

From: larry.costello@edcgov.us
Sent: Thursday, May 07, 2009 12:16 PM
To: Jose Henriquez
Subject: RE: LAFCO Liability Coverage

Jose,

I misunderstood your question regarding injunctive relief and for that I apologize. Your current coverage under CSAC-EIA excludes any liability arising out of injunctive relief. Therefore all costs associated with these types of claims, including legal costs, would be self funded. And since you also have this exclusion in the SDRMA policy, there is no difference in injunctive relief coverage between the two policies. I apologize again for my miscommunication.



"Jose Henriquez" <jose.henriquez@edcgov.us>

To <larry.costello@edcgov.us>

cc

05/06/2009 05:06 PM

Subject RE: LAFCO Liability Coverage

Larry,

Thank you again for providing this analysis. I appreciate your effort. Did you hear back from your contact on my question relating to the structure of coverage for legal costs on injunctive relief coverage in the County's program? I was wondering whether that part of the coverage the County purchases from CSAC or whether the County self-insured for the defense costs.

FYI – After I left the Co Complex I followed up with SDRMA on the injunctive relief exclusion. They said it is found on the definitions page. If you still have Exhibit A, it's in the middle of page 15 of 21 (electronic page 16) under "Damages." Oh well, at least for a brief 15 minutes I was smiling.

José C. Henríquez
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-----Original Message-----

From: larry.costello@edcgov.us [mailto:larry.costello@edcgov.us]

Sent: Wednesday, May 06, 2009 4:46 PM

To: jose.henriquez@edcgov.us

Cc: bosthree@edcgov.us

Subject: LAFCO Liability Coverage

Jose,

I have been working with the County's insurance broker, Alliant Insurance Services, to compare the liability coverage you currently possess through the County with the proposed coverage you are seeking through SDRMA. We have conducted an extensive comparative analysis that I have attached. Because it is such a lengthy document I thought it would be best if I summarized the differences for you.

- Coverage Agreement: does not include the wording "caused by an occurrence or wrongful act" in SDRMA's Memorandum of Coverage (MOC);
- Retained Limit: does not include the wording "caused by an occurrence or wrongful act" in SDRMA's Memorandum of Coverage (MOC);
- Covered Parties: covered parties/members are not specifically described and no reference is made to "Breach of Fiduciary Duty" in SDRMA's MOC;

These differences are not major differences but I would bring them to the attention of SDRMA for clarification before signing a binder with them. There are also differences in various Exclusions in the two policies as follows:

- Item D - Employment Related Injury: Exception to the Exclusion is not referenced in SDRMA's MOC;
- Item I - Eminent Domain: Exception to the Exclusion for "any inverse condemnation where any suits or claims for inverse condemnation are a result of negligence proven on the part of the covered party" not referenced in SDRMA's MOC;
- Item K - Subsidence: SDRMA has an exclusion "other than subsidence resulting from a member's water line, breaking or leakage" while CSAC-EIA provides \$10M sublimit for subsidence.

There are differences in several other exclusions as well but they are not of a concern to me in regards to protections offered to LAFCO or our Supervisors while serving on your board (medical malpractice, aircraft, etc.). These differences are noted in the attached report.

Finally, you asked if legal costs relating to Injunctive Relief cases were covered under the County's coverage because you believed they were not covered under the SDRMA coverage.

The County's excess coverage does provide for the reimbursement of legal costs incurred in Injunctive Relief cases. Additionally, we can find no Exclusion for Injunctive Relief in the SDRMA coverage and since no Exclusion is noted you should be provided this coverage through SDRMA

as well. I would confirm this with them considering you believe this is one of LAFCO's major liability exposures.

Overall, the differences in the policies do not concern me greatly in relation to the exposure our Supervisors may experience while serving on your Board or the exposures in general that LAFCO may experience. The SDRMA coverage is comparable to what you currently secure through the County. If you wish to move forward with cancelling your coverage through the County effective 7/1/09, please let me know immediately by way of a signed letter of cancellation on LAFCO letterhead.

