

JUNE 2013

(Updated on 6-19-2013)

We will not execute any contract with a contractor --- or approve a subcontract request for any potential subcontractor --- who does not have a satisfactory Certificate of Insurance on file with us. In order to avoid delays in the award and execution of a contract or the approval of a subcontract request ---- or in order to prevent being stopped from working on an active project, please make sure that your insurance provider is furnishing us a correct Certificate of Insurance for the required insurance.

CONTRACTOR INSURANCE REQUIREMENTS

THIS IS VERY IMPORTANT INFORMATION.

**PLEASE READ THIS INFORMATION AND CHECK YOUR CERTIFICATES
OF INSURANCE**

Liability insurance coverage on any projects (NDOR or Local Public Agency projects) let on or after June 16, 2011 must be provided in accordance with the special provision titled "**LIABILITY INSURANCE (A-54-0611)**" or "**LIABILITY INSURANCE (A-55-0611)**." These special provisions amend the Standard Specifications by providing a revised Subsection 107.13 of the Standard Specifications. Included in this revised subsection is language to address pollution liability as well as identifying certain other procedural matters regarding the type of insurance documentation that you provide to us.

The "A-54-0611" Special Provision is used on Local Public Agency (cities, counties, etc.) projects which are let and awarded by the Department of Roads for the Local Public Agencies (LPA). It differs from the "A-55-0611" Special Provision in that it includes references to "***the Owner and the Department of Roads***" where only "***the Department of Roads***" is shown in the "A-55-0611" provision.

We continue auditing projects for compliance with the insurance special provisions.

We also check and verifying the Certificates of Insurance on all contractors and subcontractors intending to do work on any project. In the case of prime contractors, contracts will not be executed unless the proper Certificate of Insurance is on file. In the case of potential subcontractors, subcontract requests will not be approved unless the proper Certificate of Insurance is on file.

As we audit existing certificates of insurance or verify the validity of new ones, we look in particular at the following requirements:

- () Paragraph 1.b. of Subsection 107.13 of the Standard Specifications, as revised in either **“LIABILITY INSURANCE (A-54-0611)”** or **“LIABILITY INSURANCE (A-55-0611)”** states:

Coverage shall be provided by a standard form Commercial General Liability Policy (CG0001 or equivalent) covering bodily injury, property damage including loss of use, and personal injury.

- () Paragraph 1.j. of Subsection 107.13 of the Standard Specifications, as revised in either **“LIABILITY INSURANCE (A-54-0611)”** or **“LIABILITY INSURANCE (A-55-0611)”** states:

Policy shall not contain a total or absolute pollution exclusion. Coverage shall be provided for pollution exposures arising from products and completed operations as per standard CG0001 Pollution Exclusion or equivalent. If the standard pollution exclusion as provided by CG0001 has been amended, coverage must be substituted with a separate Pollution Liability policy of \$1.0 million per occurrence and \$2.0 million aggregate. If coverage is provided by a “claims made” form, coverage will be maintained for three years after project completion. Any applicable deductible is the responsibility of the contractor.

- () Paragraph 1.d. of Subsection 107.13 of the Standard Specifications, as revised in **“LIABILITY INSURANCE (A-54-0611),”** states: (these are LPA projects)

The Owner and the State of Nebraska, Department of Roads, shall be named as Additional Insureds on a primary and non-contributory basis including completed operations for three (3) years after final acceptance and payment.

- () Paragraph 1.d. of Subsection 107.13 of the Standard Specifications, as revised in **“LIABILITY INSURANCE (A-55-0611),”** states: (these are non-LPA projects)

The State of Nebraska, Department of Roads, shall be named as Additional Insureds on a primary and non-contributory basis including completed operations for three (3) years after final acceptance and payment.

- () Paragraph 6.e. Subsection 107.13 of the Standard Specifications, as revised in **“LIABILITY INSURANCE (A-54-0611),”** states: (these are LPA projects)

“.....Certificates of Insurance shall show the Owner and Department of Roads as the certificate holders.”

() Paragraph 6.e. Subsection 107.13 of the Standard Specifications, as revised in “**LIABILITY INSURANCE (A-55-0611)**,” states: (these are non-LPA projects)

“.....Certificates of Insurance shall show the *Department of Roads as the certificate holders.*”

In essence, regarding Paragraph 1.b., we need a statement on the Certificate of Insurance that affirms that the coverage is being provided by a standard form CG0001 Commercial General Liability Policy (or a statement that affirms the coverage is provided by a Commercial General Liability Policy that is equivalent to the CG0001 policy). Please be advised, also, that in those cases when insurance is not provided by a standard form CG0001 Commercial General Liability Policy, **the Department will not review alternate policies to determine if they are equivalent.**

In regard to Paragraph 1.j., we need affirmation on the Certificate of Insurance that the policy does not contain a total or absolute pollution exclusion. It may contain the standard exclusion provided by the CG0001 if it has not been amended. If such a statement cannot be provided, then it will be necessary to furnish evidence that a Pollution Liability Policy as defined above has been secured and is in force. (In those cases when known hazardous wastes or contaminated or polluted materials must be moved or handled and are identified in the plans or proposal, the special provisions specifically address the additional coverage that must be required.)

In regard to Paragraph 1.d., we need a statement indicating that either “the Owner and the Department of Roads” or just “the Department of Roads” are additional insureds. As shown in the suggested wording that follows, we have no objection if the statement covers the possibility of either situation. **We are comfortable with the generic, all-inclusive statement so that we don’t need to collect a separate certificate of insurance on each, individual project.**

In regard to Paragraph 6.e., we need the certificate holders to be shown as either “the Owner and the Department of Roads” or just “the Department of Roads.” As with the wording for the additional insureds, we have no objection if the statement covers the possibility of either situation and shows something like **“The LPA Owner, if applicable, and the Department of Roads.”**

The following suggested statement on the Certificate of Insurance will satisfy our concerns regarding the policy type and pollution coverage:

The Owner, if coverage is provided for a Local Public Agency project, and the State of Nebraska, Department of Roads, are also listed as Additional Insureds. General liability coverage is provided by a standard form Commercial General Liability Policy (CG 0001 or equivalent). The policy does not contain a total or absolute pollution exclusion.

If the coverage being provided is on a general liability policy written by “The Travelers” Insurance Company, the following suggested statement on the Certificate of Insurance will satisfy our concerns regarding the policy type and pollution coverage:

The Owner, if coverage is provided for a Local Public Agency project, and the State of Nebraska, Department of Roads, are also listed as Additional Insureds. The policy does not contain a total or absolute pollution exclusion.

Please contact your insurance provider and have them provide us with a Certificate of Insurance that satisfies our specification requirements.

If we have not have a satisfactory Certificate of Insurance on file, affected contractors will not be permitted to execute contracts, be approved as subcontractors, or continue working on our projects.

Original or amended Certificates of Insurance should still be submitted to Bob Foreman in the Construction Office. (they may mailed, FAXed to 402-479-4854, or scanned and e-mailed to Bob.Foreman@nebraska.gov)

Please share this information with your subcontractors. The same rules apply to the Certificates of Insurance provided by them to document their insurance coverage.

Complete copies of the special provisions titled “**LIABILITY INSURANCE (A-54-0611)**” and “**LIABILITY INSURANCE (A-55-0611)**” are posted on the NDOR website.

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