM SETTLEMENT AUTHORITY

- 1. Authority for the settlement of General Liability claims shall be in the following increments:

Authorizing Entity	Authority
Third Party Administrator	\$0
Deputy General Manager	\$1- \$50,000
General Manager	\$1 - \$100,000
Executive Committee	\$100,000-500,000
Board of Directors	\$500,000+

2. The **Third Party Administrator** will ensure the **Participant** is kept informed regarding these claims and will take into consideration the **Participant's** desires in any settlement process. Authorization on all settlement or stipulations shall be obtained.
3. Should the settlement value enter into the excess layer of funding, authority from the excess coverage provider would be required.
4. The **Third Party Administrator** shall consult with and obtain authorization prior to settlement of any claim. All requests for settlement authority shall include a written claim summary, factual background, litigation summary , and any comments and recommendations.

C. DISPUTES BETWEEN PARTICIPANTS AND GENERAL MANAGER, OR Board

Any matter in dispute between a **Participant** and the **Program** shall be heard by the Executive Committee whose decision may be appealed to the **Board** within thirty (30) days of the Committee's decision. The decision of the Executive Committee or, if appealed, the decision of the **Board** shall be final.

ARTICLE VI: DEFENSE PANEL

A. CRITERIA FOR DEFENSE PANEL

1. The defense panel shall include all attorneys listed in the attached Appendix B, which may be amended at the discretion of the General Manager. Appendix B does not include employment practices attorneys, which are selected by ERMA and criteria for the ERMA defense panel comes from ERMA This MPD incorporates by reference the ERMA defense panel.
2. Attorneys must meet and agree to the following provisions before consideration of inclusion on the panel:
 - a. The firm must have demonstrated success representing public entities and specific expertise in the public entity defense, specifically to municipalities.
 - b. Firms must have no less than 5 years litigation practice which includes substantial and significant experience in public entity defense to be eligible for case assignment.

- c. The firm shall provide a resume setting forth the experience of the individual attorneys that would be assigned to cases and their areas of expertise.
 - d. The firm must agree to the maximum hourly rates outlined in the fee schedule outlined below, in section B, unless specialized legal representation is necessary, which requires prior approval. The maximum hourly rate will be reviewed on a bi-annual basis.
 - e. The firm must agree to abide by the policies and procedures established by CIRA for handling of litigation.
 - f. The firm must evidence general liability, automobile liability, workers' compensation, and professional liability insurance. The policy limits must not be less than \$1,000,000 per occurrence. CIRA, its officials, officers, employees, and agents must be named additional insured for general liability and auto liability and follow all insurance requirements of the **Authority**.
3. The General Manager and Officers may appoint a particular attorney or law firm other than panel counsel when specialized, unforeseen defense is required. The law firm or attorney shall comply with conditions a-f above.
 4. CIRA will assign defense counsel in collaboration with the **Participant**.

Participants may assign cases to firms listed on the Panel. Nothing in this MPD shall be construed to limit the right of the **Participant** to retain its own defense counsel to represent the **Participant** in any litigation. Except where prior approval has been given, the **Participant** is responsible for amounts in excess of the maximum hourly rates, which shall not reduce the **Participant's** self-insured retention obligation.

B. MAXIMUM FEE SCHEDULE

<i>Legal Staff</i>	<i>Maximum Rate</i>
Partners	\$225
Associates	\$185
Paralegals	\$95

The maximum fee schedule may be amended at the discretion of the General Manager. This MPD incorporates by reference the ERMA defense panel and the ERMA maximum fees for ERMA's defense panel.

ARTICLE VII: PARTICIPATION

A. ELIGIBILITY AND APPLICATION

1. ELIGIBILITY

- a. New applicants must commit to at least five full **program years** of participation in this **Program**.
- b. Any **Member Entity** may apply to participate in the **Program** by providing an adopted resolution of its governing body and such other information/materials as may be required. The applicant's resolution shall commit the applicant to five full years of participation in the **Program**, if accepted, and consent to be governed for general liability matters in accordance with the MPD, the MOC and other documents and policies adopted by the **Board**. The resolution may also state the **retained limit** desired by the applicant.
- c. The application for participation shall be submitted at least thirty (30) days prior to the date of the last **Board** meeting of the **program year** to ensure that the State Certificate of Consent to Self-Insure is received prior to the inception date, and that the **Board** has adequate time to review and evaluate the acceptability of the applicant. It is recommended that an applicant enter the **Program** only at the commencement of a new **program year**. If an applicant chooses to enter the **Program** at any other time, the **deposit contribution** for the remainder of the **program year** will be pro-rated. The new **Participant** will begin coverage on the date that is mutually acceptable to the **Participant** and the **Board**; however, the new **Participant** will be required to share losses with the other members of the **Program** for the entire **program year**.

2. APPROVAL OF APPLICATION

The **Board** shall, after reviewing the resolution and other underwriting criteria, determine the acceptability of the exposures presented by the applicant and shall advise the applicant in writing of its decision to accept or reject the request within 10 days after the decision has been made.

B. PARTICIPANTS' DUTIES

1. The **Participants** shall provide payroll, using data as included on the State DE-9 form, and all other requested information in conformance with the policies adopted by the **Board**.
2. The **Participants** shall disclose activities not usual and customary in their operation.
3. The **Participants** shall at all times cooperate with the **Authority's General Manager** and **Third Party Administrator** in regards to claims handling and underwriting activities of the **Authority**.

ARTICLE VII: TERMINATION AND DISSOLUTION OF THE PROGRAM

The **Program** may be terminated and dissolved at any time by a vote of two-thirds of the **Participants**. However, the **Program** may continue to exist for the purpose of disposing of all claims, distributing assets, and all other functions necessary to conclude the affairs of the **Program**, at the Board's discretion.

Upon termination of the **Program**, all assets of the **Program** shall be distributed only among the current **Participants**. The **Board** shall determine such distribution within six months after the last pending claim or loss covered by the **Program** has been finally resolved and there is a reasonable expectation that no new claims will be filed.

ARTICLE VIII: AMENDMENTS

This MPD may be amended by a two-thirds (2/3rds) vote of the **Participants** at the meeting, provided prior written notice, as provided within the Bylaws, has been given to the **Board**.

Appendix A

General Liability Claims Manual

Appendix B

General Liability Defense Panel Approved Firm List

Ewing and Associates
Perry, Johnson, Anderson, Miller & Moskowitz
Geary, Shea, O'Donnell, Grattan & Mitchell
Mitchell, Brisso, Delaney & Vrieze
Shapiro, Galvin, Shapiro & Moran & Moran
Allen, Glaessner, Hazelwood & Werth LLP
Bertrand, Fox, Elliott, Osman & Wenzel
Nisso, Pincin & Hill
McNamara, Ney, Beatty, Slattery, Borges & Ambacher LLP
Porter, Scott, P.C.
James A. Wyatt
Jones & Dyer P.C.
Richards, Watson & Gerson
Gibbons & Conley
Angelo, Kilday & Kilduff